BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 120015-EI

PETITION FOR INCREASE IN RATES
BY FLORIDA POWER & LIGHT COMPANY.
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VOLUME 20

Pages 2739 through 2919

PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN RONALD A. BRISE COMMISSIONER LISA POLAK EDGAR COMMISSIONER ART GRAHAM COMMISSIONER EDUARDO E. BALBIS COMMISSIONER JULIE I. BROWN
DATE:	Monday, August 27, 2012
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LAURA MOUNTAIN, RPR Wilkinson & Associates (850) 224-0127
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

EXHIBITS

P R O C E E D I N G S

(The transcript follows in sequence from Volume 19.)

MR. REHWINKEL: Thank you, Mr. Chairman.

REDIRECT EXAMINATION

BY MR. REHWINKEL:

Q Mr. Rubin asked you, do you recall, about the approach of reviewing the filing, and I think he talked about picking it apart. Do you recall that?

A Something to that effect, yes, sir.

Q And you testified about your 30 years experience, 30-plus years experience in this field?

A Yes, sir.

Q What is -- in those 30 years, who has carried the burden of proof in filings before Public Service Commissions around the country?

A It would be the companies are responsible for putting together the filing to support their request.

Q So in that regard is taking apart, in quotes, is that appropriate in testing the meeting of the burden of proof for a utility?

A I think if you view it as such. I don't really look at it as picking it apart. I've actually had a case once where a company came in and I told them they didn't ask for enough.

Q Did you object to everything that was in the company's filing in the accounting area, the NOI section?

A No, sir.

Q Was your evaluation of the company's filing based on their -- whether they met the burden of proof, whether it was in the working capital area or in the payroll or the vegetation management area?

A Can you restate that?

Q Was your review of the company's filing based on whether they met their burden of proof to demonstrate the reasonableness and prudence of the expenditures in the test year?

MR. RUBIN: Mr. Chairman, I object to the question insofar as it may call for a legal conclusion in terms of the burden of proof.

MR. REHWINKEL: I think this witness's 30 years experience, in his testimony he certainly ought to be able to offer testimony -- expert testimony on the burden of proof.

MR. RUBIN: Well, he hasn't been offered for that purpose in this case, nor has he filed any prefiled testimony on the burden of proof and the standard that is required to be proven in a case like this.

MR. REHWINKEL: Mr. Chairman, I think Mr. Rubin opened the door by questioning the basis for the review in the testimony, and I think any accounting witness in regulatory ratemaking should be allowed to offer an opinion about whether the filing of the company meets the burden of proof that is expected of them.

MR. RUBIN: And I would respond that that is the ultimate question for this Commission to determine.

MS. HELTON: Mr. Chairman, I recall Mr. Rubin asking the witness at least a couple of questions about the burden of proof, so it seems like it's an appropriate area for redirect for Mr. Rehwinkel.

CHAIRMAN BRISE: I would tend to agree, and the Commission will give the response the weight that it's due.

THE WITNESS: In my review I felt that when the company asked for a staffing level, as they did in this filing, they didn't meet the necessary burden of proof for why that staffing level was required, given the historical trends that exist. The same would apply to the coal treating and the tree trimming.

Historically they've under-spent from what they budgeted, so, you know, I think the facts are there that they didn't provide the proof. To simply say we're going to spend it is not justification for what has historically been reflected.

BY MR. REHWINKEL:

Q Are you offering yourself as an expert in management in your testimony in this case, company management?

A I --

Q Well, let me strike that question and ask this. Mr. Rubin asked you about your opinion about whether the company is well managed or well run. Is your testimony to this Commission based on you being asked by our office to give an opinion about those two topics?

A The OPC did not ask me to evaluate management in this case.

Q How many times have you testified about payroll or compensation around the country?

A I wouldn't even be able to give you a clue. Ever since -- I didn't testify in 1976 on it, but subsequent to that it's been a topic that I generally will address in these that I've done.

Q Have your recommendations through your testimony been accepted on many occasions around the country?

A On many occasions, yes, they have.

Q And I'm asking you specifically with respect to payroll and compensation.

A Yes, sir.

Q Do you, based on your 30 years in this business, agree that regulatory authorities have concluded that only witnesses who work for utilities or have hired people for utilities can offer valid expert testimony on payroll and compensation issues from a ratemaking perspective?

A No, commissions don't -- in fact, I know that they don't because, again, I referenced the one thing I said a little bit earlier, that just simply saying that it's okay, and then the numbers are right, I have seen commission decisions or board decisions that said that isn't sufficient to meet the known and measurable standard.

Q And by okay you're saying testimony from a person who actually does those things, hires employees; is that what you're saying?

A That's correct.

Q Mr. Rubin also asked you about -- about whether a capital investment that benefited ratepayers and shareholders equally is traditionally or is allocable 100 percent to the shareholders, or something along that line. Do you recall that line of questioning?

A Yes. I'm not sure he said it that way, but my interpretation was he says when they have an investment in capital, doesn't it provide a benefit to both shareholders and ratepayers. And I said yes, on investment, as long as -- it does provide benefit to both as long as it's providing energy to the company.

Q Is it possible the circumstance could exist where a capital investment that benefited both shareholders and ratepayers was made but it was made primarily for the benefit of shareholders and that it could be disallowed on that basis?

A I think the possibility -- I mean, there's always a possibility that such things exist, yes.

Q Would a tax -- would a capital investment made to provide a tax benefit for a non-regulated entity be possibly something that would fit that category?

A If the investment provided a benefit -- a tax investment to a non-regulated entity, most definitely I would opine that that would be a problem.

Q Okay. Do you have your introductory remarks with you? I just want to clarify something for the record.

A Yes, I do.

Q What is the amount -- the number of employees that you base -- reduction in employees that you base your adjustment on in your summary? Is it 387?

A Actually it's 381. I'm sorry, 387 was the adjustment to 2012.

Q Okay. So in your -- in your -- Mr. Rubin asked you about 381, and that's the right number, correct?

A That's correct.

Q Okay. So 387 was a slight misstatement?

A Well, that's the 2012 one.

Q Okay, I just want --

A I used it in both -- I used it in my testimony, at least in one place or the other.

Q Okay. Thank you. And on -- I think he also asked you about the variance of 3.76 percent that's on page two of three of your Exhibit HWS-2?

A Yes, sir.

Q Did you use data or a data set to get that number just so you could get a bigger variance?

A I used the information provided to me by the company, what they said was authorized and what they said was the actual employee complement.

Q But were you kind of picking and choosing among the data just to try to get a number -- a variance that was bigger?

A No, sir. Like I said, I tried to use the 2012 numbers because I thought that would be more consistent with what the Commission utilized in the company's previous docket.

Q On the directors and officers liability insurance item, you remember being asked questions about the basis -- the 50-50 basis that you recommend?

A Yes, sir.

Q Could it be argued that that recommendation is conservative in the company's favor?

A Yes, sir.

Q Have other commissions allocated that expense 100 percent to shareholders?
A I can't recall.
Q Okay.
A I've had too many cases that I've seen it vary.
Q Do you recall Mr. Rubin asking you -- let me ask you about vegetation management. Do you recall Mr. Rubin asking you about the characteristics of FPL's territory? I think you mentioned 28,000 square miles?
A Yes, I recall it.
Q Is there anything unusual about FPL's vegetation management needs relative to other utilities in the state or around the country?
A Well, there are some specifics. I mean, for instance, in Florida you have weather that's -- provides more growth throughout the year. However, if you compare it to some place like Utah or Vermont, where they've got mountains to deal with, I mean, that has a significant impact on the cost of tree-trimming. So there is some variability depending on the geographics of where the work is done.
Q Okay. Let's go to working capital real quickly to close this out. You're a CPA in the state of Michigan, right?
A Yes, sir.
Q And you're not holding yourself out to be a CPA in

the state of Florida, right?
A No, sir.
Q Okay. But as a CPA, are you familiar with what an attestation review is?
A Yes, sir.
Q Is an attestation review the same as an audit that -- is that a type of audit?
A It's a type of audit. It's more centrally focused.
Q Okay. Is it detailed?
A It depends on who is doing it.
Q Okay. What year did the PSC audit look at in the working capital area? What year did they audit?
A I'm not sure.
Q Okay. Did they audit the 2013 projected test year? Could you audit that?
MR. RUBIN: Objection, he just answered the question he didn't know.
BY MR. REHWINKEL:
Q Okay, let me ask you a question. Would it be possible for the Staff to audit the projected test year for what's in working capital accounts?
A Historically, or for 2013?
Q For 2013.
A No, not for 2013.

MR. REHWINKEL: Thank you, Mr. Chairman. Those are all the questions I have. Thank you, Mr. Schultz.

CHAIRMAN BRISE: All right. Thank you, Mr. Rehwinkel. At this time we will deal with exhibits.

MR. REHWINKEL: Citizens would move Exhibits 258 to 268.

CHAIRMAN BRISE: 258 to 268. Are there any objections?

MR. RUBIN: No objections.

CHAIRMAN BRISE: Okay. So we will move Exhibits 258 to 268 into the record. Any other exhibits? Staff?

(Exhibits 258, 259, 260, 261, 262, 263, 264, 265, 266, 267 and 268 admitted in evidence.)

MR. YOUNG: Yes, sir, at this time Staff would move Exhibit 117, to include the amended errata sheet along with the correction that Mr. Rehwinkel mentioned on page 17, line eight, to the deposition; the word not after the word should.

CHAIRMAN BRISE: Okay. Are there any objections?

MR. RUBIN: No objections.

CHAIRMAN BRISE: Okay, at this time we'll move in Exhibit 117 with the errata sheet with the corrections. Okay?

(Exhibit 117 admitted in evidence.)

MR. REHWINKEL: I would ask that Mr. Schultz be excused from the hearing.

CHAIRMAN BRISE: All right, at this time we'll excuse Mr. Schultz from the hearing. Safe travels.

THE WITNESS: Thank you very much.

CHAIRMAN BRISE: All right, at this time we are past our two-hour mark and we're going to go ahead and take our ten-minute break, and we'll come back with witness Ramas.

(Brief recess)

CHAIRMAN BRISE: Okay, if everyone is ready, we're about to reconvene. And before we move forward, we want to express our condolences to Mr. Wright. We know that he's experienced a loss in his -- a loss in his family.

MR. WRIGHT: Thank you, Mr. Chairman. I really appreciate it. And I appreciate your accommodation. And as I've told others, it could not have been any better. She went peacefully and with no pain, surrounded by her family. Thank you very much.

CHAIRMAN BRISE: All right, I'm going to ask Commissioner Graham to chair for the next few hours, so I'm turning over the gavel to Chairman Graham.

COMMISSIONER GRAHAM: Thank you, Mr. Chairman. Mr. Rehwinkel?

MR. REHWINKEL: Thank you, Mr. Chairman. Citizens of Florida call Donna Ramas to the stand.

Thereupon,

DONNA RAMAS

was called as a witness on behalf of Office of Public Counsel, and having been previously duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. REHWINKEL:

Q Ms. Ramas, could you please state your name for the record, please.

A Donna Ramas.

Q And were you previously sworn?

A Yes, I was.

Q Thank you. Ms. Ramas, on whose behalf are you testifying here today?

A I'm here on behalf of the Office of the Public Counsel, representing the citizens of the state of Florida.

Q Did you cause to be filed on behalf of the citizens 45 pages of prefiled direct testimony?

A Yes, I did.

Q Do you have any changes or corrections to make to that testimony?

A Yes, I prepared an errata sheet.

MR. REHWINKEL: Okay. And I think that has been provided, Mr. Chairman, to the parties previously, and distributed.

COMMISSIONER GRAHAM: Okay.

BY MR. REHWINKEL:

Q Apart from your errata sheet, do you have any other changes or corrections to make to your testimony?

A I wouldn't call them corrections. However, subsequent to the date my testimony was filed the company has provided a few revised or supplemental responses to some data requests I relied on in my testimony, one of which impacts one of the adjustments I recommend and another of which doesn't impact an adjustment I'm recommending but does impact a number presented in my testimony.

The first area is -- I believe it was less than two weeks ago the company provided a supplemental response to the Office of Public Counsel's Sixth Set of Interrogatories, interrogatory number 124. And that pertained to items included by the company in transmission property held for future use.

And what they did in this response is they indicated that based on additional discussions between the distribution and transmission departments that they've now changed the forecast in-service date of a couple of the projects that I recommended for removal and moved them forward, and they now project them going into service in 2018.

And as a result of that, I'm no longer

recommending that two of the projects that I originally recommended for removal, I no longer recommend they be removed from rate base. This specifically includes the Galloway-South Miami Loop to Southwest Sub Project and the Line to Portsaid Sub Project.

In my Exhibit DR-2, at page 4 of 11, the amounts that I hadn't removed from rate base for these was $1,834,000 for the Galloway-South Miami Loop Southwest Sub. And the Line to Portsaid Sub, I recommended a $27,000 reduction to rate base. I no longer recommend those recommendations. I agree that they should remain in rate base in this case.

The other supplemental response that was received, I believe, within the last two weeks, was a supplement response to the Office of Public Counsel's Twelfth Set of Interrogatories, interrogatory number 254. And it pertains to the smart meters and the amount that's actually included in the company's requested plant in service balances in the average test year for those smart meters.

In my testimony -- if I can find the page -- at pages 18 and 19, I provide my estimated impact on revenue requirements resulting from the inclusion of the smart meters in rate base in this case. On page 18, line seven, I had estimated the amount included in the adjusted test year plant in service as approximately $555 million.

The company's supplemental response provided another correction to its MFR Schedule B-7. And based on that correction, the amount included in the average test year for the -- what they itemize as the AMI meters, is 563 million, approximately, which is higher than the amount presented in my testimony.

And the impact that has is if you turn to the next page, page 19 of my direct testimony, I had estimated the revenue requirement impact of the plant in service in the depreciation expense and the other rate base components in the filing is approximately 78.1 million. If that corrected number the company provided in the supplemental responses flowed through, it increases the impact on ratepayers to $79 million. And that would conclude the -- the changes or impacts of the company's later filed corrections that I was provided on my testimony.

Q Thank you, Ms. Ramas. And with the changes and corrections that you have identified here today, and in your errata, if I asked you the questions contained in your direct testimony today, would your answers be the same?

A Yes, they would.

MR. REHWINKEL: Mr. Chairman, I ask that the prefiled direct testimony of Donna Ramas be inserted into the record as though record.

COMMISSIONER GRAHAM: Her free -- excuse me -- her prefiled direct testimony with the errata and the changes she mentioned will be entered into the record as though read.

MR. REHWINKEL: Thank you.

DIRECT TESTIMONY

OF

DONNA RAMAS

On Behalf of the Office of Public Counsel

Before the

Florida Public Service Commission

Docket No. 120015-EI

INTRODUCTION

Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

A. My name is Donna Ramas. I am a Certified Public Accountant licensed in the State of Michigan and a senior regulatory consultant at the firm Larkin & Associates, PLLC, Certified Public Accountants, with offices at 15728 Farmington Road, Livonia, Michigan 48154.

Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory Consulting Firm. The firm performs independent regulatory consulting primarily for public service/utility commission staffs and consumer interest groups (public counsels, public advocates, consumer counsels, attorneys general, etc.). Larkin & Associates, PLLC has extensive experience in the utility regulatory field as expert witnesses in over 600 regulatory proceedings, including numerous electric, water and wastewater, gas and telephone utility cases.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION?

A. Yes, I have testified before the Florida Public Service Commission ("FPSC" or "Commission") on several prior occasions. I have also testified before several other state regulatory commissions.

Q. HAVE YOU PREPARED AN EXHIBIT DESCRIBING YOUR QUALIFICATIONS AND EXPERIENCE?

A. Yes. I have attached Exhibit No. DR-1, which is a summary of my regulatory experience and qualifications.

Q. ON WHOSE BEHALF ARE YOU APPEARING?

A. Larkin & Associates, PLLC, was retained by the Florida Office of Public Counsel ("OPC") to review the rate request of Florida Power & Light Company ("FPL" or "Company"). Accordingly, I am appearing on behalf of the Citizens of the State of Florida ("Citizens").

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. I am presenting OPC's overall recommended revenue requirement in this case. I also sponsor several adjustments to the Company's proposed rate base and operating income.

Q. FPL IS REQUESTING BOTH A BASE RATE INCREASE TO BE EFFECTIVE JANUARY 2, 2013, AND A BASE RATE STEP ADJUSTMENT CONCURRENT WITH THE COMMERCIAL IN-SERVICE DATE OF ITS CANAVERAL

MODERNIZATION PROJECT. WILL YOU BE ADDRESSING BOTH REQUESTED INCREASES TO BASE RATES?

A. Yes. In this testimony, I first address the base rate increase that FPL has proposed to be effective January 2, 2013 ("January 2013 Base Rates"). I then address the proposed base rate step adjustment for the Canaveral Modernization Project ("Canaveral Step Increase").

Q. **ARE ANY ADDITIONAL WITNESSES APPEARING ON BEHALF OF THE FLORIDA OFFICE OF PUBLIC COUNSEL IN THIS CASE?**

A. Yes. Helmuth W. Schultz, III, also of Larkin & Associates, PLLC, is presenting testimony on several issues which impact the revenue requirements. David Vondle is presenting testimony addressing affiliate issues, some of which also impact the revenue requirements in this case. In his testimony, Jacob Pous addresses several statements made by FPL with regard to the surplus depreciation amortization issue and explains why the Commission should direct FPL to cease recording amortization of the reserve after the 2013 test period. Kevin O'Donnell's testimony addresses the appropriate capital structure for purposes of determining the revenue requirements of FPL in this case. Dr. Randall Woolridge presents Citizens' recommended rate of return on equity in this case using the capital structure recommended by Mr. O'Donnell, as well as the appropriate rate of return on equity if FPL's proposed capital structure is adopted by the Commission. Daniel Lawton's testimony addresses the financial integrity of FPL, taking into consideration the recommendations made by OPC's witnesses in this case.

Q. **HOW WILL YOUR TESTIMONY BE ORGANIZED?**

A. I first present the overall financial summary for the base rate change to be effective January 2, 2013, showing the primary revenue requirement recommended by Citizens. I then discuss several of my proposed adjustments which impact the January 2013 Base Rates. Exhibit No. DR-2 presents the schedules and calculations in support of this section of my testimony.

Following the section addressing the January 2013 Base Rates, I then address the Canaveral Step Increase. Within this section, I present the OPC primary revenue requirement recommendation associated with step increase requested by FPL, as well as several adjustments that need to be made to FPL's calculation of the Canaveral Step Increase. The Canaveral Step Increase calculations and several adjustments impacting these calculations are presented in Exhibit No. DR-3.

Finally, I present the outcome of an alternative revenue requirement for the January 2013 Base Rate Change and the Canaveral Step Increase using FPL's proposed capital structure instead of the capital structure recommended by OPC in this case. The calculations of the alternative revenue requirement for the January 2013 Base Rate Change and the Canaveral Step Increase are presented in Exhibit Nos. DR-4 and DR-5, respectively.

<u>OVERALL FINANCIAL SUMMARY – BASE RATE CHANGE</u>

Q. PLEASE DISCUSS THE EXHIBIT YOU PREPARED IN SUPPORT OF YOUR TESTIMONY AS IT PERTAINS TO THE JANUARY 2013 BASE RATE CHANGE.

A. Exhibit No. DR-2, totaling 11 pages, consists of Schedules A-1, B-1 through B-2, C-1 through C-5 and D.

Schedule A-1 presents the revenue requirement calculation for the January 2013 Base Rate change, giving effect to all of the adjustments I am recommending in this testimony, along with the impacts of the recommendations made by Citizens' witnesses Schultz, Vondle, O'Donnell and Woolridge. Schedule B-1 presents OPC's adjusted rate base and identifies each of the adjustments impacting rate base that are recommended by Citizens' witnesses in this case. Schedule B-2 provides supporting calculations for a rate base adjustment I am sponsoring, which is presented on Schedule B-1. OPC's adjustments to net operating income are listed on Schedule C-1. Schedules C-2 through C-5 provide supporting calculations for the adjustments I am sponsoring to net operating income, which are presented on Schedule C-1.

Q. WOULD YOU PLEASE DISCUSS SCHEDULE D?

A. Schedule D presents Citizens' recommended capital structure and overall rate of return, based on the revisions to FPL's proposed debt-to-equity ratio recommended by Kevin O'Donnell and the rate of return on equity recommended by Dr. Woolridge. The capital structure ratios are based on the ratios recommended by Mr. O'Donnell; however, the capital structure dollar amounts differ, as I have applied the adjustments to the capital structure necessary to synchronize Citizens' recommended rate base with the overall capital structure. On Schedule D, I then applied Dr. Woolridge's recommended cost rates to the recommended capital ratios, resulting in OPC's overall recommended rate of return of 5.56%.

Q. WHAT IS THE RESULTING JANUARY 2013 BASE RATE REVENUE REQUIREMENT FOR FLORIDA POWER & LIGHT COMPANY?

A. As shown on Exhibit DR-2, Schedule A-1, the OPC's recommended adjustments in this case result in a recommended revenue reduction for FPL in January 2013 of $253,446,000. This is $769.9 million less than the $516.5 million base rate increase requested by FPL in its filing.

RECOMMENDED ADJUSTMENTS – JANUARY 2013 BASE RATE CHANGE

Q. WOULD YOU PLEASE DISCUSS EACH OF YOUR SPONSORED ADJUSTMENTS TO FPL'S FILING?

A. Yes, I will address each adjustment I am sponsoring below.

Plant Held For Future Use

Q. PLEASE EXPLAIN THE LEVEL OF PLANT HELD FOR FUTURE USE THAT FPL HAS REFLECTED IN ITS 13-MONTH AVERAGE RATE BASE.

A. As shown on MFR Schedule B-1, FPL has included in rate base Plant Held For Future Use ("PHFFU") of $237,400,000 on a total Company 13-month average basis. FPL provided a breakout of this amount by category in MFR Schedule B-15 which is reproduced in the table below.

Description	13 Month Avg. Test Year Amount
Nuclear Future Use	$ 9,316,000
Other Production Future Use	$ 108,951,000
Transmission Future Use	$ 47,920,000
Distribution Future Use	$ 40,976,000
General Plant Future Use	$ 30,237,000
Total PHFFU	$ 237,400,000

In discovery, OPC requested that the Company provide the following for each item of PHFFU included in the $237.4 million: (1) a description of the property; (2) purchase dates and related amounts; (3) the current anticipated in-service date; and (4) documentation for system planning supporting the expected in-service dates. In response to OPC's 6th Set of Interrogatories, Interrogatory 124, FPL provided a detailed listing of each item included in the $237.4 million.[1]

Q. DO YOU AGREE THAT EVERY PROPERTY INCLUDED IN FPL'S 2013 TEST YEAR PHFFU BALANCE OF $237.4 MILLION SHOULD BE INCLUDED IN RATE BASE IN THIS PROCEEDING?

A. No, I do not. Upon reviewing the detail associated with the Company's requested level of PHFFU provided in response to OPC's 6th Set of Interrogatories, Interrogatory 124, I have determined that several items should be removed and not included in rate base at this time. The entire amount included in the Other Production Future Use category should be removed, and the balance for Transmission Future Use should be reduced by $8,555,000, resulting in an overall PHFFU reduction of $117,507,000 on a total Company basis. After this reduction, the adjusted 2013 test year rate base would still include $119,893,000 of PHFFU on which FPL would earn a return.

Q. WHAT PROPERTIES HAS FPL INCLUDED IN THE OTHER PRODUCTION FUTURE USE CATEGORY?

A. The Other Production Future Use includes the Fort Drum, McDaniel and Hendry County plant sites. As shown in the table below, the total actual and projected costs for these sites are $129,730,361 on a total Company basis. This amount is higher than the amount

[1] Similar data was provided in the responses to Staff's 7th Set of Interrogatories, Interrogatory 249, and the South Florida Hospital and Healthcare Association's (SFHHA) 1st Set of Interrogatories, Interrogatory 129.

included in the average 2013 test year as a result of the Hendry County site not being included at the full $70 million cost for the entire 2013 test year.

Description		Total Company Amount
Fort Drum Site	$	17,754,918
McDaniel Site	$	41,975,443
Hendry County Site	$	70,000,000
Total Other Production Future Use	$	129,730,361

Q. WHY DO YOU RECOMMEND THAT THESE THREE PLANT SITES BE REMOVED FROM FPL'S RATE BASE?

A. Ratepayers should not be required to pay a return to FPL's shareholders for the costs of these sites. There are several reasons why these three sites should be removed from the 2013 test year rate base balance. First, in terms of FPL's anticipated in-service dates for the Fort Drum, McDaniel and Hendry County plant sites, the response to OPC Interrogatory 124 referred to Note 2 of the response, which stated:

> The Hendry County property (i.e., Hendry Cty Land and McDaniel Site) and the Okeechobee County property (i.e., Fort Drum) were both acquired for future use as generation sites (most likely combined cycle gas-fired and/or renewable generation facilities). **FPL does not currently have a specific expected in-service date for generation facilities at these sites.** FPL is acquiring these properties in order to have definite, secure access to desirable locations with necessary water rights for future generation expansion. In a state such as Florida where demand for electricity is growing at the same time that desirable sites are rapidly becoming scarce, acquiring and holding sites for anticipated future generation expansion is prudent and in the best interest of FPL and its customers. Moreover, there are at least two considerations that could accelerate FPL's need to add generation resources at these sites. First, if the in-service dates for FPL's planned new nuclear units (i.e., Turkey Point Units 6 and 7) were delayed beyond the current projection of 2022-23, FPL likely would find it economically beneficial for customers to build a combined cycle unit in 2021 rather than making a short-term power purchase in that year. Second, it may become appropriate for FPL to add generation resources in 2020 or earlier beyond those identified in the 2012 Ten Year Site Plan, in order to maintain a sufficient percentage of its reserve margin from generation as opposed to demand side management (DSM).

(emphasis added)

As indicated by FPL, it has no specific in-service dates for the Fort Drum, McDaniel and Hendry County plant sites. Similarly, the response to SFHHA Interrogatory 129 stated that the Fort Drum and McDaniel sites were purchased to construct a power generation facility in "future periods", and that the Hendry County site was for planned purchases of land and to provide water rights to the "future power plant" on the McDaniel site.

Q. DOES FPL HAVE ANY SPECIFIC PLANS FOR THE FORT DRUM SITE BEYOND WHAT WAS NOTED IN THE ABOVE QUOTE?

A. No. As it relates to FPL's plans for the Fort Drum site, the response to Staff Interrogatory 240 stated, in part:

> FPL does not currently have a specific expected in-service date for generation facilities at this site. Rather, FPL acquired the site in order to have definite, secure access to a desirable location to support future generation expansion. **As such, FPL does not currently have a proposed date of construction or determination of need.**
> (emphasis added)

Since FPL has neither a proposed date of construction for the Fort Drum site, nor an estimated date to file a determination of need with the Commission for this site, it should be removed from test year PHFFU. In my opinion, it is not reasonable to expect ratepayers to pay a return on the costs of the land on an annual recurring basis with no estimated or targeted date for which it will ever be used to actually provide service to them.

Q. HAS FPL PURCHASED ALL THREE OF THESE PROPERTIES?

A. The Fort Drum and McDaniel sites were acquired by FPL in June 2011.[2] However, the Hendry County property also consists of three separate parcels that FPL has not yet acquired.[3] FPL has designated these as Parcels A, B and C.[4] Of these three Hendry County parcels, FPL included Parcels A and B in its 2013 test year rate base. The Company stated in the response to Staff Interrogatory 241 that it expects to purchase Parcels A and B of the Hendry County land during 2012 and 2013, respectively, for a total cost of $70 million. Parcel C would fall under a 2nd Purchase Option expiring in 2016. The table below shows the amount of acres for Parcels A and B, as well as the price per acre.

Description	Acres	Price Per Acre	Cost
Parcel A	4,742	$ 7,381	$ 35,000,702
Parcel B	4,667	$ 7,499	$ 34,997,833
			$ 69,998,535

Note: Amounts per the response to Staff Interrogatory 243

The response to Staff Interrogatory 57 states: "The purchases of parcels A-C are subject to FPL's due diligence and certain conditions precedent." Since FPL has not even acquired these parcels, and considering the fact that FPL does not have an estimate of when it may need the land in the future, if ever, these properties should be excluded from the 2013 test year rate base in this case.

Q. ARE THE FORT DRUM, MCDANIEL AND HENDRY COUNY PLANT SITES REFERENCED IN FPL'S TEN YEAR POWER PLANT SITE PLAN?

[2] The McDaniel site is part of the Hendry County property per the responses to Staff Interrogatories 57, 243 and 248.
[3] See the responses to Staff Interrogatories 57, 241 and 243.
[4] See the responses to Staff Interrogatories 57 and 243.

A. A review of FPL's Ten Year Power Plant Site Plan for the period 2012-2021, dated April 2012 ("Ten Year Site Plan") merely indicates that the McDaniel Site in Hendry County "...is a possibility for a future PV facility and/or natural gas power generation." The PV designation in the study is for photovoltaic generation. The Fort Drum site similarly is identified as a potential site for "...future PV facility or natural gas generation." The remaining Hendry County properties are not discussed in the Ten Year Site Plan.

Q. YOU STATED THAT FPL DESIGNATED THE MCDANIEL PROPERTY AND THE FORT DRUM PROPERTY AS POTENTIAL SITES IN ITS TEN YEAR SITE PLAN. WHAT IS FPL'S DESCRIPTION OF A POTENTIAL SITE?

A. On page 121 of the Ten Year Site Plan, the Company stated, in part, the following with respect to potential sites:

> Potential Sites are those sites that have attributes that support the siting of generation and are under consideration as a location for future generation. Some of these sites are currently in use as existing generation sites and some are not. **The identification of a Potential Site does not indicate that FPL has made a definitive decision to pursue generation (or generation expansion in the case of an existing generation site) at that location, nor does this designation indicate that the size or technology of a generator has been determined.**
> (emphasis added)

Based on the Company's definition, the fact that a property is designated as a "potential site" does not provide any assurance that that property will ever be developed and placed into service. Since FPL has stated that it has no expected in-service date for the McDaniel plant site or the Fort Drum plant site, they should be removed from test year PHFFU.

Q. DOES THE COMPANY'S TEN YEAR PLAN LIST OTHER POTENTIAL SITES, AND IF SO, ARE THESE OTHER POTENTIAL SITES INCLUDED IN THE 2013 TEST YEAR PHFFU?

A. In addition to the McDaniel and Fort Drum plant sites, the Ten Year Plan, at pages 151 through 158, discusses eight other potential sites for possible future generation. Of those additional potential sites, only the DeSoto plant site, with costs totaling $9.3 million, is included in the 2013 test year PHFFU. The difference between the DeSoto site and the Fort Drum and McDaniel sites is that there is currently a 25 MW photovoltaic ("PV") facility on the DeSoto site, which has been operational since 2009. In addition, the response to OPC Interrogatory 124 stated that up to an additional 275 MW of PV generation could be constructed in phases on the remaining undeveloped land and that FPL has initiated permitting for these additional facilities[5] with interconnection dates scheduled for 2014 and 2015. With the DeSoto plant site, FPL has demonstrated that it not only has plans for the site, but it has also begun implementing those plans. The same cannot be said for the Fort Drum, McDaniel and Hendry County sites.

It should be noted that MFR Schedule B-15 states that the DeSoto site was transferred from the Nuclear Future Use category to Other Production Use in December 2011. In response to Staff Interrogatory 59, which asked why FPL this transfer was made, the Company stated:

> FPL transferred the DeSoto future use plant from "nuclear future use" to "other production use" in order to properly reflect FPL's current intended use of the property and be consistent with what is reflected in FPL's current 10 year site plan. The transfer does not impact any other accounts or areas since this property was a transfer within FERC Account 105.

[5] The Company's Ten Year Site Plan states the same thing at page 152.

Q. WHAT IS YOUR RECOMMENDATION WITH REGARD TO THE FORT DRUM, MCDANIEL AND REMAINING HENDRY COUNTY PLANT SITES?

A. For the reasons discussed above, I recommend that the Fort Drum, McDaniel and remaining Hendry County plant sites be removed from test year rate base. The removal of these properties from the 13-month average test year PHFFU balance is shown on Exhibit DR-2, Schedule B-2. FPL has made it clear that it has no specific plans to develop these sites and/or place them into service at any time in the foreseeable future.

Q. ARE YOU RECOMMENDING THE REMOVAL OF ANY OTHER PROPERTIES FROM FPL'S TEST YEAR PHFFU BALANCE?

A. Yes. The detail that was provided in the response to OPC Interrogatory 124 listed nine properties under the Transmission Future Use category, where the expected in-service dates are either classified as "2022-2023", or "TBA," (presumably meaning To Be Announced, although not defined in the response). In terms of the Company's plans for these sites, under the "planning" column, OPC Interrogatory 124 referenced Note 3 of the response, which stated:

> On an annual basis, FPL conducts planning studies to determine what facilities will be needed over the next ten years in order to meet NERC reliability standards. Typically, projects resulting from these studies require FPL to purchase property which can require zoning, permitting or lengthy eminent domain proceedings. Large projects, such as Bobwhite-Manatee, are subject to the Transmission Line Siting Act which can add several years to the process. All of these processes dictate that the property is purchased ahead of the projected in-service date. Changes to the load growth forecast can result in modification to the transmission expansion plans and associated property in-service dates.

FPL's inclusion of the plant sites with expected in-service dates of 2022-2023 go beyond the "...next ten years" indicated in the passage above and the Company's Ten Year Site Plan. Therefore, I recommend that these sites be removed from the 2013 test year PHFFU balance that is included in rate base. Similarly, those plant sites in which FPL designated the expected in-service date as "TBA" should also be removed since "TBA" as an in-service date is vague and speculative. Therefore, those plant sites should not warrant consideration for inclusion in PHFFU.

Q. WHAT COSTS DID FPL ASSIGN TO THESE NINE PLANT SITES?

A. A description of these nine plant sites and their associated costs, which total $8,555,599 on a 13-month average basis (per OPC Interrogatory 124), are summarized on Exhibit No. DR-2, Schedule B-2, lines 8-16.

Q. PLEASE SUMMARIZE YOUR OVERALL ADJUSTMENT TO PHFFU.

A. As shown on Exhibit No. DR-2, Schedule B-2, my adjustment removes the Fort Drum, McDaniel and Hendry County plant sites, reducing the 13-month average test year PHFFU by $108,952,000. I have also removed the nine sites discussed above from the Transmission Future Use category, which further reduces the 13-month average test year PHFFU by $8,555,000, resulting in an overall adjustment that reduces test year rate base by $117,507,000.

<u>Construction Work in Progress</u>

Q. HAS FPL INCLUDED CONSTRUCTION WORK IN PROGRESS ("CWIP") IN ITS RATE BASE REQUEST?

A. Yes. While FPL has removed the CWIP associated with costs recovered through its various clauses and interest-bearing CWIP that accrues an Allowance for Funds Used During Construction ("AFUDC"), the non-AFUDC CWIP remains in rate base. FPL MFR B-1 shows that $501,876,000 remains in jurisdictional rate base for CWIP.

Q. IS THE CWIP THAT REMAINS IN RATE BASE A SUBSTANTIAL PORTION OF THE TOTAL PROJECTED TEST YEAR CWIP OR PLANT-IN-SERVICE BALANCES?

A. No, it is not. The majority of FPL's forecasted test year projects qualify for AFUDC accrual. In its filing, FPL has removed $1,872,719 of interest-bearing CWIP on a jurisdictional basis from its average test year CWIP balances. FPL clearly is permitted to earn a return through AFUDC on the vast majority of its projected test year CWIP balances.

Q. SHOULD THE COMMISSION ALLOW THE NON-INTEREST-BEARING CWIP TO BE INCLUDED IN RATE BASE AS PROPOSED BY FPL?

A. It is my opinion that CWIP should not be afforded rate base treatment. CWIP, by its very nature, is plant that is not completed and is not providing service to customers. More specifically, and in reference to this proceeding, CWIP is not used or useful in delivering electricity to FPL's customers. Under the ratemaking process, utilities are permitted to earn a return on the assets that are used and useful in providing service to a utility's customers. Assets that are still undergoing construction clearly are not used in providing service to customers during the construction period. Because of this, the ratemaking process in most jurisdictions excludes CWIP from rate base, requiring that assets be classified as used and useful in serving customers prior to earning a return on those assets being recovered from ratepayers. Therefore, as a general regulatory principle, CWIP should be excluded from rate base and from costs being charged to customers until such time as it is providing service to those customers.

However, it is my understanding that the Commission has consistently allowed the inclusion of non-interest-bearing CWIP projects for electric utilities in rate base. This understanding was affirmed in the Commission's Order No. PSC-12-0179-FOF-EI in the recent Gulf Power Company general rate case proceeding, issued April 3, 2012. In that order, at page 20, the Commission reaffirmed that: "...the inclusion of CWIP (not eligible for AFUDC) in rate base is consistent with our practice." In acknowledgement of the Commission's practice and its recent affirmation thereof, I have not removed the non-interest-bearing CWIP from rate base for purposes of determining OPC's recommended revenue requirement in this case. However, the fact that the removal has not been reflected in OPC's revenue requirement calculations in this case should not be interpreted to mean that OPC's position on this issue has changed, or that OPC will not pursue this important policy issue in future proceedings.

Q. ARE YOU RECOMMENDING ANY REVISIONS TO THE AMOUNT OF NON-INTEREST-BEARING CWIP INCLUDED IN TEST YEAR RATE BASE IN FPL'S FILING?

A. Yes, a correction needs to be made to the amount of CWIP remaining in test year rate base in FPL's filing. In response to Staff's 3rd Set of Interrogatories, Interrogatory 88, Attachment No. 1, FPL indicated that the adjusted, 13-month average CWIP balance for the 2013 test year includes $4,685,000 on a total Company basis related to the Riviera Modernization Project that is eligible for AFUDC treatment. In the attachment, FPL agrees with OPC's position that the $4,685,000 should be removed from rate base in this case. Because of this, I removed the $4,685,000 ($4,234,000 jurisdictional) from CWIP on Exhibit DR-2, Schedule B-1, page 2.

Advanced Metering Infrastructure – Smart Meters

Q. IN ITS PRIOR RATE CASE, FPL PROJECTED SIGNIFICANT INVESTMENTS IN SMART METERS FROM 2009 TO 2013 AS PART OF ITS ADVANCED METERING INFRASTRUCTURE (AMI) PROJECT. HOW MUCH CAPITAL INVESTMENT HAS FPL PROJECTED IN THIS CASE FOR THE IMPLEMENTATION OF SMART METERS, AND HOW DOES THE LEVEL IN THE CURRENT CASE COMPARE TO THE AMOUNT PROJECTED IN THE PRIOR CASE?

A. On a net basis, the total dollar amount is fairly consistent; however, the timing of the capital additions has been accelerated compared to the prior case. The table below presents a comparison of the capital costs by year, as well as the annual amounts and total amount: 1) from FPL's last general rate case (as identified at page 95 of the Commission's Order No. PSC-10-0153-FOF-EI); 2) amounts incorporated in the Company's filing in the current case; and 3) FPL's best current estimate.[6]

(Amounts in Millions)	2009	2010	2011	2012	2013	5 Yr Total
Capital Costs, Prior Case	$ 43.7	$ 168.5	$ 158.7	$ 151.5	$ 122.5	$ 644.9
Capital Costs, Current Case	$ 32.8	$ 161.7	$ 187.5	$ 191.2	$ 70.5	$ 643.7
Capital Cost, Current Estimate	$ 32.8	$ 161.7	$ 187.5	$ 205.9	$ 56.0	$ 643.9

While these expenditures lagged in 2009 and 2010, it appears that they were greatly accelerated in 2011 and 2012.

Q. HOW MUCH IS INCLUDED IN PLANT IN SERVICE AND ACCUMULATED DEPRECIATION FOR SMART METERS IN THE COMPANY'S FILING?

[6] Amounts from current filing and current best estimate provided by FPL in response to OPC's 9th Set of Interrogatories, Interrogatory No. 173.

A. On a 13-month average test year basis, MFR Schedule B-7, at page 4, shows $439,587,000 for AMI Meters in plant in service. However, in response to OPC's 6th Set of Interrogatories, Interrogatory No. 128, the Company indicated that a credit of $115 million was reflected in the AMI Meters line item amounts on MFR Schedule B-7, and that this credit should have been reflected for other plant accounts included on the schedule and not on the AMI Meter account. Thus, the amount included in the average test year plant in service for AMI Meters is $554,587,000 ($439,587,000 + $115,000,000).

On a 13-month average test year basis, Company MFR Schedule B-9, at page 4, shows $77,097,000 for AMI Meters in accumulated depreciation. The schedule also shows the depreciation accrued in 2013 (i.e., the 2013 depreciation expense) on the smart meters as $28,670,000.

Q. DOES THE INCLUSION OF THE SMART METERS IN RATE BASE HAVE A SIGNIFICANT IMPACT ON RATES CHARGED TO FPL'S CUSTOMERS IN FLORIDA?

A. Yes, it does. In my opinion, it is important for the Commission to consider the total financial impact of FPL's smart meter program on FPL customer rates. Below, I present a table showing the estimated impact on revenue requirements for the smart meter capital costs included in the 2013 test year in this case. This table is based on FPL's requested rate of return in this case, and does not include the impact of deferred income taxes. While not exact, this table provides a reasonable estimate of the capital cost impact of the smart meter program.

1	AMI Meter Plant in Service	$ 554,587,000
2	AMI Meter Accumulated Depreciation	$ (77,097,000)
3	Net Plant in Service	$ 477,490,000
4	Rate of Return, per FPL	7.0%
5	Required Return (3 x 4)	$ 33,424,300
6	Depreciation	$ 28,670,000
7	Income tax effect (6 x -.38575)	$ (11,059,453)
8	Interest Synch [(3) x 1.71% x (-.38575)]	$ (3,149,679)
9	Total NOI Requirements	$ 47,885,168
10	NOI Multiplier	1.6319
11	Revenue Requirement (9 x 10)	$ 78,143,806

It is important to note that the $78.14 million impact presented above does not include the O&M (operation and maintenance) costs included in the filing for smart meters.

Q. IN THE PRIOR CASE, FPL PROJECTED COST SAVINGS THAT WOULD RAMP UP AS THE SMART METERS ARE IMPLEMENTED. WOULD YOU PLEASE DISCUSS THE INFORMATION PRESENTED TO THE COMMISSION IN THE LAST CASE WITH REGARDS TO NET COST SAVINGS?

A. Yes. Commission Order No. PSC-10-0153-FOF-EI provided a table at page 95 showing projected O&M expenses, cost savings and net O&M expense resulting from the implementation of smart meters for each year, 2009 through 2013. These amounts are presented in the table below:

(Amounts in Thousands)	2009	2010	2011	2012	2013
O&M Expense	$ 2,274	$ 6,883	$ 7,819	$ 11,882	$ 10,458
O&M Savings	$ (167)	$ (418)	$ (4,700)	$ (18,203)	$ (30,401)
Net O&M	$ 2,107	$ 6,465	$ 3,119	$ (6,321)	$ (19,943)

As shown in the above table, FPL projected net O&M costs for the first three years in the prior rate case, with annual net savings beginning in 2012. By 2013 (the test year in this case), FPL projected net O&M savings of $19,943,000.

Q. HAS FPL REFLECTED $19,943,000 OF SMART METER NET COST SAVINGS IN THE CURRENT CASE?

A. No. In discovery, FPL was asked to provide an updated version of the table appearing at page 95 of the Commission's Order PSC-10-0153-FOF-EI (see OPC's 9th Set of Interrogatories, Interrogatory No. 173). This interrogatory requested that FPL include the amounts incorporated in the Company's filing in this case on the updated table. The information provided by FPL in response shows that the O&M expense associated with the smart meters in the test year exceeds the savings by $3,744,000.

Also, FPL has projected $20,739,000 of O&M expense in 2013, which is $10.3 million higher than the estimated 2013 expenses presented to the Commission in the prior rate case. For the same period, FPL has projected savings of $16,996,000, which is $13.4 million less than what was previously presented to the Commission. The table below shows the O&M expenses, cost savings and the net O&M expense presented by FPL in its response to OPC Interrogatory No. 173.

(Amounts in Thousands)	2009	2010	2011	2012	2013
O&M Expense	$ 1,662	$ 7,421	$ 13,705	$ 18,161	$ 20,739
O&M Savings	$ (173)	$ (449)	$ (3,179)	$ (9,125)	$ (16,996)
Net O&M	$ 1,489	$ 6,972	$ 10,526	$ 9,036	$ 3,743

The table below provides a comparison of the net cost savings that FPL presented to the Commission in the prior rate case and what the Company has presented in the current rate case.

(Amounts in Millions)	2009	2010	2011	2012	2013
Net O&M, Prior Case	$ 2,107	$ 6,465	$ 3,119	$ (6,321)	$ (19,943)
Net O&M, Current Case	$ 1,489	$ 6,972	$ 10,526	$ 9,036	$ 3,743
Variance - (favorable)/unfav.	$ (618)	$ 507	$ 7,407	$ 15,357	$ 23,686

Q. WHAT IS THE OVERALL IMPACT OF THE SMART METERS ON THE REVENUE REQUIREMENTS PRESENTED BY FPL IN THIS CASE?

A. Based on FPL's requested rate of return, the estimated impact of the capital costs already presented, and the net O&M expenses of $3.7 million, smart meters have an impact of approximately $82 million on FPL's requested revenue requirements. Also, there are some incremental revenues incorporated in FPL's filing as a result of better theft detection from the meter implementation and additional deferred income tax amounts that offset some of the revenue requirements. However, the additional revenues and deferred income tax benefits would not come close to making up for the $82 million identified above.

Q. SHOULD THE NET O&M EXPENSE OF $3.7 MILLION BE FACTORED INTO BASE RATES?

A. No. What is being requested in this case with regard to the smart meters is grossly unfair to FPL's customers. I recommend that the net O&M expense of $3,744,000 in the filing be removed. This O&M adjustment is presented on Exhibit No. DR-2, Schedule C-1, page 2 of 2. It is bad enough for ratepayers that the capital expenditures associated with the implementation of the smart meter program is having such a significant impact on revenue requirements in this case. Ratepayers should not be expected to fund any net

O&M expenses that exceed 2013 savings as part of base rates, particularly when FPL projects that savings will begin to be realized in 2014 and continue to grow after 2014.

Q. WHAT LEVEL OF ADDITIONAL SMART METER COST SAVINGS DOES FPL PROJECT BEYOND THE 2013 TEST YEAR?

A. FPL's response to Staff's 4th Set of Interrogatories, Interrogatory No. 146, shows that FPL projects net O&M cost savings of $12.9 million in 2014 and $27.6 million in 2015. The response shows that the projected O&M costs will decline from the $20.4 million incorporated in the filing for 2013 to $13.6 million by 2015. The annual O&M savings are projected to increase from the $16.5 million of savings incorporated in the filing for 2013 to $41.2 million by 2015. Thus, while FPL has projected a net O&M cost of $3.9 million in the test year, it is projecting annual net O&M savings of $27.6 million by 2015.

Additionally, the net plant balance for the smart meters will decline each year as the smart meters are depreciated, thus reducing the amount of rate base associated with the smart meters in future periods. Once the full impact of the smart meter project is included in base rates as a result of this case, FPL will begin to benefit the very next year as the cost savings begin to be realized and eventually escalate as the net plant balance declines.

Q. DO YOU RECOMMEND NET COST SAVINGS BE FACTORED INTO BASE RATES TO BE SET IN THIS CASE?

A. Yes. I recommend for purposes of setting base rates that FPL be held to the net O&M savings projection for 2013 identified at pages 95 and 96 of Order No. PSC-10-0153-

FOF-EI. This would result in net O&M savings of $19,943,000, which I have included on Exhibit DR-2, Schedule C-1, page 2 of 2. It would be grossly unfair to require ratepayers to fund the full capital costs associated with the smart meter implementation in base rates yet receive none of the net savings that will result. This is especially the case, given the projections upon which the Commission predicated its approval of the AMI deployment. Inclusion of the $19,943,000 of net cost savings is still less than the full annual net cost savings that FPL projects will ultimately result from the smart meter implementation.

<u>Generation Overhaul Expense</u>

Q. ARE YOU AWARE OF ANY COST PROJECTIONS INCORPORATED IN THE TEST YEAR THAT ARE NOT REPRESENTATIVE OF A NORMAL ANNUAL COST LEVEL?

A. Yes. FPL is projecting a significant increase in generation overhaul expense in the 2013 test year. Based on the workpapers provided by FPL in response to OPC's Second Request for Production of Documents, POD 12, at Bates Stamp OPC 294683, test year expenses include $15,034,000 for steam generation overhauls and $53,309,000 for other generation plant overhauls. These amounts are broken out on a unit by unit basis in the workpapers. In addition to the projected costs on per unit basis is $1,265,000 of "Central Maintenance" expense associated with overhauls. The workpaper also shows that the test year total generation overhaul expenses of $69,609,000 exceeds the 2013 benchmark by $11,718,000, with the steam generation overhauls $18.8 million below the benchmark, while other generation overhauls $30.2 million above the benchmark.

Some of the variance to benchmark is explained by the retirement of several steam generation facilities and the addition of the combined cycle units. However, the projected test year overhaul expense is still significantly higher than the projected 2012 expense due largely to the timing of planned overhauls. The response to SFHHA's First Set of Interrogatories, Interrogatory 87, indicates that the company has "...identified a higher level of planned maintenance (overhaul) work for the combined cycle fleet in 2013, increasing planned maintenance costs over 2012 by $17.4 million."

Generation facilities are not overhauled on an annual basis. Additionally, the amount of overhaul expense incurred varies depending on the type of overhaul and the type of work needed during the overhaul. For example, the response to Staff's 7th Set of Interrogatories, Interrogatory 284, indicates that combined cycle unit outages are scheduled based on the life of combustion turbine parts. This response indicates that most of the General Electric 7FA combustion turbine units have 24,000-hour combustion parts requiring a Hot Gas Path outage in three years. The response also indicates that at year 6, additional work is done with a Major Inspection.

Test year generation overhaul expenses are significantly higher than a normalized cost level. The changes to base rates resulting from this case will likely be in effect longer than a one-year period. Thus, in setting rates, the costs should be based on a normalized cost level.

Q. HOW DO YOU RECOMMEND A NORMALIZED COST LEVEL BE DETERMINED?

A. I recommend that the normalized costs to be included in rates be based on a four-year average cost level. Given the retirement of several steam units and the addition of several other production plants in recent years, I recommend the four-year average be based on the actual costs for 2010 and 2011 and FPL's projected costs for 2012 and 2013.

Q. HAS FPL PROVIDED THE INFORMATION NEEDED TO CALCULATE A NORMALIZED COST LEVEL?

A. Yes. In response to OPC's 14th Set of Interrogatories, Interrogatories 264 through 267, FPL provided the actual 2010 and 2011 as well as the projected 2012 and 2013 generation overhaul expenses on unit-by-unit basis.

Q. DO ANY REVISIONS NEED TO BE MADE TO THE ACTUAL OR PROJECTED COSTS PRIOR TO DETERMINING THE 4-YEAR AVERAGE NORMALIZED COST LEVEL?

A. Yes, several specific adjustments need to be made. First, the actual steam plant overhaul expenses for the Port Everglades Units need to be removed from the 2010 and 2011 amounts as these units will be retired January 2013. The modernized Port Everglades combined cycle units are not projected to go into service until mid-2016.

The response to OPC Interrogatory 264 includes $862,000 for overhaul expense for the Cape Canaveral Modernized Unit. Since the Canaveral costs are removed from the January 2013 Base Rate Change calculations by FPL, I have removed the costs in determining the four-year normalized cost level. However, FPL will still recover costs associated with Canaveral overhaul expenses as the Canaveral Step Increase request includes $3 million for maintenance expense in Account 553.

The final adjustment is for the West County Unit 3. There was no overhaul expense associated with the new unit in 2010 and 2011. For purposes of normalizing the costs, I increased the 2010 and 2011 other production plant overhaul expenses by the average 2012 and 2013 projected costs for overhauls of this unit.

Q. WHAT ADJUSTMENT DO YOU RECOMMEND TO NORMALIZE TEST YEAR OVERHAUL EXPENSE?

A. My recommended adjustment is presented on Exhibit No. DR-2, Schedule C-3. As shown on the schedule, the adjustment is based on the average of the actual 2010 and 2011 as well as the projected 2012 and 2013 generation overhaul expenses, adjusted for the items identified above. Consistent with the FPSC benchmarking analysis methodology, I inflated the costs to 2013 levels based on the CPI-U compound multiplier. As shown on the schedule, FPL's projected test year generation overhaul expenses specific to the generation units should be reduced by $9,177,000. This allows for the non-unit specific costs incorporated in FPL's filing (i.e., the "Central Maintenance" expenses), as well as a normalized cost level for the unit specific costs.

Rate Case Expense

Q. PLEASE EXPLAIN THE COMPANY'S ADJUSTMENT TO RATE CASE EXPENSE.

A. As discussed in the direct testimony of Company witness Kim Ousdahl, FPL has estimated rate case expenses totaling $5,515,000, which it proposes to amortize over a four-year period beginning in 2013. In the workpapers provided in response to OPC POD 12, at Bates Stamp No. OPC296520, FPL provided the breakdown of its projected $5.5 million of rate case expense for this case. These workpapers, included with this testimony as Exhibit No. DR-6, provide a breakdown of the estimated cost into the following categories: (1) FPL Salaries & Wages - $287,600; (2) Payroll Overhead Allocations - $60,000; (3) Employee Related - $601,450; (4) Contractor & Professional - $4,233,700; (5) Equipment & M&S - $14,700; and (6) Office & Facilities Administration - $317,550.

Using the four-year amortization period, FPL proposes to include $1,378,750 for test year rate case expense amortization. In addition, as shown on MFR Schedule B-2, page 4 of 9, at line 27, FPL proposes to include the 13-month average unamortized balance of rate case expense associated with this proceeding of $4.826 million in the working capital component of rate base.

Q. DO YOU AGREE THAT THE COMPANY'S PROJECTED RATE CASE EXPENSE OF $5.5 MILLION IS REASONABLE OR SUPPORTED?

A. No. There are several costs included in the Company's projected rate case expense that should be removed. Also, there are other costs that appear significantly overstated and/or unsupported.

Q. COULD YOU PLEASE DISCUSS WHAT COSTS APPEAR TO BE SIGNIFICANTLY OVERSTATED?

A. As an example, there are many costs included by FPL in the "Employee Related" category that are excessive. FPL's workpaper, provided as Exhibit No. DR-6, provides a breakdown of the total Employee Related costs of $601,450, which is provided in the table below.

Description		Total Estimate
Vehicle - Contract	$	4,800
Books, Subscriptions (Lexus/Nexus)	$	6,500
Hotels/Lodging	$	253,500
Business Meals	$	155,900
Airline Travel	$	92,300
Vehicle - Car Rental	$	28,650
Travel Expenses	$	18,200
Vehicle - Occasional	$	41,600
	$	601,450

Of these employee related amounts, the estimates for Hotels/Lodging, Business Meals and Airline Travel throughout this proceeding, especially during the hearing phase, appear to be particularly excessive.

Q. **WHY DO YOU BELIEVE THAT FPL'S ESTIMATES FOR LODGING, BUSINESS MEALS AND AIRLINE TRAVEL EXPENSES ARE EXCESSIVE?**

A. From the total amounts identified above for lodging and business meals, FPL allocated $73,000 and $30,000, respectively, for each month from August through October 2012. With respect to airline travel, FPL allocated $29,000 for both August and September and $15,000 for October. The Company's rate case expense workpaper defines this period as either "Technical Hearings" (August) or "Staff Recommendation-Commission Vote-Prepare to Implement Rates" (September and October). These amounts are excessive for a few reasons. First, the hearings for this proceeding are scheduled for August 20-24 and August 27-31, 2012, with the post-hearing briefs due to be filed by the parties on September 14, 2012. For the Company to presume that for each month, August through October, it will incur lodging and business meal costs of $73,000 and $30,000, as well as airline travel expenses of $58,000 in August and September and $15,000 in October is not reasonable.

Additionally, as shown in the table below, the Company's rate case expense workpaper also includes estimates for Employee Related expenses totaling \$22,450, which FPL estimated will be incurred from January through December 2013,[7] long after the hearings in this proceeding have occurred and after the new base rates resulting from this proceeding take effect.

Implementation & Follow-Up

Description	January 2013	February 2013	March 2013	April 2013	May 2013	June 2013	July 2013	August 2013	September 2013	October 2013	November 2013	December 2013	Total
Vehicle - Contract	\$ 100	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100
Books, Subscriptions (Lexus/Nexus)	\$ 500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 500
Hotels/Lodging	\$ 600	\$ 500	\$ 400	\$ 300	\$ 200	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 2,700
Business Meals	\$ 1,000	\$ 1,000	\$ 1,000	\$ 200	\$ 200	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 4,100
Airline Travel	\$ 3,000	\$ 1,000	\$ 1,000	\$ 500	\$ 500	\$ 200	\$ 200	\$ 200	\$ 200	\$ 200	\$ 200	\$ 200	\$ 7,400
Vehicle - Car Rental	\$ 500	\$ 300	\$ 300	\$ 200	\$ 100	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 1,750
Travel Expenses	\$ 300	\$ 300	\$ 300	\$ 200	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 1,900
Vehicle - Occasional	\$ 1,200	\$ 500	\$ 500	\$ 400	\$ 300	\$ 200	\$ 200	\$ 200	\$ 200	\$ 100	\$ 100	\$ 100	\$ 4,000
	\$ 7,200	\$ 3,600	\$ 3,500	\$ 1,800	\$ 1,400	\$ 750	\$ 750	\$ 750	\$ 750	\$ 650	\$ 650	\$ 650	\$ 22,450

Q. **OTHER THAN THE COSTS IDENTIFIED ABOVE, ARE THERE ANY ADDITIONAL 2013 COSTS IN FPL'S RATE CASE EXPENSE ESTIMATES?**

A. Yes. In addition to the 2013 estimated Employee Related category of rate case expenses, FPL has also included 2013 related rate case expense under the following categories:

Description	2013 Estimate
Outside Legal Fees	\$ 20,100
Contractor & Professional	\$ 2,400
Equipment and M&S	\$ 600
Office & Facilities Administration	\$ 11,800
	\$ 34,900

FPL has neither demonstrated why it expects to incur expenses related to this proceeding during 2013 (in some cases more than a year after the filing of the post-hearing briefs), nor explained why costs incurred after this case is fully processed and the new rates are in effect should be allowed for inclusion in rate case expense as a regulatory asset to be

[7] The rate case expense workpaper describes the period January through December 2013 as "Implementation & Follow-up".

amortized in rates. In any event, the projected 2013 costs should not be included in FPL's projected rate case expense.

Q. YOU STATED THAT THERE ARE OTHER CATEGORIES INCLUDED IN THE COMPANY'S ESTIMATE FOR RATE CASE EXPENSE THAT SHOULD BE ADJUSTED AND/OR REMOVED. PLEASE ELABORATE.

A. As indicated previously, FPL has included $287,600 for "FPL Salaries & Wages". This category includes current fiscal year costs such as overtime, overtime meals and regulatory affairs labor costs. Because FPL's labor costs are already included in current base rates, these expenses would also need to be considered in the calculation of the amount of depreciation reserve sufficiency that will be amortized in 2012. Therefore, it is inappropriate to also include these labor costs as part of the rate case expense to be recovered from ratepayers in future periods.

Q. HAS THE COMMISSION PREVIOUSLY DISALLOWED THE INCLUSION OF INTERNAL LABOR COSTS IN RATE CASE EXPENSE?

A. Yes. In Order No. PSC-10-0153-FOF-EI (dated March 17, 2010), which was issued pursuant to FPL's last rate case in Docket No. 080677-EI, the Commission stated the following with respect to FPL including overtime labor in its projected rate case expense:

> FPL included $450,000 for overtime and/or bonuses for salaried employees in its original total rate case expense filing. We have historically disallowed recovery of additional pay or bonuses as part of rate case expense. In Order No. PSC-08-0327-FOF-EI, we stated "Salaried Overtime Pay for Extraordinary Work Load" shall be disallowed because these employees and managers are paid a salary, not an hourly wage. Salaried employees are usually expected to work the hours required to complete their job duties without extra compensation.

Q. ARE THERE OTHER CATEGORIES OF COSTS THAT APPEAR TO BE OVERPROJECTED OR UNSUPPORTED?

A. Yes. For example, projected rate case expense includes $444,200 for Temporary Payroll, $942,000 for data processing costs, $242,500 for non-professional outside services, $41,000 for Security costs, $183,500 for "Company Forms" and $2,075,000 for professional services.

Several of the cost estimates included in the Professional Services category appear to be either excessive or questionable. For example, $475,000 was included for "Direct: John Reed, Concentric Energy, Benchmarking". The Company also included $278,000 for "Direct: Steven Harris, EQECAT, Storm Reserve," yet no direct testimony was filed by either Mr. Harris or EQECAT. In addition, the Company has included costs for additional rebuttal witnesses totaling $839,500. Interestingly, FPL projected that it would begin to incur these costs in March 2012, which is several months prior to the intervenor testimony filing deadline of July 2, 2012. In fact, over half of the projected rebuttal witness costs, or $471,200, was projected to be incurred from March 2012 – June 2012, well before the intervenor filing date of July 2, 2012.

Q. WHAT IS YOUR RECOMMENDED AMOUNT TO BE ALLOWED FOR RATE CASE EXPENSE IN THIS CASE?

A. My recommended adjustment is presented on Exhibit No. DR-2, Schedule C-2. Because several of the projected costs are inappropriate for inclusion in rate case expense, and other costs appear excessive, I recommend that the costs in this case be limited to the amount of rate case expense allowed by the Commission in FPL's prior rate case, adjusted for inflation. In FPL's prior rate case, Order No. PSC-10-0153-FOF-EI, the

Commission authorized a rate case expense recovery of $3,207,000. I escalated the allowed level from the prior docket using the O&M multiplier for CPI[8] of 1.072066 to the 2013 test year to determine the recommended amount of rate case expense. As shown on Exhibit DR-2, Schedule C-2, this adjustment results in an overall rate case expense of $3,438,116, or $2,076,884 less than the Company's requested amount of $5,515,000. The annual amortization of these costs, using FPL's proposed four-year amortization period, is $859,529, or $519,221 less than the amount proposed by FPL. Thus, test year amortization expense should be reduced by $519,221.

<u>Unamortized Rate Case Expense</u>

Q. HAS THE COMPANY INCLUDED THE PROJECTED TEST YEAR BALANCE OF UNAMORTIZED RATE CASE EXPENSE IN ITS WORKING CAPITAL REQUEST IN THIS CASE?

A. Yes. As noted above, the working capital component of rate base for the 2013 test year includes $4.826 million for FPL's projected unamortized rate case expense associated with this case.

Q. SHOULD FPL BE PERMITTED TO INCREASE RATE BASE FOR THE UNAMORTIZED RATE CASE EXPENSE BALANCE?

A. No, it should not. The Commission has consistently disallowed the inclusion of unamortized rate case expense in working capital. This long-standing Commission policy was recently reaffirmed in Commission Order No. PSC-10-0131-FOF-EI involving Progress Energy Florida. At pages 71 to 72 of that Order, the Commission stated the following with regard to unamortized rate case expense:

[8] See MFR Schedule C-40 from FPL's filing.

> We have a long-standing policy in electric and gas rate cases of excluding unamortized rate expense from working capital, as demonstrated in a number of prior cases. The rationale for this position was that ratepayers and shareholders should share the cost of a rate case: i.e., the cost of the rate case would be included in the O&M expenses, but the unamortized portion would be removed from working capital. It espouses the belief that customers should not be required to pay a return on funds expended to increase their rates.
>
> While this is the approach that has been used in electric and gas cases, water and wastewater cases have included unamortized rate case expense in working capital. The difference stems from a statutory requirement that water and wastewater rates be reduced at the end of the amortization period (Section 367.0816,F.S.). While unamortized rate case expense is not allowed to earn a return in working capital for electric and gas companies, it is offset by the fact that rates are not reduced after the amortization period ends.
>
> We agree with the long-standing policy that the cost of the rate case should be shared, and therefore find that the unamortized rate case expense amount of $2,787,000 shall be removed from working capital.

In a footnote on page 71 of the Order, the Commission identified the following cases that confirm and validate its long-standing policy of excluding the unamortized rate case expense from working capital in electric and gas cases:

> Order No. 23573, issued October 3, 1990, in Docket No. 891345-EI, In re: Application of Gulf Power Company for a rate increase; Order No. PSC-09-0283-FOF-EI, issued April 30, 2009; in Docket No. 08317-EI, In re: Petition for rate increase by Tampa Electric Company; Order No. PSC-09-0375-PAA-GU, issued May 27, 2009, in Docket No. PSC-09-0375-PAA-GU, In re: Petition for rate increase by Florida Public Utilities Company.

In addition, in Order No. PSC-10-0153-FOF-EI (dated March 17, 2010), which was issued pursuant to FPL's last rate case in Docket No. 080677-EI, the Commission stated in part:

> We do not agree with the Company that the unamortized balance of rate case expense should be included in rate base. Historically, the unamortized balance of rate case expense has been excluded from rate base to reflect a sharing of the rate case cost between the ratepayers and the shareholders. Rate case expenses are recovered from ratepayers through the amortization process as a cost of doing business in a regulated environment. However, the unamortized balance of rate case expense has

> been excluded from rate base to reflect that an increase in rates is a benefit to the shareholders.

Later, this policy was also affirmed in Commission Order No. PSC-12-0179-FOF-EI (dated April 3, 2012) involving Gulf Power Company, where the Commission stated at pages 30 and 31:

> ...We have a long-standing practice in electric and gas rate cases of excluding unamortized rate case expense from working capital, as demonstrated in a number of prior cases. The rationale for this position is that ratepayers and shareholders should share the cost of a rate case; i.e., the cost of the rate case would be included in O&M expense, but the unamortized portion would be removed from working capital. This practice underscores the belief that customers should not be required to pay a return on funds spent to increase their rates.
>
> ...For the foregoing reasons, we find that the unamortized rate case expense of $2,450,000 shall be removed from working capital consistent with our long standing practice.

In a footnote on page 30 of the Gulf Power Order, the Commission identified the same cases referenced in the footnote of the Progress Energy Florida Order discussed above.

Q. DO YOU RECOMMEND THAT THE UNAMORTIZED RATE CASE EXPENSE BE EXCLUDED FROM RATE BASE IN THIS CASE?

A. Yes, I recommend that the Commission continue to follow its long-standing policy in electric cases of not allowing inclusion of the unamortized rate case expense in rate base. Consistent with the Commission's findings in the most recent Progress Energy Florida base rate case, the Gulf Power Company base rate case, and FPL's last rate case, it would be unfair for customers to pay a return on the costs incurred by the Company in this case when these are being used to increase customer rates. On Exhibit No. DR-2, Schedule B-1, page 2, I have removed the full amount of the unamortized balance of rate case expense from working capital in this case, thus reducing rate base by $4.826 million.

Income Tax Expense

Q. HAVE YOU ADJUSTED INCOME TAX EXPENSE TO REFLECT THE IMPACT OF THE ADJUSTMENTS SPONSORED BY CITIZENS' WITNESSES TO NET OPERATING INCOME?

A. Yes. On Exhibit No. DR-2, Schedule C-4, I calculate the impact of federal and state income tax expenses resulting from the recommended adjustments to operating expenses. The result is carried forward to the Net Operating Income Summary on Exhibit No. DR-2, Schedule C-1, page 2.

Interest Synchronization

Q. WHAT IS THE PURPOSE OF YOUR INTEREST SYNCHRONIZATION ADJUSTMENT ON EXHIBIT NO. DR-2, SCHEDULE C-5?

A. The interest synchronization adjustment allows the adjusted rate base and cost of debt to coincide with the income tax calculation. Since interest expense is deductible for income tax purposes, any revisions to the rate base or to the weighted cost of debt will impact the test year income tax expense. OPC's proposed rate base and weighted cost of debt differ from the Company's proposed amounts. Thus, OPC's recommended interest deduction for determining the 2013 test year income tax expense will differ from the interest deduction used by FPL in its filing. Consequently, OPC's recommended debt ratio increase in this case will lead to a greater interest deduction in the income tax calculation, which would in turn result in a reduction to income tax expense.

CANAVERAL MODERNIZATION PROJECT STEP INCREASE

Q. COULD YOU PLEASE BRIEFLY DESCRIBE FPL'S REQUEST AS IT PERTAINS TO THE CANAVERAL MODERNIZATION PROJECT?

A. FPL projects that the Cape Canaveral Modernization Project will be completed and placed into service in mid-2013. FPL removed the impacts of this project from the 2013 test year in its base rate increase calculations that would be effective on January 2, 2013. Rather, FPL is requesting that the project be included in a Step Increase that would go into effect when the project is placed into service and begins serving customers, which was projected to be in June 2013 at the time of FPL's original filing. The purpose of removing the project from the 2013 test year and to instead treat it as a step increase in base rates is so that base rates will reflect an annual level of the Canaveral Modernization Project costs, beginning with the date the project is used to serve FPL customers. Thus, instead of recovering the costs associated with the Canaveral Modernization Project throughout 2013 and in subsequent years based on the average test year approach, recovery of the project costs would begin after project completion based on an annualized cost level.

FPL provided the calculation of the requested Canaveral Modernization Project Step Increase in a separate set of MFRs that are specific to the project. These MFRs show a projected annualized rate base of $821,325,000, a requested 9.06% overall rate of return applied to the rate base, and a projected net operating income (loss) associated with the project of ($32,092,000). Altogether, these amounts result in FPL's projected first year annualized revenue requirement for the Canaveral Modernization Project of $173,851,000.

Q. ARE YOU RECOMMENDING ANY REVISIONS TO THE AMOUNT OF CANAVERAL MODERNIZATION PROJECT STEP INCREASE REQUESTED BY FPL?

A. Yes, I am recommending several adjustments. First, I recommend that the rate of return the Commission will apply to the project rate base be based on OPC's overall recommended rate of return. Next, I recommend that the projected amount of rate base and operating costs associated with the project be updated based on more recent forecasts. Additionally, I recommend that the start-up costs included in FPL's projections be removed so that base rates established at the time of the proposed step increase are based on normalized costs and exclude one-time non-recurring charges.

Q. HAVE YOU PREPARED AN EXHIBIT PRESENTING OPC'S RECOMMENDED REVENUE REQUIREMENT AS IT PERTAINS TO THE CANAVERAL MODERNIZATION PROJECT STEP INCREASE TO BASE RATES?

A. Yes. I have prepared Exhibit No. DR-3, consisting of Schedules A-1, B-1 – B-2, and C-1 - C-3. Each of these schedules is specific to the calculation of OPC's primary revenue requirement calculation for the Canaveral Step Increase.

Q. IN CALCULATING THE REVENUE REQUIREMENT FOR THE CANAVERAL STEP INCREASE, DID YOU USE THE COMPANY'S PROPOSED RATE OF RETURN?

A. No, I did not. In calculating the revenue requirement for the Canaveral Step Increase, the Company based the calculation of the increase on an overall rate of return of 9.06%. The determination of this 9.06% overall rate of return was based on the following hypothetical capital ratio for the Canaveral Modernization Project: 39.03% for long-term debt, 60.97% for equity, a 5.26% rate for long-term debt and a 11.50% rate of return on equity. In my opinion, it is not appropriate to use a different capital structure and overall rate of return to calculate the revenue requirement associated with FPL's requested step increase than the appropriate capital structure and overall rate of return for the January 2013 Base Rate Change. Thus, as shown on Exhibit No. DR-3, Schedule A-1, OPC's primary recommendation for FPL's requested Canaveral Step Increase is calculated based on OPC's recommended overall rate of return of 5.56%.

Q. DID FPL EXPLAIN WHY IT USED A DIFFERENT CAPITAL STRUCTURE AND OVERALL RATE OF RETURN FOR THE CANAVERAL STEP INCREASE CALCULATIONS?

A. A footnote at the bottom of MFR Schedule D-1a – Canaveral Step Increase states that "The capital structure reflects incremental sources of capital consistent with the analysis submitted in connection with its need determination proceeding."

Q. DOES THIS EXPLANATION SUPPORT THE USE OF A RATE OF RETURN THAT DIFFERS FROM THE RATE OF RETURN TO BE USED FOR CALCULATING THE JANUARY 2013 BASE RATE CHANGE?

A. No, it does not. Additionally, it is my understanding that the Commission has based prior approved step increases associated with certain major capital projects on the authorized overall rate of return found to be appropriate for determining the change to base rates in a rate case proceeding.

A recent example of this can be found in Order No. PSC-12-0179-FOF-EI, issued April 3, 2012. That decision, at page 142, shows that the Commission applied its authorized overall rate of return that it found appropriate for purposes of determining the base rate increase for Gulf Power Company in its calculation of the January 2013 step increase associated with the annualization of the Crist Units 6 & 7 turbine upgrade projects.

Similarly, in Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, the Commission applied its authorized overall rate of return it found appropriate for determining the base rate increase for Tampa Electric Company in its calculation of the January 1, 2010 step increase associated with five combustion turbine units being placed into service. This is demonstrated at pages 138 and 139 of the Order, on Schedules 5 and 6.

Q. YOU STATED THAT THE PROJECTED AMOUNT OF RATE BASE AND OPERATING COSTS ASSOCIATED WITH THE CANAVERAL MODERNIZATION PROJECT SHOULD BE UPDATED BASED ON MORE RECENT FORECASTS. PLEASE EXPLAIN.

A. OPC requested that FPL provide a complete copy of its current forecast for the construction and other costs associated with the Canaveral Modernization Project. In response to OPC's 6th Request for Production of Documents, POD 62, FPL provided revised versions of many of the MFR Schedules that were specific to the Canaveral Step Increase, as well as supporting workpapers. The revised MFR Schedule A-1 – Canaveral Step Increase shows the revenue requirement for the step increase as $172,016,000, which is $1,835,000 less than the Company's original filing amount of $173,851,000.

Q. WHAT ADJUSTMENTS DID FPL MAKE TO RATE BASE THAT RESULTED IN FPL'S REVISED REVENUE REQUIREMENT FOR THE CANAVERAL STEP INCREASE?

A. The primary adjustment FPL made was to update its projected construction costs related to Other Production. Specifically, in its original Canaveral step increase filing, FPL's projected 13-month average balance of Other Production Plant for the period ended May 2014 totaled $963,790,000 on a total Company basis, as reflected on MFR Schedule B-8

– Canaveral Step Increase. On the revised MFR Schedule B-8 – Canaveral Step Increase (Bates Stamp No. OPC 300800), FPL's 13-month average balance of Other Production Plant for the same period was $953,430,000 on a total Company basis. Thus, the updated projection of the Other Production Plant is $10,360,000 lower than the amount in the original filing. This also impacted the accumulated depreciation and depreciation expense in the case. Each of the rate base adjustments that needs to be made to reflect the impact of FPL's update to the Canaveral Modernization Project costs is presented on Exhibit DR-3, Schedule B-2. As shown on line 8 of that schedule, the overall rate base impact on of FPL's update is a reduction of $9,782,000 on a total Company basis.

Q. WHAT CHANGES DID FPL MAKE TO THE PROJECTED OPERATING COSTS IN ITS UPDATED CANAVERAL STEP INCREASE CALCULATIONS?

A. FPL revised its projected Other Production related depreciation and amortization expense and property tax expense to correspond with the updated Plant in Service. Specifically, on a total Company basis, FPL's revised Other Production depreciation and amortization expense is $31,494,000, which is $341,000 less than the original filing amount of $31,835,000. Similarly, FPL's revised Property Tax Expense of $17,808,000 is $215,000 less than the as-filed amount of $18,023,000. Also, FPL's revisions include the impacts on income tax expense that resulted from these updates. The revisions to the various net operating income components are presented on Exhibit DR-3, Schedule C-2.

Q. DID FPL'S REVISED MFR SCHEDULES FOR THE CANAVERAL STEP INCREASE INCLUDE ANY OTHER ADJUSTMENTS?

A. Yes. In addition to the rate base and operating expense revisions presented in Exhibit DR-3, Schedules B-2 and C-2, FPL revised many of the jurisdictional separation factors that it used for rate base and operating costs in its original Canaveral Step Increase calculations. I did not include the revision to the jurisdictional allocation factors and left them at the factors used in FPL's filing.

Q. PREVIOUSLY YOU INDICATED THAT YOU RECOMMEND REMOVAL OF THE PROJECTED START-UP COSTS. WOULD YOU PLEASE ELABORATE?

A. Yes. FPL included projected non-fuel O&M expenses of $10.455 million in its Canaveral Step Increase filing. The response to Staff's 7th Set of Interrogatories, Interrogatory 290, shows that $831,000 is included in the non-fuel O&M expenses for start-up costs. The response to Staff Interrogatory 290 stated that "the start-up costs were identified and quantified after the submission of the needs filing and included in the current proceeding." In response to OPC's 10th Set of Interrogatories, Interrogatory 206, which asked why FPL included start-up costs in its projected non-fuel O&M expense related to the Canaveral Step Increase, the Company stated, in part:

> Traditionally, in the bidding process to assess the most cost-effective option for new generating units, the fuel and non-fuel expenses associated with producing this generation are not included in the project's O&M budget proforma since these are non-recurring expenses. Rather, these start-up expenses are budgeted for as part of the project's construction costs. Once the start-up phase begins, native load sales during this period are considered revenue to FPL and the associated expenses of producing this generation are credited to the project cost and charged or debited as an O&M expense to the plant. Hence, this is part of the 2013 O&M budget for the Canaveral Modernization Project.

Q. DO YOU AGREE THAT START-UP COSTS SHOULD BE INCLUDED IN THE CALCULATION OF THE REVENUE REQUIREMENT ASSOCIATED WITH FPL'S REQUESTED CANAVERAL STEP INCREASE?

A. No, I do not. The start-up costs that FPL projects to expense in the twelve-month period ending May 31, 2014 are one-time, non-recurring expenses that should not be incorporated in the Canaveral Step Increase. As shown on Exhibit No. DR-3, Schedule C-1, I have removed non-recurring start-up expenses of $831,000 on a total Company basis and $816,000 on a jurisdictional basis.

Q. ARE THERE ANY ADDITIONAL ADJUSTMENTS THAT NEED TO BE MADE FOR PURPOSES OF CALCULATING THE REVENUE REQUIREMENT ASSOCIATED WITH FPL'S REQUESTED CANAVERAL STEP INCREASE?

A. Yes. As addressed previously in this testimony, OPC's recommended revision to the capital structure results in the weighted cost of debt being higher than the amount incorporated in the Company's filing. This increase in the weighted cost of debt impacts the calculation of the interest deduction in the income tax calculations (i.e., the interest synchronization adjustment). On Exhibit No. DR-3, Schedule C-3, I provide the calculation of the adjustment that needs to be made to FPL's updated income tax expense amount to reflect the impact of the interest synchronization adjustment, which reduces the updated income tax expense by $104,000.

Q. WHAT IS THE RESULTING REVENUE REQUIREMENT ASSOCIATED WITH FPL'S REQUESTED CANAVERAL STEP INCREASE RECOMMENDED BY THE OPC IN THIS CASE?

A. As shown on OPC Exhibit No. DR-3, Schedule A-1, OPC's recommended adjustments discussed above result in a Canaveral Step Increase for FPL of $121,486,000. This is $52,365,000 less than the $173,851,000 Canaveral Step Increase requested by FPL in its original filing. This calculation is based on OPC's primary overall cost of capital of 5.56%.

OVERALL FINANCIAL SUMMARY – ALTERNATIVE RECOMMENDATION

Q. HAVE YOU CALCULATED AN ALTERNATIVE REVENUE REQUIREMENT FOR FPL IN THE EVENT THE COMMISSION ADOPTS THE DEBT-TO-EQUITY RATIO IN THE CAPITAL STRUCTURE REQUESTED BY FPL?

A. Yes. Exhibit No. DR-4, totaling four pages, shows the revisions that need to be made to OPC's primary recommendation for the January 2013 Base Rate Change presented in Exhibit No. DR-2 if the Commission adopts the 2013 test year debt-to-equity ratio used by FPL for its requested overall rate of return. As shown on page 1 of Exhibit No. DR-4, if the Commission adopts FPL's proposed debt-to-equity ratio, the revenue requirements for the January 2013 Base Rate Change would result in a reduction of $184,396,000 to FPL's current base rates.

Q. WHAT IS THE REVISED RATE OF RETURN RECOMMENDED BY OPC UNDER THIS ALTERNATIVE SCENARIO?

A. The overall rate of return would increase from the OPC's primary recommendation in this case from 5.56%[9] to 5.62%. The calculation of OPC's recommended rate of return under this alternative scenario, as well as the resulting reconciliation of OPC's recommended rate base to the capital structure, is presented on Exhibit No. DR-4, page 2 of 4.

OPC witness Woolridge testifies that if the Commission accepts the debt-to-equity ratios presented by FPL in this case, his original recommended rate of return on equity should be reduced from his primary recommendation of 9.0% based on OPC's proposed capital

[9] Calculation of the 5.56% Rate of Return shown in Exhibit No. DR-2, Schedule D

structure to 8.50%. This recommended 8.50% rate of return on equity is included in the calculations presented on Exhibit No. DR-4, page 2 of 4.

Q. WHAT ADDITIONAL MODIFICATIONS NEED TO BE MADE TO OPC'S RECOMMENDED REVENUE REQUIREMENT CALCULATIONS UNDER THIS ALTERNATIVE SCENARIO?

A. The weighted cost of debt would change because of FPL's proposed debt-to-equity ratio. Since OPC has accepted the debt cost rates incorporated in FPL's capital structure calculations, the weighted cost of debt to be applied to rate base to calculate the tax deductible interest expense would be the same under this scenario. The only difference between FPL and OPC with regard to the interest synchronization adjustment under this scenario should be because OPC is recommending a lower rate base amount than FPL. Exhibit No. DR-4, page 4 presents the interest synchronization calculation based on OPC's recommended rate base. The result of this calculation is carried forward to page 3 of Exhibit No. DR-4 to determine the impact on OPC's recommended net operating income resulting from the modification to the interest synchronization calculation.

Q. HAVE YOU CALCULATED THE REVENUE REQUIREMENT ASSOCIATED WITH FPL'S REQUESTED CANAVERAL STEP INCREASE THAT WOULD RESULT IF THE COMMISSION ADOPTS THE DEBT-TO-EQUITY RATIO IN THE CAPITAL STRUCTURE REQUESTED BY FPL?

A. Yes. Under this alternative scenario, and as shown on Exhibit No. DR-5, page 1 of 2, the revenue requirement associated with FPL's requested Canaveral Step Increase would be $122,455,000, which is $51,396,000 less than the $173,851,000 step increase requested by FPL in its original filing.

Q. DOES THIS COMPLETE YOUR PREFILED TESTIMONY?

A. Yes, it does.

BY MR. REHWINKEL:
Q Ms. Ramas, did you also cause to be prepared six exhibits that are identified in the comprehensive exhibit as 269 through 274?
A Yes.
Q Do you have any changes or corrections to make to those exhibits?
A No, with the exception of the one I just went over, the Exhibit DR-2, page four, involving the two transmission plant for future use projects.
Q Okay. Apart from that change, are the Exhibits 269 through 274 true and correct to the best of your knowledge?
A Yes.
Q Ms. Ramas, do you have a five-minute or less summary of your prefiled testimony to give today?
A Yes, I do.
Q Would you please give that at this time?
A Yes, I will. Good morning, Commissioners, counsel. In my testimony exhibits I present the Office of Public Counsel's overall recommended revenue requirements in this case. This brings together the impacts of all adjustments recommended by the Office of Public Counsel's expert witnesses in this case.
As demonstrated in my testimony and exhibits, the

$516 million -- 516,500,000 increase in base rates requested by Florida Power & Light to be effective January, 2013 is grossly overstated. Rather, the company's base rates charged to customers should be reduced, not increased. My testimony and exhibits show that a reduction in base rates of over $250 million is appropriate for this company.

This reduction factors in the impacts of the Office of Public Counsel's recommended revisions to the company's proposed capital structure, as well as Office of Public Counsel's recommended rate of return on equity of nine percent in this case.

I also present the amount of reduction in base rates that would result if the recommended revisions to the company's proposed capital structure are not accepted by the Commission in this case. This alternative calculation to the revenue requirement is based on the company's proposed capital structure, with a lower recommended rate of return on equity of eight-and-a-half percent, as sponsored by Dr. Woolridge in this case. Use of this alternative -- not the primary, the alternative recommendation -- results in a reduction to base rates of $184 million.

In my testimony I also recommend several adjustments which impact the revenue requirements in this case. And I'll highlight just a few of those in this summary. In this case the company is requesting to include

$237,400,000 in rate base for property held for future use. Included in that amount are costs associated with three sites the company has identified as other production future use. Two of these sites were acquired by the company in June of 2011. That would be the Fort Drum site, for $17,750,000, and a site in Hendry County for approximately $42 million.

In addition, there's a third site also in Hendry County, and the company has planned to purchase land there to provide water rights to future power plants on the McDaniel site that was acquired in 2011. For the additional Hendry County land the company indicated that it anticipates purchasing two separate parcels in 2012 and 2013 for a total additional cost of $70 million. $51.2 million of that 70 million is included in the test year in this case as part of the property held for future use.

The company has indicated that the Fort Drum site and the Hendry County sites were acquired for future generation sites identified as most likely combined cycle gas-fired and/or renewable generation facilities. The company's Ten Year Site Plan identifies these sites as a possibility for future photovoltaic generation or natural gas-fired generation. However, generation is not projected to be added at any of these three sites during the next ten-year period.

I recommend that these three sites, as well as certain transmission future use plants it is not projected to be used within the next ten years be excluded from rate base in this case.

I also address the amount included in the company's filing for its implementation of smart meters. This project was addressed in the company's last rate case in which it projected total capital costs of $644 million and projected annual net cost savings of $19.9 million by 2013, which is the test year.

In the current case, the projected capital costs included in the test year rate base are consistent with those amounts presented in the prior case. However, the cost savings originally projected for the test year 2013 are now instead a net increase in expenses the company is seeking to pass on to customers in the amount of $3.7 million.

In my testimony I estimated the impact on revenue requirements to customers resulting from the smart meter project as over 82 million-dollar-impact. While the test year includes the net operating expenses of 3.7 million, the company projects that by the very next year it will experience net cost savings of 12.9 million, and cost savings of 27.6 million by 2015.

For purposes of setting base rates, I've recommended the company be held to the cost savings that are projected for 2013 in the prior case. It would be grossly unfair to require ratepayers to fund the full capital cost of this costly project and not receive any of the benefits.

I also recommend that the generation overhaul expenses be normalized in this case based on a more representative level, instead of a one-year higher level that isn't reflective of the typical expenditures.

I also address the Canaveral step increase and present the OPC's recommended increase, if an increase is adopted at that time, of $121.5 million and recommended several adjustments to the calculation of that amount. Thank you.

MR. REHWINKEL: Ms. Ramas is available for cross examination.

COMMISSIONER GRAHAM: Thank you, Mr. Rehwinkel. Retail Federation?

MR. WRIGHT: Thank you, Mr. Chairman. We have no questions for Ms. Ramas.

COMMISSIONER GRAHAM: Mr. Saporito?

MR. SAPORITO: No questions, Mr. Chairman.

COMMISSIONER GRAHAM: South Florida?

MR. WISEMAN: No questions.

COMMISSIONER GRAHAM: FIPUG?

MR. MOYLE: Just a couple.

CROSS EXAMINATION

BY MR. MOYLE:

Q So I was listening to your opening statements or your summary statements, and if I understand it, the way the case is framed up now, there's a delta of more than 750 million between your recommendation of negative 250 and the used 516, with respect to FPL's request, is that right?

A Yeah, it's about a $760 million difference, something in that range.

Q And you're not testifying that this is an either-or proposition, are you, in terms of -- you know, your experience with rate cases, typically there's a middle ground between the high and the low that is the end result?

A It's my testimony that the impact of all the adjustments recommended by the Office of Public Counsel's witnesses in this case -- and we all agree our recommendations are appropriate and reasonable -- would result in a reduction in base rates of 253.4 million.

I realize we may not win all of our recommendations, or the Commission may not agree with all of our recommendations, but we do believe they are appropriate and reasonable recommendations for this company.

Q But you're not telling them that if they don't do negative 250 they're getting it wrong, are you?

A I hate to ever tell a commission they're getting it wrong when I'm on the stand. But, again, based on our analysis and our calculations and recommendations in this case, that's -- a reduction in rates would result.

MR. MOYLE: That's all I have.

COMMISSIONER GRAHAM: Captain Miller?

CAPT. MILLER: Thank you, Mr. Chairman. No questions.

COMMISSIONER GRAHAM: Florida Power & Light.

MR. BUTLER: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. BUTLER:

Q Ms. Ramas, let me start, just to clarify, you had made some changes to your testimony sort of on the fly based on some supplemental discovery responses. I just want to confirm here, if you would turn to your DR-2 exhibit, on page four, which I think that's the one you were referring to changes with respect to transmission on properties held for future use.

A Yes, I'm there.

Q Okay. And you had, I think, said that you were no longer recommending disallowing the $1.8 million of property held for future use on the Galloway-South Miami Loop that's on line eight, is that right?

A Correct.

Q And then the other one was on line 16, the Line to Portsaid Sub, 27,000?

A Correct.

Q Okay. Do you have a copy of Mr. Miranda's rebuttal testimony available to you?
A I'll see if I have it up here. Just a moment.
Q If you don't have one fairly quickly, or readily available, we can provide you a copy.
A Yes, I have that.
Q Okay. Would you turn to page nine of his rebuttal testimony, please.
A I'm there.
Q Okay. Do you see the discussion of the Levee Sub transmission property held for future use there, starting on line 18?
A Yes, I do.
Q Could you read that -- not into the record -- just read it to yourself, the first paragraph that runs over to line six on page ten?
A I'm sorry, did you say read it into the record or --
Q No, I'm just saying just read it to yourself. You don't need to read it into the record.
A I've read it.
Q Okay, thank you. What I want to ask you, Ms. Ramas, is that if I understood correctly, your adjustments with respect to the Galloway-South Miami Loop and the Line to Portsaid Sub properties on your Exhibit DR-2,

page four, related to supplemental information that was provided in response to interrogatory 124 of Public Counsel's Sixth Set, and interrogatory 249 of Staff's Seventh Set, and there is reference to supplemental information in those same discovery responses with respect to this property I've turned your attention to, the Levee Sub, which leads, you'll see on line five and six, to describing current plans to build the line there in the 2021 time frame.

A Uh-huh.

Q I am asking you why you are not recommending that the Levee Sub exclusion on your DR-2 recommendation be eliminated, as well, based on your ten-year time frame and the supplemental information provided in those interrogatory responses.

A I had overlooked that. I didn't catch that it was there in the response because it was part of the subsequent paragraph. But I would agree that it's less than ten years from the date of the site plan that I was relying on so I would agree that it would be reasonable to include that in plant held for future use.

Q Okay, thank you.

A You're welcome.

Q Would you turn to your Exhibit DR-1, please, page one of five. It notes that you graduated with honors from Oakland University in Rochester, Michigan --

A Yes.
Q -- in 1991. What was your degree from Oakland University?
A It was in accounting.
Q Accounting? Okay. And as it says a couple of lines down, you are a CPA, is that right?
A Yes, I'm licensed in the state of Michigan as a Certified Public Accountant.
Q Do you have any educational background in utility resource planning?
A No.
Q And do you have any experience in which you have worked as a utility resource planner?
A No, I have not worked as a utility resource planner.
Q Okay. May I assume you also have not worked in the planning or construction of generation plants, electric generation plants?
A No, I have not, but I also don't think such experience is necessary in evaluating whether or not certain items should be included in rate base to earn a return at this time.
Q Okay. Same question with respect to planning or construction of transmission lines. Do you have any experience in that?

A I haven't had any formal education in that area, but again, I don't think it is relevant to deciding whether or not the company should begin to earn a return on the property held for future use that I've recommended for removal.

Q And what experience is it that you do think is relevant to making that sort of determination?

A As to whether or not a property -- property held for future use should be included in rate base?

A That's right.

Q There's a lot of things you should look at. First of all, was the purchase prudent and at a reasonable cost for the property --

A I'm sorry, I think my question may not have been clear. I'm asking you what sort of experience, either educational or practical experience, would you consider appropriate to put yourself into the position to make the decision, not what the parameters are that ought to be considered in the decision.

Q I'm sorry, I guess I don't understand your question. Are you asking what education I've had with regards to evaluating whether or not it's appropriate to include those in rate base, or whether or not the asset should be -- maybe if you can clarify what you're asking?

A It's what you just posed. If I understood correctly, your answer to my question of whether you had experience in planning or construction of, you know, generating plants or transmission lines was no, but you didn't think that was needed in order to evaluate whether property should be included in future use property for those types of assets, correct?

A Correct.

Q And I'm just asking you what sort of educational background or experience do you consider appropriate for evaluating those sorts of determinations whether to include such property in plant held for future use?

A I don't think there's a formal class you can take to make that determination. It would be based on experience in reviewing rate case filings, thinking through is it reasonable to charge ratepayers for this at this time. I don't feel there's a formal education process you need to go through to make that -- be able to make that sort of determination.

Q I'm going to ask you some questions about FPL's 2012 Ten Year Site Plan concerning your recommendations on future use property. First I want to ask, have you familiarized yourself with FPL's most recent Ten Year Site Plan in preparing your testimony?

A The most recent one I'm aware of, which was the one from April, 2012, I did read through that, yes.

MR. BUTLER: Okay. Mr. Chairman, I had distributed before Ms. Ramas took the stand a series of three documents that I can either have as three separate exhibits -- or I certainly wouldn't object to having them be combined as a single. But it is page 11, page 17, and pages 26 through 28 of FPL's 2012 Ten Year Site Plan. I'd like to have that either marked as three exhibits or as a single exhibit, at your pleasure.

COMMISSIONER GRAHAM: If there's no objections, we'll just label it as one exhibit, 279 -- I'm sorry, 579. I don't see anybody shaking their head no, so we'll do that.

(Exhibit 579 marked for identification.)

MR. BUTLER: Thank you.

MR. REHWINKEL: Mr. Chairman, I'm not going to object at this time, but based on the questioning it may be appropriate to just make the whole Ten Year Site Plan part of the record, but I'm not asking for that at this time. I'll see how it goes.

COMMISSIONER GRAHAM: Okay.

MR. BUTLER: We would not object to that and could provide copies if it turns out that that's going to be more appropriate.

MR. MOYLE: I have maybe not received this but it sounds like in lieu of this we're just going to put in the Ten Year Site Plan, is that right?

COMMISSIONER GRAHAM: Well, no one has asked for it yet, but they've thrown out the possibility.

MR. MOYLE: Okay.

MR. WRIGHT: Commissioner Graham, apparently I got passed over when the exhibit was handed out. If I could just ask for a copy, please.

MR. BUTLER: I'm sorry, Mr. Chairman, I tried to speed this along by having it passed out in advance, but it doesn't seem like it fully came to fruition.

COMMISSIONER GRAHAM: Mr. Wright, there's a set right here if you want. All right, Mr. Butler.

MR. BUTLER: Thank you.

BY MR. BUTLER:

Q Ms. Ramas, do you have a set of the excerpts that we just described as Exhibit 579?

A Yes, I do.

Q Would you look at page five -- I'm sorry, 17?

A Yes, I'm there.

Q Okay. What is your understanding of the types of property that are -- I'm sorry, the types of production plant that are in the other production function?

A As shown in this document?

Q As shown on this document or just generally. What is your understanding of the category of other production on

power generating facilities? Let me ask --
A When you ask that, I know what types of projects the companies include in other production category in its plant in service in the filing, and in the plant held for future use components, which properties. It's my understanding that's typically the combined cycle turbines, renewable energy resources.
MR. WISEMAN: Your Honor, could counsel clarify where he's referring to? Because I'm looking at page 17, which he referenced, and I don't see a reference to other production.
MR. BUTLER: There isn't a reference. That's the reason I was asking the witness to describe what she understands the categories to be.
BY Mr. BUTLER:
Q Let me ask it this way to you, Ms. Ramas. You see that there is subsection on page 17 for combined cycle units, is that right?
A There's a category on this page for that and there's a category for combustion turbines, also, but yes --
Q So a combined cycle would be other production facilities, correct?
A Correct.
Q And would gas turbines and diesels be other production facilities, your understanding?

A If you give me a moment I can confirm it with how they're segregating those within the plant in service accounts in the filings. So if you can give me a moment, I'll confirm that.

Yes, breakdown of the plant, accounts in the filing, under the other production category, the company includes solar plants, the combined cycles, simple cycle plants, the West County Energy plants.

Would you like me to go through, from page 17, which of these plants the company has categorized as other production in the plant schedules of its filing?

Q Yeah, the categories. You would agree that combined cycle would be other production, correct?

A Correct.

Q And the gas turbines diesel would be other production?

A Yes, they do fall under that category.

Q And the combustion turbines would be, the Fort Myers combustion turbines?

A Yes, they would.

Q And then finally you mentioned the photovoltaic, PV, as it's shown on here?

A Yes.

Q Would you agree, subject to check, Ms. Ramas, that you total up the megawatts shown on page 17 for those other production facilities and it's going to be just short of 15,000 megawatts?

A Yes.

Q And you see the total system firm generation is highlighted there as of December 31, 2011 of 22,503 megawatts; do you see that?

A Yes, I do.

Q Okay. Would you agree, subject to check, that the other production represents about 66 percent of FPL's total firm system generation as of that date?

A As of December 31st, 2011, that's what the numbers presented on this page calculate to, yes.

Q And do you have any reason to doubt the accuracy of these figures?

A No, I don't. And again, I guess I'm not seeing how that's relevant to my recommendation to remove the new other production plant held for future use sites that have been recently acquired by the company, but it is what this page shows.

Q Okay. Let me ask you to move to page 11. And this shows -- it's Table ES-1 from the Ten Year Site Plan showing the projected capacity and firm purchase power changes over the period from 2012 through 2021, correct?

A Yes, those were the projected amounts as of the date this study was prepared.

Q And do you see in there an entry, 2013 plan to add Cape Canaveral Next Generation Clean Energy Center for 1210 megawatts?
A Yes, I see that.
Q Okay. And in 2014 you see the planned addition of the Riviera Beach Next Generation Clean Energy Center for 1212 megawatts?
A Yes, that's what this page shows.
Q And finally, Port Everglades modernization in 2016, 1277 megawatts?
A Yes.
Q Okay. And would you agree, subject to check, that those total about 3700 megawatts of generation?
A Yes, I would.
Q Okay. And those are all combined cycle facilities, is that your understanding?
A Yes.
Q Okay. And those would all be other production facilities by the way the company categorizes such --
A Yes.
Q -- power generation, correct?
A Yes.
Q So, Ms. Ramas, FPL has, I think we've established, about two-thirds of its existing generation fleet is other production and plans to add 3700 megawatts, approximately, of

other production capacity through the time period of 2021. But in spite of that it's your position that FPL should not be permitted to include any investment in property held for future use to accommodate future other production facilities?

A It's my opinion that they should not include the substantial amount they've added in recent years and project to add in 2012 and 2013 for additional sites.

It's a substantial increase in the amount being included in rate base as property held for future use, and there's no plans, no specific plans, to use these sites for at least the next ten years. And that's a substantial amount to ask ratepayers to pay a return on each and every year for over ten years prior to even the first plant potentially at some point being added to one of those two sites.

MR. BUTLER: Mr. Chairman, I would ask that the witness be instructed to answer yes or no, with a short explanation. I don't think there was anything other than the explanation given there.

COMMISSIONER GRAHAM: I was wondering how long you were going to let that go. Ms. Ramas, if you would restrict yourself to answering yes or no, when available, and then a short explanation, you can, if you want, to expound upon your yes or no.

THE WITNESS: Okay, I'll try, sir. Thank you.

BY MR. BUTLER:

Q Ms. Ramas, your recommendation would leave FPL with no future use sites devoted to future other production expansion other than for the sort of narrow category of photovoltaics, is that right?

A I wouldn't say it would leave it with no sites. It's my opinion that they should not be included to earn a return at this time. And there may be the potential that other sites such as, I believe, the DeSoto plant site I've left in there, the company had classified it in the filing as nuclear plant held for future use, but it's my understanding that that has since been shifted to other production plant held for future use. And I haven't recommended that that be removed, so that would be another site.

There may be the option to expand at other sites. However, the company hasn't demonstrated the need to spend over $126 million in land for two sites at this time when it's not projected to need additional facilities at that site until at least ten year or more into the future. It's a significant amount each and every year you're asking ratepayers to pay a return on.

Q Ms. Ramas, what investigation have you performed, if any, to conclude that the DeSoto site is suited to a large scale combined cycle gas-fired facility?

A None. It's my understanding that's being investigated currently and the company has plans to add, I believe, solar generation on that site.

Q Solar but not combined cycle gas-fired, is that right?

A Not that I've seen but I haven't specifically reviewed that site to determine if that's an option or not.

Q What investigation have you performed, if any, to conclude that there are existing sites beyond those where FPL has already undertaken modernization projects that would be available for future large scale combined cycle expansion?

A I haven't reviewed that.

Q Ms. Ramas, do you agree with the following statement: Power plant sites in Florida are becoming increasingly more difficult to find, purchase and permit?

A I know the company has made that statement --

Q I'm sorry --

COMMISSIONER GRAHAM: Ms. Ramas --

THE WITNESS: Oh, I'm sorry.

BY MR. BUTLER:

Q You're supposed to answer yes or no.

A Could you repeat the question?

Q Do you agree with the following statement: Power plant sites in Florida are becoming increasing more difficult to find, purchase and permit?

MR. MOYLE: Object to the form. Over-broad.

COMMISSIONER GRAHAM: I'll allow it.

THE WITNESS: Unfortunately, I can't give a simple yes or no answer. I know that's what the company has contended. However, I have seen information showing that for at least where one of these plant sites have been acquired and is projected to be acquired that there was quite a bit of additional land either offered for sale or up for sale in that area. So I don't -- I can't agree with the premise that it's becoming scarce.

BY MR. BUTLER:

Q Ms. Ramas, would it surprise you to know that that statement is not a quote from FPL but a quote from this Commission made in February, 1993, in Order Number PSC93-0165?

A No, it wouldn't.

Q I've got another statement I would like to ask you whether you agree or disagree with. In recent years utilities have experienced numerous problems in acquiring adequate plant sites and related facilities due in large degree of scarcity of land available for utility needs. Do you agree with that or disagree with that?

A Again, I'm not sure that's a simple yes I agree or no I don't agree answer. It probably depends on the type of site you're looking for. So I guess I don't have enough information to agree or disagree that that's accurate.

Q Would your opinion change if you were to know that this quote came from the Federal Power Commission, the predecessor to the current Federal Energy Regulatory Commission in January, 1971, Order Number 420, issued January 7, 1971?

A No.

Q How about this statement: In Florida, at least, public utilities cannot, in the exercise of good business judgment, indefinitely postpone the acquisition of property necessary for future expansion. In many instances a deferral of acquisition of necessary property would be very costly and imprudent and the management would be subject to criticism for delay. Do you agree or disagree with that statement?

A Could you repeat that?

Q Okay. In Florida, at least, public utilities cannot, in the exercise of good business judgment, indefinitely postpone the acquisition of property necessary for future expansion. In many instances a deferral of acquisition of necessary property would be very costly and imprudent and the management would be subject to criticism for delay.

A Yes, I would agree with the statement that you cannot indefinitely postpone acquisitions of plant. And there could be situations in which it would be more costly if it were delayed. That's something that should be evaluated by the Commission in determining whether or not a specific item of property should be included in plant held for future use.

Q Ms. Ramas, would you agree with this statement: It is no longer realistic to apply a hard and fast rule to the inclusion or exclusion of property held for future use.

MR. REHWINKEL: Mr. Chairman, I'm going to object to the form of the question. These statements out in space, with no context, and asking her if she agrees; is she agreeing that they're said? I think it's pretty clear they're all from orders. The orders are maybe dozens if not hundreds of pages long, with no context. And I just -- we can do this.

I think she can agree that these statements are made, but whether she can agree on the context they're made, on a case-by-case basis, is a whole other thing.

COMMISSIONER GRAHAM: Mr. Butler, I have to agree with Mr. Rehwinkel. Is there a final question at the end of this list of statements?

MR. BUTLER: We're getting close to the end of it.

COMMISSIONER GRAHAM: All right, I'll give you a little latitude, but let's get there.

MR. MOYLE: And FIPUG would just join in that objection and note that we would object to the extent that these are being offered for the truth of what's contained in the statement. All the statements are outside of this court, they're hearsay statements. So to the extent they try to prove up a fact based on one of these orders or statements, we would object.

MR. BUTLER: I'd like to respond to that objection.

COMMISSIONER GRAHAM: I don't think he's trying to -- in my opinion what he's trying to get to, he's trying to find out where her mind-set is compared to where some of these other orders -- where the mind-set of who wrote those orders were at.

And so I see you trying to figure that out, but let's get to that final question, or that outcome.

MR. BUTLER: Okay.

THE WITNESS: Should I respond?

COMMISSIONER GRAHAM: Would you restate that question?

BY MR. BUTLER:

Q Certainly. Would you agree with the statement that it is no longer realistic to apply a hard and fast rule to the inclusion or exclusion of property held for future use? To address Mr. Rehwinkel's comment, I'll just tell you, this is from Order Number 4078, page 17, dated December 15, 1966, of this Commission.

A Yes, I would agree with the premise that you wouldn't necessarily want a hard and fast rule. You need to look at the property in question. But another thing you need to consider is the time frame and how long ratepayers are being asked to pay a return on properties prior to them being used and useful. But you should also look at the prudence of the acquisition, the cost of the acquisition, was it reasonable.

I'm not sure there is a hard and fast rule you can use. You really should look at it on a case-by-case basis and a project-by-project basis. And how far out before the projected uses is one of the factors that the Commission I recommend look at.

Q   In your testimony, page nine, lines two through six, am I correct that you are objecting to inclusion of the Fort Drum, McDaniel and Hendry County plant sites in property held for future use because there is not a specific in-service date for those properties at this point in time?

A   That's one of the reasons I would recommend that they be disallowed. There's not the anticipated use date within the next ten years.

Q   Wouldn't that be a hard and fast rule, Ms. Ramas?

A   I'm not sure if it would be a hard and fast rule, but I do think the amount of time before it's projected to be used is something that needs to be evaluated and considered, especially when you're looking at the substantial increase in plant held for future use in this case, and the substantial amount paid for these two parcels, for which the company doesn't project needing for at least ten years and well in excess of ten years for the full property.

Q Have you provided anything in your testimony other than the observation about the time period before the properties would be, you know, needed for plant expansions as a basis for disallowing them from property held for future use?

A With regards to the other production plant property, I also point out the significant cost of these properties, as well as the fact that several of these properties have not yet even been acquired by the company and they're including $70 million, as pointed out in my testimony, for properties they don't even own yet that would be used to serve water on one of the other sites they've acquired. That's what's pointed out in my testimony.

Since I prepared this testimony, I've reviewed these other production plant sites a lot further, because I was concerned about the discrepancy in the cost between the Fort Drum site and the McDaniel site. And based on reviewing that, I have a lot more concerns with the McDaniel site and the Hendry County land that weren't identified in my testimony. That's why I think it's important that the Commission, prior to considering allowing --

COMMISSIONER GRAHAM: Ms. Ramas, was that a yes or no?

THE WITNESS: Okay, thank you.

BY MR. BUTLER:

Q And which was it?

A Pardon?

Q Which was it, yes or no?

A Could you repeat the question for me?

Q Certainly. What I asked you is whether you had any basis other than the passage of time that -- you know, on which you recommend that the other production properties be excluded from property held for future use.

A Oh, I'm sorry, I thought I had said yes before going into the additional factors that I had presented in my testimony.

COMMISSIONER GRAHAM: Thank you.

BY MR. BUTLER:

Q Ms. Ramas, are you aware of any Florida Public Service Commission decisions where the Commission has denied inclusion of property in a future use account because there was not a specific in-service date for the plants that would be built on those sites?

A No, and I believe I responded so in response to discovery from the company, that I wasn't aware of a specific Commission decision that relied on that.

Q Are you aware of any FPSC decision where the Commission denied inclusion of property in plant held for future use because there was not yet a proposed date of construction?

A No, I'm not.

Q And are you aware of any FPSC decision where the Commission denied inclusion of property in plant held for future use because there was not yet an estimated determination of need date?

A No, I'm not.

Q One second. Ms. Ramas, are you familiar -- we had mentioned this earlier briefly -- with this Commission's decision in 1993 involving Tampa Electric Company and in particular with the Port Manatee plant site? It's order number PSC93-0165.

A I believe so, but let me check because I brought several decisions with me and --

Q We can give you a copy if you don't have it.

A If you give me a moment, I can see. I believe I do have it with me, but I'd like to check to be sure.

MR. REHWINKEL: Mr. Chairman, I would like a copy of that to review for purposes of hearing what questions are asked.

COMMISSIONER GRAHAM: Sure.

MR. MOYLE: So would I.

MR. REHWINKEL: I actually have a copy, but it's back in the back room.

COMMISSIONER GRAHAM: I'm sure they can accommodate.

THE WITNESS: Could you repeat the docket number or the order number?

BY MR. BUTLER:

Q Yeah, the docket number is 920324, and the order number is PSC93-0165.

A Yes, I'm aware of that, and I in fact have a copy of the plant held for future use section with me.

Q Okay. Would you turn to page 39. Is it correct, Ms. Ramas, that --

A I'm sorry, I don't have page 39. I just copied that plant held for future use section, so perhaps if you could provide me the whole order?

Q Okay. I'm wondering if we're talking the same pagination. My section on plant held for future use starts on page 38. Is that true for what you have?

A Yeah, I have on page 31 where it starts with plant held for future use, Gandon (phonetic) coal yard. And then page 33 has total level of plant held for future use. So it could be just the pagination difference, but I do have that.

Q Do you have a section entitled for plant held for future use-Port Manatee plant site? That's page 38 on the version that I have of the order.

A I'll just use the version you handed out. That would probably be the most efficient.

Q I agree. Do you see on page 38, near the bottom of the page?

A Yes.

Q Okay. Now, if you'll turn over to page 39, this is in the same section, talking about Port Manatee property, you'll see the first sentence there. Would you agree that the order recites Public Counsel arguing that the Tampa Electric has no current plans for the plant -- I'm sorry, the Port Manatee plant site and therefore that the property should be excluded from future use?

A Yes, I do.

Q Okay. Did the Commission accept that recommendation of OPC in 1993 for the Port Manatee site?

A Yes, they did allow the $4.6 million in rate base associated with that site.

Q Which means they rejected the Public Counsel argument, correct?

A In that case they did, based on the facts and circumstances in that case, yes.

Q Okay. I'd like to turn your attention to the properties that you recommend to be removed from transmission property held for future use at this point, and point you to page 13 of your testimony.

A I'm there.

Q Am I correct that the basis for your proposed disallowance is that the in-service date for the transmission facilities that would use these particular properties are either greater than ten years out, or there is not yet a specific expected in-service date?

A Yes, that's the primary reason. In addition, I was concerned with the total cost level of plant held for future use in the company's filing, so I felt it should be given greater scrutiny. But yes, largely, they were moved because of the date being beyond ten years, or not even determined at this point.

Q Are you relying on any prior Commission decision or precedent for your threshold that beyond ten years or no specific expected in-service date as a basis for removing the properties from plant held for future use?

A No, I'm not relying on any specific precedent from this Commission for that recommendation.

Q Are you relying on precedent specifically to that point of any other commission?

A No, I'm not relying on precedent. I do know other commissions that completely disallow plant held for future use or only include those that are going to be used in the short term. However, that's not what I'm relying on in making this recommendation.

Q Okay. Do you know what NERC, or the North

American Electric Reliability Company is?
A Yes, I'm familiar with it.
Q Okay. Do you know what the significance would be to FPL of not meeting NERC reliability standards?
A There are a lot of penalties, and it's my view you should meet those standards.
Q Would you agree that it's necessary for FPL to continue building transmission facilities in order to meet those reliability standards and accommodate new customer load?
A Yes, if it's needed to add transmission plant to meet those requirements, then, yes, I do think they should add the plant that's necessary to meet those requirements.
Q Have you reviewed the -- I guess it's now down to six properties, right, that you would recommend disallowance based on our earlier discussion of your Exhibit DR-2. Have you reviewed -- first of all, is that right? At this point your recommendation applies to six properties? You've changed it with respect to the three we discussed earlier?
A Yes, I had indicated, based on additional or revised and changed information provided by the company, that moved the anticipated use date to relatively near term. I've agreed that three of those sites that I originally recommended for removal should no longer be removed from rate base. So now it is six remaining that I recommend be removed

from rate base.

Q With respect to the remaining six, have you performed any evaluation of whether those properties are necessary in order to meet -- or the facilities that would be planned to be built on those properties are necessary in order to meet NERC reliability standards?

A No. I do know, for example, some of these properties have been held in plant held for future use since the seventies. They haven't been needed to add assets on those sites yet, as of this time. And I do know the company has stated in response to discovery that either it doesn't know when it's going to use these sites, or it's at least ten years out before their projected use of those sites.

Whether or not there are specific requirements that they add a plant 12, 14 years out into the future, and the company knows that requirement now, they haven't disclosed that to me.

Q Have you ever participated in siting a transmission line under Florida's Transmission Line Siting Act?

A No, I have not.

Q Do you know how long that time frame or how long that process takes?

A No, I don't.

Q Do you have any idea of how long eminent domain proceedings take in Florida in order to acquire property for transmission lines?

A No, I do not.

Q More generally, do you know the steps and the time frames involved to zone, permit, engineer, procure equipment and construct lines once a decision is made to proceed?

A I would assume it depends on the terrain and numerous other factors. I have been involved in reviewing costs for transmission line expansions in other states and the time frame that it's taken to build those plants, or those lines, from the time they started it. So I do know it can be a time-consuming process that depends on a lot of variables.

Q I'd like to shift gears to the subject of your proposal regarding fossil plant -- non-nuclear overhaul expenses.

A I'm sorry, what kind of plants did you say? I couldn't hear you.

Q I said fossil plant, and then I just changed. I think you refer to it as non-nuclear plant overhaul expenses.

A Yes.

Q Do you know how FPL's 2013 test year O&M expense forecast for the non-nuclear plant overhauls was developed?

A It's my understanding they looked at their total plans for which units they intend to overhaul during that time frame and made estimated costs on a plant-by-plant basis. And in fact, the work papers provided by the company did break down the projected costs on a plant-by-plant basis for the overhaul expense.

Q And your testimony doesn't describe any errors in that forecasting process, does it?

A No. In fact, I don't take issue with the amount that's projected for 2013. My recommendation goes to the amount that I recommend be included and factored into base rates in this case. I don't challenge the accuracy of the company's 2013 projections in that area.

Q So I assume you also wouldn't have any reason to expect FPL will not incur those forecasted overhaul O&M expenses in 2013?

A No, I have not reason to think that the costs won't be at that level or close thereto.

Q But nonetheless your recommendation is for FPL's test year revenue requirements to be based on some level lower than what FPL has forecast and that it plans to spend in 2013, correct?

A Yes, I recommend that the amount set in base rates that will likely be in effect for numerous years, not just one year, be based on a normalized cost level because of the nature of overhaul expenses and the nature of how they're incurred.

Q I'd like to shift topics, Ms. Ramas, and ask you about your recommendations on the Canaveral modernization project step increase.

A Okay.

Q In particular, what I would like -- this is starting on page 35 of your testimony. But really what I want to focus on is your discussion of the applicable rate of return to apply to the investment in the Canaveral modernization project. That's on page 38 of your testimony.

Am I correct, Ms. Ramas, that you recommend that an embedded cost of capital, FPL's overall cost of capital be used, rather than the incremental cost of capital approach that FPL has proposed?

A Yes, as indicated in my testimony, I recommend that it be based on the overall rate of return found to be reasonable by the Commission for the January, 2013 rate increase.

Q And you cite in support of that -- well, first of all, let me ask you this. Is it your understanding, Ms. Ramas, that when FPL developed its January, 2013 base rate increase request that it pulled out costs related to the Canaveral modernization project because they were going to be subject to this separate step increase request?

A Yes, they did. And I did go through the MFRs, and it appeared to me that they did remove -- I wasn't able to find costs that they hadn't removed.

Q Is it your understanding, Ms. Ramas, that FPL pulled the Canaveral modernization project costs out of that January, 2013 base rate increase using the incremental cost of capital for the Canaveral project instead of pulling it out at an embedded cost?

A I guess I'm not certain on how they pulled it out of the capital structure. I do know they pulled it out of the capital structure. I'm not sure which method they used to determine what to pull out.

Q Okay. So you wouldn't have any reason to disagree if I told you that it was pulled out in the same incremental approach that FPL is proposing to recover it through that Canaveral step increase, would you?

A No, I'd have no reason to dispute that.

Q Okay. You refer, on page 38 of your testimony, to a recent Gulf rate case decision, and specifically the turbine upgrade projects for Crist Units 6 and 7. Do you see that?

A Yes, I do.

Q And I believe you're citing this for the proposition that in this recent decision the Commission applied the overall embedded cost of capital to the return on those turbine upgrade facilities, correct?

A I'm sorry, could you repeat that?

Q I will try. You're citing this Gulf case, recent Gulf rate case decision, for the proposition that the Commission applied the embedded cost of capital to the investment in the turbine Crist Units 6 and 7 turbine upgrade projects that were the subject of this step increase that was permitted for Gulf, correct?

A Well, yes, I point out that they based it on the overall rate of return that was found appropriate for the base rate increase. They applied that same rate of return they found to be appropriate for base rates to the step increase.

Q Do you know whether the cost for the turbine upgrade projects were pulled out of Gulf's base rate calculation on an overall basis or on an incremental cost basis?

A I don't know, but it still wouldn't change my recommendation.

Q So you don't think it's important to match the basis on which one pulls costs out from the base rate increase with the cost of capital used to calculate the amount of the step increase for the property that has been pulled out?

A No, and here's why. What would have been pulled out would have been based on what was in the 13-month average in the test year in that case. The Canaveral step increase, the company is requesting special treatment for this plant item to get a rate increase outside of a full base rate case specific to one plant addition.

I don't think it's fair or reasonable to apply a higher rate of return on that than what's applied for the overall revenue requirements you determine in a base rate case.

The company is already getting a special -- or consideration of a special step increase that's outside the normal parameters of a full rate case. And I don't agree that you should then apply a higher rate of return by setting up a separate capital structure for that plant.

Q And that would be your position even if the costs for the Canaveral plant that were originally in the test year were pulled out on the basis of the incremental costs for capital associated with the Canaveral project?

A Yes, it would.

Q Ms. Ramas, do you know the amount of deferred taxes associated with the Canaveral modernization project that were pulled out of FPL's January, 2013 base rate increase request per MFR D-1b?

A Yeah, I could find that quickly, because in fact I had just looked it up recently, if you can give me a moment. In the MFRs for the January base rate increase, under Schedule D-1b it shows that the company removed $65,140,000 from the deferred income tax component of the capital structure for the Canaveral specific capital structure. I assume that that's based on the 13-month average amount in the test year in the case. However, I didn't go back and confirm how that amount was calculated.

Q Do you know the dollar amount of deferred taxes that were included for the purpose of calculating the Canaveral step increase with respect to the first year of Canaveral modernization project's operation?

A Yes, what the company did in the filing is it had, instead of including it in the capital structure, they included the deferred income tax as a reduction to rate base as part of that project.

If you give me a moment, I have the amount in my testimony, because I believe the company did update that amount based on more recent projections, so I should have both those numbers. If you want me to identify it for the record, I'll need just a moment to look it up.

Q All right, please.

A I have the jurisdictional amount as 141,200,000 as what the company removed. And I believe they reduced that to $139.6 million in an update.

Q I'm sorry, that they removed from rate base, right?

A Yes.

Q Okay. By removing that amount of deferred taxes or the equivalent of that amount of deferred taxes from rate base, that would reduce the overall return requirements that FPL calculated on the Canaveral step increase compared to what it would be if you had just used sort of the gross plant in service amount for the Canaveral modernization project, correct?

A Correct.

Q Ms. Ramas, let me change topics again. I want to ask you some questions about your proposal on the cost for the smart meter project. Before I go through what you recommend, let me just ask you a couple of questions about what you're not recommending.

You're not contending that any of FPL's investment in the smart meter plant in service for 2013 is imprudent, are you?

A No.

Q Okay. And you're not recommending that the Commission remove any of the 2013 smart meter investment from rate base in determining FPL's 2013 revenue requirements, correct?

A No, I did not, but that could be an alternative they could consider to the recommendation I made.

Q You have proposed an adjustment to both the 2013 smart meter O&M expenses and the 2013 smart meter O&M

savings, correct?

A Yes, I have.

Q Okay. And together those two adjustments that you're proposing would reduce FPL's revenue requirement by over $23 million, is that right?

A Yes.

Q Do you know how the test year smart meter O&M expense of 20,739 -- I mean, sorry, 20,739,000 was developed for 2013?

A It sounds like there was a pretty detailed analysis done by the company of what actual costs they projected they would incur associated with those smart meter projects. And again, I don't take issue with the accuracy of that estimate.

Q Just for the record, therefore, you don't have any basis to claim that there were errors in the budget that FPL prepared of the 2013 smart meter O&M expenses, is that correct?

A Correct.

Q Okay. And similarly, you don't have any basis to claim that FPL isn't intending to expend the budgeted amount for 2013, correct?

A I'm sorry, if you --

Q You don't have any basis to claim that FPL is not going to spend what it has budgeted for 2013 as the smart meter O&M expenses?

A No, I don't. And again, I don't challenge the accuracy of their estimated costs for 2013.

Q But nonetheless you're proposing that the test year O&M expense be reduced from 20,739,000 to 10,458,000, correct?

A No, what I have proposed is that instead of reflecting a net expense in base rates in this case of 3.7 million, which includes that $20.7 million expense offset by some cost savings, that instead base rates be set to include the $19.9 million of projected savings from the prior case, largely because there's an over $82 million impact on rates in this case from the capital cost associated with those smart meters, and I don't think it's fair to include that full capital cost passed on to customers, given the level it's reached and the $82 million impact without also passing on some of the cost savings that the company anticipates will occur the very next year and escalate each year after that.

Q But your recommendation and the figure that you are proposing to substitute as sort of, I guess, a net negative O&M cost or a net positive O&M savings for 2013 is based on the projected O&M expense in 2013 that was made back in 2009, and the projected O&M savings for 2013 that were made back in 2009, is that right?

A Correct. It's the result -- the net result of those numbers, of the $19.9 million net savings.

Q Okay. And you don't have, sitting here, a reason to think that those 2009 estimates are more accurately reflective of what FPL either actually will spend or actually will save in 2013 than the forecasts that are presented in FPL's test year, do you?

A No, and again, I take -- I have no issue with the accuracy of what they're projecting for 2013. It's partially a fairness and a reasonableness issue, as far as the cost for these meters as compared to what's included overall in rates for this program.

Q In general do you recommend in the cases where you appear using superseded forecasts for budgeting purposes?

A Could you explain what you mean by superseded forecasts for budgeting purposes? I guess I don't understand.

Q Well, the one I'm specifically referring to here is -- would it be consistent with your general recommendations when you appear as a witness to say, okay, the company has a forecast of expenditures that were -- was made this year. It also had made a forecast of those expenditures three years ago. Let's use the one from three years ago instead of the current one. Do you do that regularly?

A No, in general, I wouldn't. But again, when I evaluate revenue requirement calculations and requests by a company, you have to look at all the issues and components that go into that. And it's my opinion with this specific project and the significant amount ratepayers are being asked in this case to fund for this project, that some of those cost savings be considered in this case, too. Partly an acknowledgement that these rates will be in effect for most likely more than one year.

Q Ms. Ramas, a couple further questions, and I think I'm done. On page 37 of your testimony, lines three to five, in calculating the Canaveral modernization project step increase, you recommend that the Commission update the projected amount of rate base and operating costs associated with that project from even the forecast that FPL made this year in its test year filing to more current information that's available, is that right?

A Yes, I do.

Q Okay. And how would you reconcile that with your recommendation with respect to the smart meter project that FPL, this Commission, abandoned the most current estimates of costs and savings for the smart meter project and instead substitute something from three years ago?

A It's an apples to oranges comparison. The Canaveral -- we recommend that if a step increase is approved by the Commission, based on discovery responses the company provided support for the -- a different number than what was in its original filing because it had more recent actual cost projections for that.

However, the smart meters are different. I've already agreed with you that I have no reason to challenge the projected expense the company has presented that it anticipates it will incur in 2013, and the anticipated net cost savings it will actually realize.

However, this is a different issue. The smart meters were an issue in the last rate case, and I know at least the hospital association raised some pretty big concerns with the fact that one of the purposes of the projects was long-term cost savings, and yet the company included the capital expenses and none of those cost savings in the case.

Now we're several years later, the capital costs have increased substantially from, I believe, around 37 million in that case to 600-some-million total by the end of the test year in this case. To continue to go forward and again not reflect the cost savings when the capital cost is having about an 80 million, about 82 million-dollar impact on revenue requirements gives a really good reason that I think the Commission should reconsider that and do something to match the savings with those costs. So you really can't compare the two.

Q Even if that results in the utility not recovering its actual cost of doing business?

A I'm not sure I would agree with that because, again, rates are likely to be in effect for multiple years. The very year after these rates go into effect, the company does project substantial cost savings that increase each and every year after that and each and every year after that these smart meters will continue to be depreciated, so that the overall rate base impact is going to decline each year.

So you're putting in rates in this case at the highest capital cost level of this project because it's around the time it will be completed and it has just started to be depreciated, and you're including net costs for this project, when the whole purpose of this project and how it was presented was that there would be long-term cost savings and benefits to customers.

It's not fair to now set rates for potentially multiple years into the future and increase them at that high level of cost without also acknowledging those cost savings. What I recommend is that the cost savings --

COMMISSIONER GRAHAM: Ms. Ramas --

THE WITNESS: All right. I'm sorry, sir. I tend to get excited.

MR. BUTLER: Thank you, Ms. Ramas. I don't have any further questions.

THE WITNESS: You're welcome.

COMMISSIONER GRAHAM: Staff?

MS. KLANCKE: Staff has no questions.

COMMISSIONER GRAHAM: Commissioners? Commissioner Balbis?

COMMISSIONER BALBIS: I just have one question as a follow-up on the last line of questioning from Mr. Butler. If FPL would have filed its rate case at a later time and used 2014 or 2015 as the test year, would it have been able to capture the cost savings -- the O&M savings associated with the smart meters?

THE WITNESS: Yes, if their current projections remain their projections going forward. Because I point out in my testimony that beginning in 2014 they do project net cost savings, and those are projected to increase each year after that.

So had it been a 2014 test year, I anticipate that it would have been net cost savings incorporated in base rates, as opposed to a net increase in O&M costs.

COMMISSIONER BALBIS: So if the appropriate revenue requirements are set by this Commission in this case and then in 2014 or 2015 the operational savings are being realized, who benefits from those cost savings? Is it the customers or Florida Power & Light?

THE WITNESS: Florida Power & Light would. But again, that's one component of the overall revenue requirement calculations, so there's probably other things that could go another direction. But with regards to the specific project, it would be the company that would then reap the long-term savings while ratepayers pay the revenue requirement on the rate base at the full capital cost, essentially, of the project.

COMMISSIONER BALBIS: Okay, thank you. That's all I had.

THE WITNESS: You're welcome.

COMMISSIONER GRAHAM: Mr. Rehwinkel, redirect?

REDIRECT EXAMINATION

BY MR. REHWINKEL:

Q Thank you, Mr. Chairman. Just quickly, Ms. Ramas, you were asked about your background and experience in utility resource planning. Do you recall that line of questioning?

A Yes.

Q Have you ever been disqualified from testifying about plant held for future use because you didn't work at a utility?

A No, I have not.

Q In your experience in this field, are the only witnesses that Public Service Commissions around the country have made adjustments based on their testimony from those who work for utilities and resource planning?

A No.

Q There was some questions to you that involved reading statements about scarcity of land, and I think they were from orders. Do you recall that?

A Yes, I do.

Q Do you see that -- do you see that kind of justification often in the plant held for future use cases? Offered by the utilities is what I'm saying.

A No, no --

MR. BUTLER: I'm going to object to this question. I think it's both beyond the scope of my cross examination and also very sort of vague and overly general.

MR. REHWINKEL: Let me rephrase the question, Mr. Chairman, but certainly Mr. Butler read these questions suggesting that the pole star for regulation on this issue was about whether these sites were increasingly scarce. And these dated back 40 years or more.

COMMISSIONER GRAHAM: I'll allow it.

BY MR. REHWINKEL:

Q Ms. Ramas, have you encountered utility justifications about the increasing scarcity of plant held for -- plant production sites, in your experience?

A No, I haven't.
Q Okay. Have the claims that -- did you review the orders of the Florida Public Service Commission with respect to plant held for future use that you were asked about today?
A Some of them. I know some weren't necessarily cited, but the one from '93 I did, as well as some older orders, yes.
Q Okay. Have you ever encountered situations where utilities bought land for plant held for future generation sites and never used them?
A Yes, I've seen situations where they were sold and I've also seen situations where utilities have bought plants for future use but they haven't requested a return on that land in rate base, they've waited until sooner before it being placed into service to request that it be included in rate base.
Q You said you looked at that '93 TECO case. Do you recall the magnitude of the cost of that land in that decision?
A I believe I cited about 4.6 million.
Q That would be on page 39 of the order that was passed out.
COMMISSIONER GRAHAM: Mr. Butler, do you have another copy of that case?
MR. BUTLER: I do.

MR. REHWINKEL: I have it.

COMMISSIONER GRAHAM: No, this way.

THE WITNESS: Yeah, it indicates that the amount that was requested by the utility for that land in plant held for future use was $4,640,000 for 1993 and $4,692,000 for 1994.

BY MR. REHWINKEL:

Q Did you look at any other orders? Perhaps maybe the one cited by Commissioner Terry Deason in his testimony?

A Yes, I have.

Q Do you recall the magnitude of the dollar amounts at issue there? Were they less than the 4.6 million you've cited here?

A Significantly less. One was well under a million and one may have been around the million-dollar range.

Q In your review of the Public Service Commission plant held for future use cases, to the extent you reviewed them, have you ever seen any circumstances that were like the ones in this case with respect to the amount at issue?

A No, not even close. In fact, when I read the order from the last Florida Power & Light rate case, it indicates in that order that the amount included in plant held for future use in that case was 70 million, and that was 2010, and just three years before the test year in this case.

Q Okay. Have you ever seen any orders where the

Public Service Commission, the Florida Public Service Commission, set a hard and fast rule in saying that the utility always gets whatever they want in a plant held for future use request?

A No. In fact, I went back and looked at the orders that were cited in prior Commissioner Deason's testimony in this case, and in each of those it also indicated other factors the Commission evaluated, and one of which was the amount of time out prior to anticipated use, as well as the prudence of the acquisition.

Q Had you ever seen any decision by the Florida Public Service Commission that said no matter what the company paid for the land, it was -- it should be entitled to recover it as plant held in future use?

A No, I've not seen that.

Q Have you ever seen any decision where the ownership of the land being requested for recovery was at issue?

A No, I don't recall seeing anywhere it was cited within the orders that I read that the utility was attempting to include land that it hadn't yet acquired in plant held for future use.

Q In the 1993 TECO decision that you were pointed to by Mr. Butler, do you have any knowledge about whether, the 19 years later, whether TECO ever built at that Port Manatee site? If you don't --

A As I sit here, I don't recall.

MR. REHWINKEL: Okay. Thank you, Mr. Chairman, those are all the questions I have on redirect.

COMMISSIONER GRAHAM: Thank you. Let's do exhibits.

MR. REHWINKEL: We would move -- citizens would move Exhibits 269 and 274.

COMMISSIONER GRAHAM: Okay.

(Exhibits 269 and 274 admitted in evidence.)

COMMISSIONER GRAHAM: Florida Power & Light?

MR. BUTLER: FPL would move the admission of Exhibit 579.

MR. REHWINKEL: We have no objection, and we do not seek to have the entire Ten Year Site Plan.

COMMISSIONER GRAHAM: Okay, fair enough.

(Exhibit 579 admitted in evidence.)

MR. BUTLER: Thank you.

COMMISSIONER GRAHAM: All right, I guess do you want to excuse this witness? Mr. Rehwinkel?

MR. REHWINKEL: I'm sorry, Mr. Chairman. The citizens would ask that Ms. Ramas be excused from the hearing.

COMMISSIONER GRAHAM: Sounds good. Thank you, Ms. Ramos.

THE WITNESS: Thank you.

COMMISSIONER GRAHAM: You have, I see, one more witness.

MR. REHWINKEL: We're going to change counsel here while Mr. Lawton comes to the stand.

COMMISSIONER GRAHAM: Sounds good.

MR. REHWINKEL: Mr. Chairman, we're also going to hand out an errata sheet for Mr. Lawton, one of his exhibits. I previously provided this to counsel for FPL.

COMMISSIONER GRAHAM: Okay. Thank you, sir. Mr. McGlothlin, when you're ready.

MR. McGLOTHLIN: Yes, OPC calls Dan Lawton. And Mr. Lawton has been sworn.

Thereupon,

DANIEL J. LAWTON

was called as a witness on behalf of the Office of Public Counsel, and having been previously duly sworn, testified as follows:

COMMISSIONER GRAHAM: Welcome, sir.

THE WITNESS: Good afternoon, Mr. Chairman, Commissioners.

DIRECT EXAMINATION

BY MR. McGLOTHLIN:

Q Would you state your full name and business address, sir.

A Sure. My full name is Daniel J. Lawton, and my business address did 701 Brazos Street, Suite 501, Austin, Texas.

Q On behalf of the Office of Public Counsel, did you prepare and submit prefiled testimony in this docket?

A I did, indeed.

Q Do you have that document before you?

A I do.

Q Referring to the question and answer testimony first, do you have any changes or corrections to make to the prefiled testimony?

A None that I'm aware of at this time.

Q Do you adopt the questions and answers contained in that document as your testimony here today?

A I do.

MR. McGLOTHLIN: I request that Mr. Lawton's prefiled testimony be inserted into the record at this point.

COMMISSIONER GRAHAM: We will insert Mr. Lawton's prefiled direct testimony into the record as though read.

DIRECT TESTIMONY

Of

Daniel J. Lawton

On Behalf of the Office of Public Counsel

Before the

Florida Public Service Commission

Docket No. 120015-EI

I. INTRODUCTION/BACKGROUND/SUMMARY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Daniel J. Lawton. My business address is 701 Brazos, Suite 500, Austin, Texas 78701.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. I have been working in the utility consulting business as an economist since 1983. Consulting engagements have included electric utility load and revenue forecasting, cost of capital analyses, revenue requirements/cost of service reviews, and rate design analyses in litigated rate proceedings before federal, state and local regulatory authorities. I have worked with municipal utilities developing electric rate cost of service studies for reviewing and setting rates. In addition, I have a law practice based in Austin, Texas. My main areas of legal practice include administrative law representing municipalities in electric and gas rate proceedings and other litigation and contract matters. I have included a brief description of my relevant educational background and professional work experience in Schedule (DJL-1).

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN RATE PROCEEDINGS?

A. Yes. A list of cases where I have previously filed testimony is included in Schedule (DJL-1).

Q. ON WHOSE BEHALF ARE YOU FILING TESTIMONY IN THIS PROCEEDING?

A. I am testifying on behalf of the Florida Office of Public Counsel (OPC).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to address two issues in this case. First, I address the Company's requested 25 basis point return on equity performance bonus. In this case, Florida Power & Light ("FPL" or "Company") requests an equity return of 11.25% and then further requests an additional performance bonus adjustment of .25% or 11.50% total equity return. OPC witness Woolridge addresses the 11.25% return on equity request, while I address the incremental 25 basis point performance bonus request.

The second issue I address is FPL's financial integrity. Specifically, I address the impact of the OPC recommended revenue requirement on FPL's financial metrics and financial integrity.

II. BONUS EQUITY RETURN REQUEST

Q. WHAT ISSUE DO YOU ADDRESS IN THIS SECTION OF YOUR TESTIMONY?

A. In this section of my testimony I address the Company's proposed return on equity performance adder. As discussed below, the Company has requested that its estimated equity return or shareholder profit be increased from the requested 11.25% to 11.50%. Under FPL's proposal the 25 basis point bump up is added to shareholder profit, to be paid by customers so long as FPL maintains the lowest typical or average residential rate in Florida measured on an annual basis.

The customer cost of this proposed performance adder to customers is estimated to be $41.6 million per year of increased customer payments to bottom line shareholder profits.

Q. HOW DOES FPL PROPOSE TO IMPLEMENT THE ROE PERFORMANCE ADDER?

A. If approved by the Commission, the ROE performance adder (about $41.6 million in tariff revenue rates) would be charged to customers. Then, in September of each year, as part of FPL's annual fuel filing, FPL would submit a typical residential bill comparison of FPL compared to the other Florida utilities for the prior 12 months.

If the bill comparison shows FPL with the lowest typical bill in the prior twelve months then FPL would charge and collect the $41.6 million ROE performance adder for the next year starting January 1 of the following year. If the bill comparison shows that FPL does not have the lowest typical residential bill, then FPL would lower rates by $41.6 million beginning January 1 of the following year.

Thus, under FPL's ROE performance adder proposal, the $41.6 million of revenue requirement is subject to proof each September and annual change each January 1, much like a fuel charge or other temporary rate. The proof or standard proposed by FPL is discussed in witness Deaton's testimony where the following stated:

Each September, in conjunction with FPL's annual fuel filing, FPL will prepare and submit to the Commission a comparison of its typical residential bill to the other Florida utilities for the prior 12 months. The comparison will be based on publicly available data from the Commission web site, the FEMA bill survey, the JEA bill survey, and the Reedy Creek Improvement district web site.[1]

Q. HAS FPL PROVIDED AN EXAMPLE OF HOW SUCH A RATE COMPARISON HAS LOOKED HISTORICALLY?

A. Yes. Such a rate comparison of FPL versus other Florida utility companies for a typical 1,000kwh residential customer can be found in witness Deaton's Exhibit RBD-3 for the years 2009-2011.

Q. WHAT IS THE ESTIMATED COST OF IMPLEMENTING A 25 BASIS POINT RETURN ON EQUITY PERFORMANCE ADDER?

[1] FPL witness Renae Deaton Direct Testimony at 23:14-19.

A. The equity return performance adder increases revenue requirements by $41,551,085 per year.[2] The added revenue requirement would be collected as an added energy/Kwh charge to rates.

The calculation of the $41,551,085 is based on increasing the equity portion of return from 11.25% to 11.50% for the proposed January 2013 Base Rate Increase and the proposed June 2013 Canaveral step increase.[3] The equity return performance request impacts both these increases in the amounts of $39,508,164 and $2,042,922 respectively. I have included in Schedule (DJL-2) FPL's calculation of those amounts.

Q. WHAT IS YOUR RECOMMENDATION WITH REGARD TO THE COMPANY'S EQUITY PERFORMANCE ADDER?

A. In my opinion, the requested equity performance adder should be denied. The Company's requested $41.6 million is unnecessary for the efficient provision of electrical service to customers. To begin with, differences in rate levels are to some extent attributable to factors other than management performance. More fundamentally, the notion of an ROE adder is antithetical to the concept of a protected monopoly, which accepts and enjoys many advantages over competitive enterprises. Moreover, the Company's request, if granted, leads to unjust rates.

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[2] Direct Testimony Deaton, Exhibit RBD-8

[3] Direct Testimony Ousdahl at Exhibit KO-8

Q. PLEASE EXPLAIN YOUR STATEMENT THAT DIFFERENCES IN RATE LEVELS ARE ATTRIBUTABLE TO FACTORS OTHER THAN MANAGEMENT PERFORMANCE.

A. For example, the costs that a utility incurs to provide service are influenced by the geographical characteristics of its service area and the density of development in that service area, as well as customer mix, vintage of equipment, etc. A utility that has a service area in which there are twice as many customers per square mile as an adjacent utility will incur lower unit costs than its neighbor, and its rates will reflect its lower cost structure, but the reason for lower costs and lower rates has little to do with management performance.

Another example that is pertinent to FPL's request relates to regulatory actions. In the Company's last base rate case, FPL sought a base rate increase in excess of $1.0 billion per year. The Commission denied such an increase and as a result FPL's rates remained lower than they otherwise would have been. Moreover, under the settlement of the last case, FPL has earned 11% on equity. Now, the Company believes it should be rewarded with a $41.6 million bonus for superior performance. But the only performance was this Commission's denying the last rate case increase request which led to the lower rates enjoyed by FPL customers.

Q. IN YOUR OPINION, DOES FPL REQUIRE A REWARD MECHANSIM?

A. No. The proposal FPL has made in this case is more akin to an excess profit mechanism than a performance reward mechanism. In my opinion, this proposal should be simply denied as it has no merit and was not well thought out.

Q. PLEASE ADDRESS THE ISSUE OF WHETHER A PERFORMANCE FACTOR IS APPROPRIATE GIVEN THAT UTILITIES HAVE AN OBLIGATION TO SERVE.

A. The Company takes the position that positive economic incentives to induce "pursuit of superior outcomes" and mimic economic incentives of freely competitive markets are positive actions.[4] In my opinion, monopolies such as FPL, when granted the monopoly franchise, have a duty to provide superior performance in exchange for cost recovery plus an opportunity to earn a return or profit commensurate with profits earned from similar risk ventures. "Superior performance" includes providing service at the lowest rates consistent with good service. In other words, efforts to keep rates as low as possible are part and parcel of FPL's obligation to serve. It is basic that an *obligation* does not require an incentive or a bonus to fulfill.

Further, FPL enjoys advantages that competitive enterprises must envy—absence of competition for market share; cost recovery clauses that greatly reduce the risk that costs will not be recovered; the ability to seek changes in prices when necessary to have an opportunity to earn a fair return, just to name a few. In short, FPL enjoys a privileged position. No additional bonus or reward should be necessary. FPL is proposing to change the regulatory structure that has existed for many years in an effort to extract added profits. This is unfair and unnecessary.

Q. IS THE REQUESTED 25 BASIS POINT ROE PERFORMANCE ADDER NECESSARY FOR THE COMPANY TO HAVE AN OPPORTUNITY TO

[4] Direct Testimony, Dewhurst at 50:15-23

EARN A REASONABLE RETURN OR MAINTAIN FINANCIAL INTEGRITY?

A. No. The Company's own evidence and request for an 11.25% equity return establishes that the additional 25 basis point adder is not necessary for shareholders' return or necessary for financial integrity of the Company.[5] I should note that OPC witness, Dr Woolridge, addresses the Company's 11.25% equity return request and is proposing a lower return on equity for this case. Implicit in the Commission's establishment of an authorized return on equity is the concept that the authorized return will provide the utility with the opportunity to earn a fair return. Given that the Company's claimed required return on equity does not include the added $41.6 million associated with the proposed Return on Equity Performance Adder, FPL's financial integrity and associated financial metrics are not dependent on these funds.

III. <u>FINANCIAL INTEGRITY</u>

Q. WHAT ISSUE DO YOU ADDRESS IN THIS SECTION OF YOUR TESTIMONY?

A. In this section of my testimony I address FPL's financial integrity and the impact of the OPC revenue requirement recommendation on FPL's financial metrics.

Q. HAVE YOU REVIEWED CREDIT RESEARCH REPORTS FOR THE COMPANY REGARDING CREDIT QUALITY AND CORPORATE FINANCIAL METRICS?

[5] Direct Testimony, William Avera at 4:11.

A. Yes. The Company's credit quality is strong. It is not threatened or under significant pressure of downgrade. Current bonus depreciation impacts on cash flow will cause rating agencies to focus more on earnings such as earnings before interest, taxes, depreciation and amortization ("EBITDA") metrics, rather than pure cash flow measures which are temporarily influenced by current tax law impacts.

Q. HAVE YOU REVIEWED RECENT CREDIT REPORTS OF FPL?

A. Yes, a Standard & Poor's April 24, 2012 credit research report identifies the Company's strengths and weaknesses as follows:

Strengths:

- High-quality electric utility that generates steady earnings and cash flows;
- Active efforts by the parent to sustainably reduce commodity price risk exposure in highly diversified unregulated activities at the parent;
- Low regulatory risk in Florida and relatively strong service territory with good customer growth prospects and a predominantly residential and commercial base.

Weaknesses:

- Aggressive capital spending plans that stress financial metrics;
- Dependence on natural gas to generate electricity in Florida; and
- Higher-risk operations and less dependable cash flows from merchant generation, energy trading and other unregulated activities.[6]

Standard & Poor's bases it ratings and evaluation of FPL "...on the consolidated credit profile of its parent, diversified energy holdings company NextEra Energy, Inc."[7] Thus, no matter how well FPL utility operations perform – the ultimate credit rating is dependent on the consolidated parent including often times underperforming non-utility operations. For example, Standard & Poor's states; "...credit

[6] Standard & Poor's RatingsXpress Credit Research, April 24, 2012 at 1.
[7] *Id*

fundamentals on the regulated utility side have been among the strongest in the U.S., due primarily to low regulatory risk and an attractive service territory with healthy economic growth and a sound business environment."[8] While S&P points to recent economic turmoil and unfavorable (its term) regulatory decisions for FPL that have impacted risk profiles, a more fundamental risk is NextEra's unregulated businesses potential to "...erode its consolidated business risk profile."[9]

Q. IS IT IMPORTANT TO RECOGNIZE THE DIFFERENCES BETWEEN UTILITY OPERATIONS AND NON UTILITY OPERATIONS WHEN EVALUATING CREDIT METRICS?

A. Yes. The regulated operations should support quality credit or financial integrity, but should not be bolstered through higher rates to compensate for higher risks associated with non-utility operations.

Q. DOES S&P VIEW FPL'S UTILITY OPERATIONS AS AN OVERALL CREDIT POSITIVE?

A. Yes. For example, S&P states; "FPL represents about half of the consolidated [NextEra] credit profile and has better business fundamentals than most of its integrated electric peers, with a better-than-average service territory, sound operations, and a credit-supportive regulatory environment in which the company has

[8] *Id*
[9] *Id*

been able to manage its regulatory risk very well."[10] S&P also views FPL's significant exposure to natural gas as detracting from credit quality.[11]

On the other hand, S&P views NER, the main subsidiary under unregulated NextEra, as facing "...an inherent level of commodity price risk"..."extensive project financing"...and..."diminishe[d]...cash flow quality."[12] S&P concludes by stating "NER's risks permanently hinder NextEra's credit quality, especially in light of the influence that marketing and high-risk proprietary trading results have on NER's earnings and cash flow."[13]

The bottom line is that FPL's credit rating is based on the consolidated credit profile of its parent. While FPL's credit metrics, cash flows, and business fundamentals are better than most of its electric peers, the unregulated NextEra operations and the associated risks permanently hinder NextEra's consolidated credit quality.

Q. HAVE YOU REVIEWED ANY CREDIT EVALUTIONS BY MOODY'S?

A. Yes. I have reviewed a recent June 6, 2012 credit opinion of Moody's for NextEra Energy, Inc. Moody's rates the parent NextEra at Baa1 and FPL's issuer rating is A2. Both the parent and FPL's ratings are viewed as stable by Moody's, that is, there are no indicators -- positive or negative -- at this time.

[10] *Id*
[11] *Id*
[12] *Id*
[13] *Id*

Moody's assessment of the FPL operations is that "FPL continues to exhibit some of the stronger financial performance measures and cash flow coverage ratios in the industry...."[14] But, similar to S&P's overall assessment, Moody's notes higher risks associated with the non-regulated operations of the parent.[15]

Q. WHAT FINANCIAL RATIOS OR FINANCIAL METRICS SHOULD THE COMMISSION CONSIDER WHEN EVALUATING COST OF EQUITY?

A. In my opinion, the Commission should consider the financial metrics that bond rating agencies consider in evaluating credit risk to a Company. Three key financial metrics involve cash flow coverage of interest, cash flow as a percentage of debt, and debt leverage ratio.

Q. HOW ARE THESE FINANCIAL RATIOS CONSIDERED AND CALCULATED?

A. Ratings agencies such as Moody's and Standard & Poor's develop rating guidelines that make explicit general ratings outcomes that are typical or expected given various financial and business risk combinations. A rating matrix or guideline is just that, a guideline, not a rule written in stone that guarantees a particular rating for a particular achieved financial metric level.

Funds from a company's operations, in other words cash flow, are very critical to any rating/risk consideration. Interest and principal obligations of a company cannot be

[14] Moody's Global Credit Research, Credit Opinion: NextEra Energy, Inc. (June 6, 2012) at 4
[15] *Id*

paid out of earnings if earnings are not cash. Thus, analyses of cash flow reveal debt servicing ability.

Debt and capital structure considerations are indicative of leverage and flexibility to address financial changes. The liquidity crisis that hit all markets and industries is an example of the importance of financial flexibility. Stable and continuous cash flows provide financial flexibility.

Each of these financial ratios is calculated in my Schedule (DJL-3), employing all of OPC's recommendations in this proceeding. The results of my analyses indicate strong financial metrics, supporting the current A- FPL bond rating.

Q. PLEASE DEFINE THE TERM FINANCIAL INTEGRITY AS YOU USE IT IN YOUR ANALYSIS.

A. The term financial integrity is a term or concept that addresses a firm's ability to access capital at reasonable rates and on reasonable terms. Financial integrity should also be sufficient to attract capital under a variety of market and economic conditions. The Company, the shareholders, the regulatory authority and the customers have a stake in the Company maintaining financial integrity and access to capital markets.

Q. WHAT ARE KEY CREDIT METRICS THAT ARE INDICATORS OF CREDIT QUALITY?

A. As discussed earlier, the two primary rating agencies that provide credit ratings for FPL and its parent NextEra are Moody's and Standard & Poors ("S&P") and both emphasize similar credit metrics. For example, among the key financial metrics considered by Moody's are: (i) cash from operations as a percentage of debt (CFO/Debt), (ii) cash from operations plus interest divided by interest (CFO/Interest), and (iii) Debt/Capitalization. Financial metrics such as CFO/Debt and CFO/Interest are measures of cash flow, while Debt/Capitalization measures the degree to which debt leverage is used to fund operations.

S&P employs three similar financial metrics in evaluating financial integrity and ratings of a company. For example, S&P employs Funds From Operations as a percentage of Debt (FFO/Debt). This financial measure evaluates cash flow support of debt, which is similar to Moody's CFO/Debt measure. Another S&P metric is the size of debt compared to earnings before income tax, depreciation and amortization (Debt/EBITDA). This metric (Debt/EBITDA) is a measure of a company's ability to pay off debt and is similar to Moody's (CFO/Interest) metric. A third S&P financial metric is Debt to Capital (Debt/Capital) and is the same indicator of financial leverage employed by Moody's as discussed earlier.

Q. PLEASE DESCRIBE AND ADDRESS THE ASPECTS OF S&P'S RATING METHODOLOGY THAT ARE HELPFUL IN UNDERSTANDING FPL'S CREDIT RATING AND FINANCIAL INTEGRITY.

A. One aspect of the S&P evaluation is the employment of a ratings matrix to facilitate the development of credit ratings that combines the consideration of financial risk and business risk. The following table summarizes the S&P ratings matrix matching credit ratings to financial and business risk as shown:

Table 1 S&P Ratings Matrix						
Business Risk Profile	Financial Risk Profile					
	Minimal	Modest	Intermediate	Significant	Aggressive	Highly Leveraged
1. Excellent	AAA	AA	A	A-	BBB	--
2. Strong	AA	A	A-	BBB	BB	BB-
3. Satisfactory	A	BBB	BBB	BB+	BB-	B+
4. Fair	--	BBB-	--	BB	BB-	B
5. Weak	--	--	--	BB-	B+	B-
6. Vulnerable	--	--	--	B+	B	CCC+

S&P ranks FPL as having a Business Risk Profile of "Excellent" category.[16] S&P ranks FPL's Financial Risk Profile as "Intermediate."[17] FPL's current S&P senior issuer and corporate credit rating is A-, which is within one notch of the rating indicated by the matrix. As can be seen from the above matrix, an "Excellent" business risk profile, which FPL enjoys, when combined with an "Intermediate" or even a "Significant" financial risk profile, is consistent with single "A" ratings by S&P. Thus, to be conservative, I have included in my benchmark analysis, shown in Schedule (DJL-3), both "intermediate" and "significant" financial risk profile benchmarks.

Q. DOES S&P PROVIDE A LIST OF BENCHMARKS OR EXPECTATIONS FOR VARIOUS FINANCIAL METRICS FOR VARIOUS FINANCIAL RISK LEVELS?

A. Yes. Below is a summary of Financial Benchmarks from S&P by each of the six financial risk measures:

[16] Standard & Poor's Ratings Xpress Credit Research, Florida Power & Light Co., April 24, 2012 at 6.
[17] *Id*

Table 2[18] S&P Financial Risk Indicative Ratios			
Financial Risk Level	(FFO/Debt %)	(Debt/EBITDA x)	(Debt/Capital %)
1. Minimal	>60	<1.5	<25
2. Modest	45-60	1.5-2	25-35
3. Intermediate	30-45	2.0-3.0	35-45
4. Significant	20-30	3.0-4.0	45-50
5. Aggressive	12-20	4.0-5.0	50-60
6. Highly Leveraged	<12	>5.0	>60

It should be noted, S&P views these benchmark levels as typical outcomes for the various ratings levels. However, these benchmark levels are not precise guarantees of future rating outcomes – as many factors go into the financial integrity and ultimate ratings analyses.

Q. DOES MOODY'S PROVIDE A LIST OF BENCHMARKS OR EXPECTATIONS FOR VARIOUS FINANCIAL METRICS FOR THE DIFFERENT RISK LEVELS?

A. Yes. Like the S&P benchmarks outlined above, Moody's also provides similar financial metric expectations for the various risk levels.

[18] Standard & Poor's Ratings Direct Criteria Methodology: Business Risk/Financial Risk Matrix Expanded (May 27, 2009)

Table3[19] Moody's Financial Risk Benchmarks			
Moody's Bond Rating	CFO/Debt	CFO/Interest	Debt/Capital
Aaa	>40%	>8.0x	<25%
Aa	30% - 50%	6.0x - 8.0x	25% - 35%
A	22% - 30%	4.5x - 6.0x	35% - 45%
Baa	13% - 22%	2.7x - 4.5x	45% - 55%
Ba	5% - 13%	1.5x - 2.7x	55% -65%
B	<5%	<1.5x	>65%

Like S&P, Moody's views these benchmarks as typical expectations for the various risk ratings levels. Again, these benchmarks are not precise guarantees of future ratings outcomes – as many factors both qualitative and quantitative go into financial ratings analyses.

Q. BEFORE ADDRESSING YOUR EVALUATION OF THE CREDIT METRICS – WHAT IS OPC'S RECOMMENDATION IN THIS CASE THAT YOU WILL BE ASSESSING?

A. OPC's primary recommendation includes a 9.0% recommended return on equity and a 50% debt, 50% equity capital structure, as well as adjustments to FPL's proposed test year rate base and expense levels. All of OPC's adjustments are detailed in the exhibits to OPC witness Donna Ramas' testimony, which form the basis for my analysis. Dr. Woolridge sponsors and supports the 9.0% equity return and OPC witness Kevin O'Donnell supports the 50%/50% capital structure. The resulting overall return is 5.56%, as is shown in my Schedule (DJL-3) page 1 of 2.

[19] Moody's Infrastructure Finance; Regulated Electric and Gas Utilities/Ratings Methodology at 13 (August 2009).

OPC's alternative recommendation includes an 8.5% return on equity supported by Dr. Woolridge, utilizing the Company's proposed capital structure of 59.7% equity. This analysis is contained in my Schedule (DJL-3), page 2 of 2, and the overall recommended return is 5.62% under this alternative recommendation.

Thus, under either scenario the OPC overall return is relatively close to 5.56% or 5.62%, but the impact on revenue requirement will be different due to capital structure and related tax impacts. These differences can be viewed by comparing line 22 results on Schedule (DJL-3) at pages 1 and 2.

Q. PLEASE EXPLAIN WHY THE CAPITAL STRUCTURE IN YOUR SCHEDULE (DJL-3) INCLUDES MORE THAN DEBT AND EQUITY.

A. Mr. O'Donnell will address capital structure in his testimony, but the overall return to be applied to rate base investment is based on FPL's proposal contained in Schedules MFR-D. For ratemaking, items such as customer deposits, deferred taxes and investment tax credits are also included in capitalization.

Q. PLEASE EXPLAIN HOW YOU EVALUTED THE IMPACT OF OPC'S RECOMMENDATION ON FINANCIAL METRICS.

A. I examined three key financial metrics that are considered by S&P and Moody's that I described earlier. These financial metrics are as follows:

Moody's	S&P
1 CFO/Debt	FFO/Debt
2 CFO/Interest	Debt/EBITDA
3 Debt/Capital	Debt/Capital

All of these metrics can be found on my Schedule DJL-3, page 1 and 2, for the primary and alternative OPC recommendations in this case. The financial metrics for each scenario are compared to the S&P and Moody's benchmarks to determine if these results are consistent with maintaining financial integrity.

Q. PLEASE EXPLAIN HOW YOU CALCULATED FUNDS FROM OPERATIONS (FFO) FOR THE S&P METRIC EVALUATION.

A. FFO is operating profit after tax plus depreciation, amortization and current deferred taxes. This is after tax return plus depreciation, amortization and current deferred taxes. These values are included in my Schedule (DJL-3) at lines 25-37.

Q. HOW DID YOU CALCULATE CASH FLOW FROM OPERATIONS (CFO) FOR THE MOODY'S METRIC EVALUATION?

A. I employed earnings (return on investment) after taxes plus depreciation for this calculation. These values are presented in my Schedule (DJL-3).

Q. HOW DO THE FINANCIAL METRICS COMPARE TO THE BENCHMARKS?

A. Under OPC's primary recommendation of 9.0% equity return with a 50% debt/50% equity capital structure and a 5.56% overall rate of return (See Schedule DJL-3, p.1), the financials all fall within the benchmarks except for the 50% debt ratio compared to the Moody's benchmark and the S&P "intermediate" financial risk benchmark.. However, Moody's recent (June 6, 2012) Credit Report discussed earlier projects (12-18 month forward view) FPL's debt ratio in the 50% - 53% range. Thus, a 50% debt ratio is not out of line with credit rating assessments.

Q. HOW DOES THE OPC ALTERNATIVE CASE AND 5.62% RATE OF RETURN IMPACT FINANCIAL METRICS?

A. The financial metrics in the alternative case, including debt ratio, all meet or exceed the S&P and Moody's benchmarks.

Q. WHAT DO YOU CONCLUDE FROM YOUR ANALYSIS?

A. In my opinion, FPL's financial integrity will remain strong and viable under OPC's primary and alternative recommendations, based on an evaluation of the pertinent quantitative financial metrics.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BY MR. McGLOTHLIN:

Q And did you prepare and attach to your prefiled testimony three exhibits which have since been numbered 275, 276 and 277 for hearing purposes?

A I did.

Q Do you have any changes or corrections to those exhibits?

A Yes, I believe the change I've -- I prepared an errata sheet, and the change occurs for -- it's Schedule DJL-3, page one of two. As pointed out in Mr. Dewhurst's rebuttal, on line 38 in Column B, the 2.71 should actually be 3.35. It was a computation error I made and so correcting it through the errata should clear that up.

Q Are there other changes, Mr. Lawton?

A None that I'm aware of it.

Q And does this correction change your conclusion in any way?

A It does not.

Q Have you prepared a summary for the Commissioners?

A I have.

Q Please summarize your testimony.

A Okay. Well, good afternoon, Commissioners. It's good to be back Florida. I know it's late in the afternoon, and I'll be swift. Basically I'm addressing two issues here this afternoon.

The first issue -- both issues you've heard a lot about throughout this proceeding, I'm sure. The first issue is the issue with regard to FPL's request for a 25 basis point bonus to be added to their cost of capital which would in effect cost customers about $41.5 million per year.

The second issue I'm going to address is the overall impact of OPC's recommendations in this case on the ultimate financial metrics of the companies and their company's associated financial integrity. Another issue you've heard a lot about in this proceeding, I'm sure.

Starting first with the return on equity adder, I recommend that you decline FPL's invitation to charge customers 42 -- 41.5 million more a year to provide a bonus for shareholders. Two basic reasons: One, I don't think it's a good policy to start charging customers over and above the cost base rates and the cost base cost of capital. To that the company has requested another 25 basis points or $41-and-a-half million. I don't think it's a good policy to start doing it.

Now, starting off there, I've pointed out in my testimony with regard to this policy ground FPL has presented testimony and I've read it with regard to benchmarks of various indicators of quality of service, and they've pointed out numerous times the lowest rates in the state.

Well, I think that's great, and most commissions around the country and this Commission should say that, FPL, that's good work. But that's the work -- that's what we expect of any monopoly around the country. Regulators expect the monopoly to produce their collective best efforts, to provide the best quality of service at the lowest prices that customers can get. That's why we regulate them.

So it's great that the company is saying we have pretty good metrics for SAIDI or SAIFI and low rates. But I think it should stop there, and you can focus on some other utilities that may not be in that position.

The other thing is, with regard to the lowest rates in the state, it's not always the case that the lowest rates a utility may have is the result of management. For example, factors such as density of population, if you're serving a customer system that's primarily residential that's spread out a mile between each one, you're going to be having a more costly system than you do with a more dense customer base. And I point out a number of factors in my testimony.

The last area I do address is financial integrity. The OPC presents two alternatives. One alternative is the existing capital structure. The second, or the primary recommendation, as Mr. O'Donnell pointed out, is a 50-50 equity ratio.

If you look at my testimony, I point out the current financial integrity of this company is superior to most utilities around the country. And, as a result of OPC's recommendation, the metrics, the financial metrics of the company, will be maintained and financial integrity will be fine. That concludes my presentation.

MR. McGLOTHLIN: Mr. Lawton is available for cross examination.

COMMISSIONER GRAHAM: Thank you. Welcome, Mr. Lawton. Retail Federation?

MR. WRIGHT: No questions, Mr. Chairman. Thank you.

COMMISSIONER GRAHAM: Mr. Saporito?

MR. SAPORITO: No questions, Mr. Chairman.

COMMISSIONER GRAHAM: South Florida Hospital?

MR. WISEMAN: No questions.

COMMISSIONER GRAHAM: FIPUG.

MR. MOYLE: Just one or two.

CROSS EXAMINATION

BY MR. MOYLE:

Q The adder that you talked about, you're aware that there's a provision that says in order -- if it were to be awarded that in order for it to continue the company would have to show that it has the lowest residential bill on a go-forward basis, is that right?

A Well, it says that, and also if you look closely at page -- I think it's page 49 of Mr. Dewhurst's direct, I think to establish it to in the first place it's the lowest rates, although Mr. Dewhurst does say you can look at these other metrics. But I think to establish it as well as continue it, it's based on the lowest rates in the state.

Q And it has nothing with respect to a measurement on commercial or industrial rates in order to maintain this 25 percent adder, is that correct?

A That is correct.

MR. MOYLE: That's all I have.

COMMISSIONER GRAHAM: Thank you. Captain Miller?

CAPT. MILLER: No questions, Mr. Chairman.

COMMISSIONER GRAHAM: Florida Power & Light.

CROSS EXAMINATION

BY MR. GUYTON:

Q Good afternoon, Mr. Lawton. I'm Charlie Guyton. I represent Florida Power & Light.

A Good afternoon to you, sir.

Q Mr. Lawton, do you understand that your summary is supposed to be a summary of your direct testimony?

A Yes, and it was.

Q And where in your direct testimony did you state that an ROE adder was not a good policy?

A I think -- I think starting on line five. And if you're asking me if I used the word policy, I probably didn't.

Q I see. Where in your direct testimony did you state, as you did in your summary, that you had read the justification of the company for its ROE adder?

A That I read the justification -- well, to write this testimony I had to read the company's testimony. I read Mr. Dewhurst, I think I cited Mr. Dewhurst, as well as -- is it Ms. Deaton? I forget if it's Mr. or Ms. But there's a witness named Deaton for FPL.

Q What other FPL witness's testimony did you read in regard to the ROE adder?

A I think there was a Mr. Barrett, and I probably -- I didn't bring them with me, but I had summaries of their testimony. But I think it was Mr. Dewhurst, Mr. Barrett, Mr. or Ms. Deaton -- I don't know that Mr. Reed talked about the adder specifically. He was talking about benchmarking.

Q Now, in your summary you also mentioned SAIDI and SAIFI. Do you recall that?

A Yes.

Q Where do you discuss that in your direct testimony?

A That I don't believe I did, other than to say other metrics, and that's something when I was talking about Mr. Reed.

Q Mr. Lawton, as I understand your testimony, you state that FPL's performance adder is unnecessary for three reasons. One, rate level differences are, quote, to some extent, end quote, due to factors other than management performance. Two, the notion of an ROE adder is antithetical to the concept of a protected monopoly. And three, it would lead to unjust rates. Is that a fair summary of your testimony at page five, lines 14 through 20?

A That is fair.

Q Let's look at that first rationale that you offer, that differences in rate levels are to some extent attributable to factors other than management performance.

A Okay.

Q You qualify that statement saying to some extent, correct?

A Yes.

Q So your testimony is not that all rate differences are attributable to factors other than management performance?

A That's what my testimony says, yes.

Q So if not all but only some rate differentials are attributable to factors other than management performance then there are some portion of rate differentials that are attributable to management performance, correct?

A That's what that sentence means. There could be. And it could be management performance something that happened by accident. It may not be necessarily the result of good management but rather the result of serendipity.

Q Is it your testimony that FPL having the lowest residential rates in Florida is not due in any part to FPL's managerial performance?

A No, I did not say that. I said that the lowest rates in the state are the results of other factors, as well, that FPL management and FPL stockholders have nothing to do with.

Q Does FPL have the lowest residential rates in Florida due to some extent FPL's managerial performance?

A It could be.

Q Now, you have not performed a comparative study of the geographical characteristics of a service area of all Florida's electric utilities, have you?

A No, I have not gone in and looked at, for example, the density evaluation of the customers' distribution system, things like that.

Q And you've not done a comparative study of the customer mix of each of the Florida's utilities, have you?

A Not of each of the utilities. Clearly FPL's customer mix is well known. It's primarily a residential system.

Q But you've not done a comparative study of it to the other 54 electric utilities in the state?

A No. Well, I guess -- no, for this case I did not, no. Now, if you're asking if I'm aware of others, I am.

Q Actually, I was asking if you'd done a comparative study.

A Okay.

Q You've not done a comparative study of the vintage of equipment employed by all Florida utilities, have you?

A No, I haven't.

Q If FPL enjoyed a cost advantage over other Florida utilities due to the vintage of equipment it employed, would you agree that FPL's management would be responsible for that vintage of equipment?

A To a large part, I think, yes.

MR. GUYTON: Mr. Chairman, in the interests of time, I'm going to try to handle -- I'm going to try to hand out all of the cross exhibits at one time.

COMMISSIONER GRAHAM: Sure.

MR. GUYTON: I'd kind of like to have them marked as we go along, rather than trying to do them all together, but I think it may save some time if we hand these out.

COMMISSIONER GRAHAM: Sounds fair. Just as we go along tell us which one is which, and we'll give you a number for it.

MR. GUYTON: Very good.

BY MR. GUYTON:

Q Do you have a copy of those potential exhibits in front of you, Mr. Lawton?
A I do. I was handed a stack of documents. I'm looking for a pen so I can mark them and I won't get lost.
Q Good luck. I'll try to keep us from getting off the path.
A Okay.
Q Would you look first to the document that has previously been admitted as Exhibit 169, and that is Exhibit RRK-3. It's a one-page exhibit with a graph. Yes, sir.
A Okay.
Q Now, did you read Ms. Kennedy's testimony prior to preparing your testimony?
A No, I did not.
Q Why not?
A I because I focused on the witnesses primarily addressing the ROE adder and the primary witness would be Mr. Dewhurst, as far as I was concerned, given his statement that it's the lowest rate that will drive whether or not we should get the ROE adder.
Q Now, the Office of Public Counsel did not ask you to review Ms. Kennedy's testimony to prepare your testimony?
A Not that I recall.
Q And did you --
A Nor did it make a difference. If I felt it was --

I had all the testimony there. I could have reviewed this part of her testimony.

Q If you didn't review the testimony, how could you know whether or not it supported the ROE adder?

A How -- I didn't hear that part.

Q If you didn't review all the testimony, how could you know ahead of time that some testimony did or did not support the ROE adder?

A I looked at the beginning of everybody's testimony and who was supporting it. I do that in all cases I'm in.

Q All right. Did OPC tell you that Ms. Kennedy addressed fossil performance improvements since 1990?

A No.

Q Were you here when Ms. Kennedy testified?

A No, but I was -- I did follow along as much as I could from Austin on the streaming, and so I don't recall seeing Ms. Kennedy.

Q Okay. Well, I want to ask you about what has been identified or what now has been admitted as Exhibit 167, Ms. Kennedy's RRK-3. Have you seen that exhibit before?

A No, this is the first time I've looked at this document.

Q Okay. So you have no way of knowing or, for that matter, disputing the accuracy of this exhibit?

A I don't know if it's correct, I don't know if it's wrong. I have not studied it or analyzed the underpinnings of these numbers or the charts.

Q And you were not asked to?

A I was not asked to, and I chose not to.

Q Now, I think we may have covered this a little bit earlier, but I want to go back and make sure that the record is clear. Did you read Mr. Reed's testimony prior to preparing your testimony?

A I think I read parts early on. Some of his benchmarking -- I'm familiar with Mr. Reed. We've crossed paths in many jurisdictions.

Q OPC didn't ask you to review that testimony in preparation of your ROE adder testimony?

A No, OPC didn't ask me to read that as part of my overall assignment in this case. OPC does not tell me how to conduct my analysis.

Q And OPC didn't inform you that Mr. Reed addressed a host of FPL performance measures in his testimony and that Mr. Dewhurst relied upon Mr. Reed's testimony in justifying the FPL equity adder?

A No, OPC did not tell me that. I figured that out myself reading the testimony.

Q Does FPL's performance relative to the industry matter to you in terms of your testimony and your opinion on an ROE adder?

A No.
Q Okay. Indeed, FPL could have the best performance in the industry in each and every category and you would still oppose an ROE adder, wouldn't you?
A Yes, I would. And it would be great if FPL could accomplish that, and all the utilities could accomplish those efforts.
Q Let's look at your -- but not all utilities do accomplish those efforts, do they?
A Not everybody can be number one.
Q In your years of testifying, have you ever supported a penalty to an ROE award for poor performance?
A Yes, I have, and basically because it's written into the statute where I did recommend it where the Legislature in the statute specifically said if poor performance exists that an adjustment downward to the ROE should be made.
Q So absent the statute you've never recommended an ROE penalty?
A That I recall, no.
Q Okay. Let's look at the second reason that you gave for rejecting the performance adder, that it's, as you say, antithetical to the concept of a protected monopoly. You develop that idea at page seven of your testimony, correct?

A I do.
Q And you state there, at lines six through nine, that monopolies such as FPL, when granted the monopoly franchise, have a duty to provide superior performance, correct?
A Yes.
Q In your opinion, does FPL meet its duty to provide superior performance?
A Does it meet its duty?
Q Yes, sir.
A So far it's meeting its duty. It's providing good service at what it characterizes as the lowest prices in the state. Again, the lowest prices are not all necessarily related to FPL's performance.
Q Well, sir, you said that he had -- that FPL had a duty to provide superior performance. And I'm asking you if FPL, in your opinion, meets its duty to provide superior performance.
A Well, I think based on the criteria --
Q I'm sorry, could you give me a yes or no and then explain your answer?
A I think yes would be my answer there, providing their best efforts and their collective result appears to be superior service.
Q Thank you. Now --

A   As characterized by FPL. Sorry.
Q   With which you've not taken issue?
A   No. I mean, If we want to call it superior, that's fine.
Q   Okay. Now, does FPL have a monopoly franchise?
A   Well, it has a monopoly, yes, in its service area, where no other electric provider is allowed to come in and serve the residential and commercial customers, particularly the residential customers, where the -- this adder is related to.
Q   Now, in your -- does it have a certificate of convenience and necessity from the Florida Public Service Commission?
A   I -- I don't know the answer to that. I have not researched that. I know in some states utilities receive certificates of convenience and necessity for their service areas.
Q   At page seven, lines six and nine, you speak of FPL's duty. FPL is a public utility, correct?
A   Yes.
Q   And the duties of public utilities in Florida are set forth by statute, correct?
A   In every state they are, yes.
Q   Okay. Would you turn to the next document? It should be Section 366.03

A I have it.

COMMISSIONER GRAHAM: You want to give that number 580?

THE WITNESS: 580?

MR. GUYTON: Yes, Commissioner, I would.

(Exhibit 580 marked for identification.)

BY MR. GUYTON:

Q Now, Florida Statute Section 366.03 sets forth the general duties of public utilities, does it not?

A It does.

Q Now, I'm taking a look at it; I'd ask you to take a look at it. As I understand it, FPL has a statutory duty to provide, quote, reasonably sufficient, adequate and efficient service upon terms as required by the Commission. Do you read the statute the same way?

A That's what the written word says, yes, sir.

Q And where in Section 366.03 does the statute state that a public utility such as FPL has a duty to, as you state, provide superior service?

A It doesn't use those words. We've just read the exact words that the statute says.

Q Is there anywhere in Chapter 366, Florida Statutes, where you can point me to where the Legislature has established a duty to provide superior service?

A It doesn't use the word superior. So we --

Q So we know -- I'm sorry, I didn't mean to interrupt you.

A Can I finish? Oh, thank you. The clear words of the statute you've read, and the last clause of that first sentence: And efficient service based upon terms as required by the Commission. And if you look at commissions not only in, I'm sure, in this state and other states around the country, they truly attempt to get utilities to use their collective best efforts in the hope those collective best efforts will lead to great service for customers at the lowest reasonable cost. And I'm sure one of these statutes coming up should tell us that.

Q You're sure of that?

A Well, I hope you'd put it in there to make it complete.

Q Well, we'll cover the rate sections, if you can show me the -- in fact, why don't we do that right now. Show me where, in Section 366 -- Chapter 366 the statutory standard for setting rates is lowest reasonable cost.

COMMISSIONER GRAHAM: It's a trick question. Let's move on. It's not in there.

BY MR. GUYTON:

Q Would you agree it's not in there?

A The exact words probably are not in there.

Q Okay. So we know that your duty to provide

superior performance is not a statutory standard?
A Well, I think we talked about what the statutory standard is in 366.03.
Q Right. And it doesn't include --
A The word superior does not appear.
BY MR. GUYTON:
Q Do you know if there's a duty to provide superior performance or service that's set forth in any Commission rule?
A Superior performance, no, I don't know that they use that word.
Q Now, you define superior performance at page seven, correct?
A I believe so.
Q But your definition there is not a statutory standard, either, is it?
A No.
Q Now, you are -- you're an attorney by trade?
A Yeah, if you want to call it that, a trade.
Q Should I say you're a recovering attorney now that you're testifying as a witness?
A I actually do both. I represent cities in these cases in Texas.
Q Okay. Now, you understand that the Commission in performing its role must follow its governing statute,

correct?

A That is true. The Legislature gives the Commission the authority to -- and only the certain authority to govern and regulate utilities.

Q And indeed, the Commission is a creature of statute?

A Absolutely a creature of the statute.

Q And if the Commission abandoned its statutory standards and imposed a different standard suggested by a witness, then its decision would be reversible, would it not?

A It would, but the Commission has broad discretion in enforcing and applying its rules.

Q Did the Office of Public Counsel review your testimony before filing it?

A I believe so, because I -- well, I can't tell you. I sent it to them. I did not fly down and watch them. I assume they did.

Q Now, you asked me a little bit earlier to ask you about the statutes regarding the requirements for setting rates. There are statutes that outline the Commission's responsibility in setting rates, are there not?

A Yes.

Q And do you find in your package a section of statutes identified as 366.041, 05, 06, 07?

A No. Am I missing something?

Q Well, if you are, it's probably my fault. I apologize, but we're probably going to have to hand that one out.

COMMISSIONER GRAHAM: Sure.

MR. GUYTON: Commissioners, I'm sorry, I tried to get them all.

COMMISSIONER GRAHAM: That's all right. We appreciate the effort. For simplicity, since these are all Florida statutes and Commission orders, I don't think we have to give these numbers.

MR. GUYTON: If we can take official notice, that would be fine.

COMMISSIONER GRAHAM: Okay.

MR. GUYTON: I just wanted to make sure the witness had it in front of him for the benefit of review.

COMMISSIONER GRAHAM: Got you.

BY MR. GUYTON:

Q Have you had an opportunity to take a look at those statutes?

A Well, I haven't read it all, but, yeah, I've seen them.

Q Okay. Did you review those statutes before you filed your testimony?

A I've looked at them at one time or another. Whether it's in this case or a prior case, I don't recall.

Q Can you show us where in those statutes or for that matter anywhere else in Chapter 366 that it states that FPL is to provide service at the lowest rates consistent with good service?

A Hold on.

MR. MOYLE: Isn't this back to your trick question?

COMMISSIONER GRAHAM: Let's move on. It's not there.

BY MR. GUYTON:

Q When the Commission fixes rates in a rate case, it has a statutory obligation to fix fair, just and reasonable rates, correct?

A Yes.

Q I want to ask you about a statement that you make at page seven, lines 18 through 20. You state that FPL is proposing to change the regulatory structure that has existed for many years in an effort to extract profits.

Now, in making that statement, you were specifically referring to FPL's proposal for an ROE performance adder, correct?

A Twenty-five basis points, yes, sir; 41 million.

Q Have you looked at prior Commission decisions to determine whether the Commission has in the past granted ROE performance adders, or, for that matter, ROE performance penalties?

A Are you looking at -- are you asking about Florida or anywhere?

Q Yes, Florida.

A In Florida I think I talked to Public Counsel at one point about an adder -- and I'm trying to recall if it was a case they were telling me about. I think there was one conversation about it. And again, I just don't recall where it was.

Q So you, yourself, did not undertake to research prior Commission decisions on ROE performance adders or penalties?

A No, no, no. I did not do research of the Commission orders. What I was talking about in this sentence is that it would be above and beyond the just and reasonable rates.

Q Okay. And you mentioned that you had had a conversation with OPC. Are you aware that the Commission in the past has granted ROE, both performance adders and performance penalties?

A I had heard that in the streaming video as I was watching this proceeding. I think it came up on at least one, possibly two occasions, the issue came up.

Q Okay. I'm going to ask you to it turn to what should be the next exhibit or the next document in your package entitled the 1968 Florida Power Corporation ROE

Penalty Decision. Do you have that, sir?
A I have a Florida Power Corp case, 1968, Docket 4341?
Q Yes, sir.
A Got it.
Q Now, did you have occasion to look at this order, this 1968 order, in preparation of your testimony?
A No, I didn't.
Q And the Office of Public Counsel didn't ask you to take a look at it or make it available to you?
A Not that I recall, no.
Q Would you turn to page 297 of that decision, please.
A I'm there.
Q And I'm going to ask you to read the section under Headnotes 2 through 4. Not out loud, I just want you to take a minute to review it, if you would. You can read it out loud if you'd like, but whatever is most convenient.
A I've read it.
Q All right. I want to ask you about a couple of passages within that passage, if we can. Near the bottom of page 297 did you see the language that read from the Commission one of the greatest indicators of an efficiently operated public utility is its rate structure and the pricing of its service or commodity?

A Yes, from this 1968 decision, yes.
Q And do you disagree with that statement?
A Yes.
Q All right.
A I don't know that it's the greatest indicator.
Q And over on page 298, the first full sentence reads: The pricing of a utility's services or commodity is a matter of primary importance and must be given due consideration in measuring the efficiency and attainment of a utility. Do you agree with that sentence?
A I agree that's what the sentence says, yes.
Q No, sir, that's not what I asked you. I asked if you agree with that statement.
A That pricing it important, yes, I do -- I do agree with that. But remember, keep this in context. This is a 1968 decision on electricity prices.
Q I see.
A It was a different world.
Q So is it your testimony that pricing is less important today than it was in 1968?
A I think the result of pricing back in 1968 when we had much more --
Q I'm sorry, could I get a yes or no? And then I'll be glad for the witness --
A If you can repeat -- I apologize to the bench. If

he could repeat the question.

Q Is it your opinion that pricing is less important today than it was in 1968?

A Yes and no.

COMMISSIONER GRAHAM: You can elaborate.

THE WITNESS: I'm sorry?

COMMISSIONER GRAHAM: You can elaborate.

THE WITNESS: Oh, okay. Yes, it's a very different world today than it was in 1968, and pricing, simple pricing in that simple world could have been very important back in '68. Today there's a number of factors, as I say in my testimony, that influence prices; not management.

BY MR. GUYTON:

Q And if you go on further down the page on 298, the first sentence in the next paragraph: One of the soundest methods of rewarding efficiency is by allowing a utility to earn at the top of the range of what has been found to be in the zone of reasonableness in fixing a fair rate of return. Do you agree with that statement?

A Yes, and that's what we do in utility commissions around the country today. Return witnesses provide ranges, and sometimes commissions will go to the upper end or above the midpoint, based on efficiency or whatever.

Q And in this case, as you get to the end of

Headnotes 2 through 4, the Commission actually authorized a return on equity that was below the midpoint of the evidence in that case to penalize the utility, correct?

A Yes. And that happens today, as well.

Q So as early as 1968 this Commission embraced the idea of using a return allowed a utility to either reward or penalize a utility for its performance, correct?

A Well, I don't know if this was the earliest, which is the implication of your question. But yes, 1968, they did do it.

Q All right. And in this case Dr. Avera has recommended a fair rate of return of 10.25 to 12.25, correct?

A I believe that's Dr. Avera's range, yes.

Q And FPL is requesting a rate of return set point of 11.5, a value that is within Dr. Avera's fair rate of return range, correct?

A No, I think you've mischaracterized FPL's request. I think it's 11-and-a-quarter, and then you would add the 25 basis points to get 11.5 which is, yes, within the range.

Q Now, did you have occasion to read the Commission's 1982 Gulf Power rate decision in developing your testimony, Order Number 10557?

A No, I think I told you earlier I hadn't, but I think this is one of the decisions that was mentioned earlier in the week, or last week.

Q Did OPC provide that order to you?
A No.
Q Did you ask OPC to provide prior orders on Commission decisions involving ROE penalties and adders?
A I don't recall that I did. I told you at one point we had a conversation about ROE adders when I was given the assignment for this issue. What all I asked for, I don't recall.
Q I'm referring now to the document identified as the 1982 Gulf ROE adder decision.
A I have it in my hand.
Q Would you turn to page 27 of that order, please.
A I'm there.
Q And do you see the paragraph immediately above the heading Approved Capital Structure and Fair Rate of Return?
A Starting with the words considering?
Q Yes, sir.
A That's where I'm at. Do you want me to read it?
Q You can. Please.
A Okay. I've read it.
Q Now, in that paragraph and in this order the Commission found that Gulf had continued its commitment to an effective conservation program, correct?
A I see that.
Q And as a result of that, it agreed to a midpoint

or an ROE of 15.85 rather than the 15.75 midpoint that it had found, correct?

A Correct. It went ten basis points above the midpoint of the reasonable range.

Q So in the 1982 Gulf decision, the Commission authorized an ROE adder for Gulf Power Company?

A That's what this says, yes.

Q Did you have occasion to take a look at the 2002 Gulf ROE adder decision?

A No. As I told you earlier, I hadn't.

Q And once again, OPC didn't provide that decision to you, either, did they?

A No, nor do I recall asking for this one.

Q If you would turn, please, in that decision, to page 29.

A Twenty-nine?

Q Yes, sir.

A Okay. I'm there.

Q Would you read -- and it may be a little bit faster if we just get you to read the entire last paragraph that is on 29 and continues over to page 30.

A Okay. I've read it.

Q Now, in that paragraph and in this order the Commission found and granted Gulf a 25 basis point adder to its ROE, correct?

A Yes, from 11.75 to 12 percent.

Q And it did that for superior performance, did it not?

A It said past performance and expected future performance continue to be superior.

Q Now, in preparing your testimony did you have occasion to take a look at the Florida Supreme Court's decision in Gulf power versus Wilson?

A No.

Q OPC didn't provide you with a copy of that Supreme Court decision?

A No.

Q And you didn't find it on your own research?

A No.

Q If you would, please, sir, turn to page four of that decision.

A Is it attached to the document I have?

Q It should, it should have been one of the documents that we handed out to you. It's entitled Gulf Power versus Wilson.

A I have it here.

Q If you'd turn to page four. And I'm not going to ask you to read the entire paragraph on the left-hand side at the bottom of the page, but I do want you to read, for the benefit of the Commission, if you'd read it out loud, the last sentence in the paragraph at the bottom of the page in the left-hand column, beginning this concept.

A This concept of adjusting a utility's rate of return on equity based on performance of its management is by no means new to Florida or other jurisdictions.

Q So is it fair to say that this Commission has a history of providing both ROE adders and penalties for utility performance?

A It is in its history, adders and deletions from equity for performance.

Q Would you turn back to page seven of your testimony, please.

A I'm there.

Q Isn't the following statement just plain wrong? FPL is proposing to change the regulatory structure that has existed for many years. Isn't that just dead wrong?

A It's not consistent with these orders, but I think it's consistent with my position. I think it's changing the structure above and beyond just and reasonable rates.

Q So it may be consistent with precedent but you still think it's a change in structure?

A I do.

Q Okay. Now, the last ground that you gave for a justification for rejecting the ROE adder was that it would result in unjust rates, correct?

A Yes.

Q If FPL were given its entire rate increase, including the 25 basis point adder, it would still have the lowest residential rates in the state of Florida and still have an average residential bill below the national average, correct?

A Based upon the various presentations, I think, in Mr. Dewhurst's testimony, that would be correct.

MR. GUYTON: No further questions.

COMMISSIONER GRAHAM: Staff?

MR. YOUNG: No questions.

COMMISSIONER GRAHAM: Commissioners? Commissioner Balbis?

COMMISSIONER BALBIS: I have to continue my streak. I have one question. It's really a -- I'm kind of curious about this. You mentioned the main reason or one of the reasons that you're against the ROE adder is the resulting $41 million in revenue requirements, correct?

THE WITNESS: Yes.

COMMISSIONER BALBIS: If there were no associated increase in revenue requirement, would you be opposed to the 25 basis point increase of allowable range, or allowable ROE?

THE WITNESS: I don't know how that would happen.

If you increase the ROE by 25 basis points, the revenue requirements has to go up. And if I could show you on my attachment two --

COMMISSIONER BALBIS: Well, no, let me walk you through a theoretical scenario --

THE WITNESS: Okay.

COMMISSIONER BALBIS: -- that I'm not even -- like I said, I'm just curious about this. Let's say this Commission decides that an appropriate ROE midpoint is ten.

THE WITNESS: Got it.

COMMISSIONER BALBIS: And we allow 100 basis points a year above or below that as the allowable range, so the company can earn up to 11. But then we add an ROE adder, so we've already set the revenue requirements at a midpoint of ten and we add a .25 percentage or 25 basis point adder. So the company, if they continue with efficiency improvements, et cetera, can be allowed to earn 11.25 without impacting customer bills. Would you be opposed to that?

THE WITNESS: I hadn't considered it, but I now understand what that proposal would entail. That would be on the ongoing earnings review process the company would be allowed to earn from -- under your scenario, Commissioner, from nine to 11.25, I think, is what you --

COMMISSIONER BALBIS: Correct.

THE WITNESS: Yeah. And -- and that may -- that may be workable. That's something that's not in the revenue requirements of setting the customer's rates. And I think this Commission has kind of done that in the past when it's considered other factors in the earnings monitoring review process.

I think that that has happened historically, so I agree there would be no revenue requirement impact in that situation.

COMMISSIONER BALBIS: Okay, thank you, that's all I have.

THE WITNESS: You're welcome.

COMMISSIONER GRAHAM: Other commissioners? OPC, redirect?

REDIRECT EXAMINATION

BY MR. McGLOTHLIN:

Q Mr. Lawton, Mr. Guyton directed you to several statutory language excerpts and orders and a court decision. Is your objection to the proposed ROE adder based upon considerations of legal authority or on considerations of the desirability of the policy?

A The desirability of the policy. And I think I point that out in my testimony.

Q On page five, beginning at line 17, Mr. Guyton directed you to this statement, as well. You say: More fundamentally the notion of an ROE adder is antithetical to the concept of a protected monopoly, which accepts and enjoys many advantages over competitive enterprises.

And referring to his comment on your summary, would the -- would a notion that is antithetical to the concept of a protected monopoly be a good policy or a poor policy?

A Well, it's not a good policy to be antithetical to the -- the -- to the concept of a protected monopoly. It's not -- it's not good policy to have protected monopolies get these additional profits over and above what you decide -- you, the Commission -- decide are the reasonable costs and the reasonable return, and then bump it up. I think it's inefficient, as well, as my exhibits show.

Q Mr. Guyton asked you about your statement that the vintage of equipment might bear on the level of rates. And he suggested that management would be responsible for the vintage of equipment. Taking production plant as an example, when does management construct production plant?

A Management constructs production plant when their forecast indicates they have to. The demand of the system requires additional plants. Sometimes management may select, you know, whether it's a base load plant. And we're seeing that now in this current case. There are various plants coming on line, the, I think, Cape Canaveral and so forth.

Q Mr. Guyton showed you one of Ms. Kennedy's exhibits and you said that that exhibit and similar exhibits would not have made a difference in your recommendation. Why would those not have made a difference?

A Basically because the overall process, as presented by FPL, is because we have the lowest rates in the state we should get this profit adder and we should continue it. And that's clearly what page 49 of Mr. Dewhurst's testimony says.

Q Mr. Guyton questioned you about your description of good service at the lowest reasonable rates. Do you recall that?

A Yes.

Q Is there anything inconsistent between good service at the lowest reasonable rates and fair, just and reasonable rates?

A I don't see any.

Q You're aware that this Commission typically sets a range of return on equity and then bases rates on the midpoint?

A Most commissions do. They come up with a reasonable range and then they decide what point in the range they're going to select. Unless there's a reason to go up or down, they usually pick the midpoint.

Q Assume for purposes of the question that the Commission sets a midpoint and then provides a range of 100 basis points below and above. In your view, would that provide FP&L an opportunity to excel?

A Well, it certainly does. I mean, in the last case, this Commission set a rate of 10 percent and the band around that was from 9 percent to 11 percent. And we saw this company -- I think we've heard this week -- has earned 11 percent throughout the period since the last case, which is phenomenal in today's market.

Q Now, Mr. Guyton asked you to agree that even with the adder the company's rates would -- the company would provide the lowest residential rates in the state. Do you remember that question and answer?

A I do.

Q How much in revenue requirements would the adder add to the total revenue requirements?

A The adder, as shown in my Exhibit 2, and it adds $42 million, 15 million of that adder is income taxes that have to be paid to the government, and only 25 million of the 42 million adder actually gets to its claimed purpose, the way the company has set it up.

MR. McGLOTHLIN: Could I have just a second? No further questions.

COMMISSIONER GRAHAM: Okay, exhibits.

MR. McGLOTHLIN: OPC moves 275, 276 and 277.

CHAIRMAN GRAHAM: 275, 276, 277. And Florida Power & Light?

(Exhibits 275, 276, 277 admitted in evidence.)

MR. GUYTON: Florida Power & Light Company didn't ask you to mark any of these exhibits, but we would ask that you take official recognition of the 2002 Gulf rate -- Gulf ROE adder decision, the 1982 Gulf ROE adder decision, the 1968 Florida Power Corporation ROE penalty decision, and Gulf Power versus Wilson, and Section 366.03, consistent with your earlier ruling.

COMMISSIONER GRAHAM: Sounds good.

MR. SAPORITO: Mr. Chairman, we did assign FP&L the number 580 for something, right?

COMMISSIONER GRAHAM: We did it initially, but we're not going to put that into the record, because that was just a Florida Statute, 366.

MR. GUYTON: Would you bear with me just a minute?

COMMISSIONER GRAHAM: Sure.

MR. MOYLE: Mr. Chairman, just a point of clarification, we have no objection to the official recognition of the orders, but I think we've also, in past practice -- just because you take official recognition of it doesn't mean if there's an order out there that is not necessarily officially recognized, that the parties can't, you know, cite it and rely on it in their briefs. I just wanted to make that point clear, make sure we're not deviating from that practice.

COMMISSIONER GRAHAM: No, I don't think so.

MR. GUYTON: Commissioner Graham, we'd also ask that you take official recognition of the other section of statutes from 366 that address the Commission's rate-setting authority that we also handed out.

COMMISSIONER GRAHAM: The second one?

MR. GUYTON: Thank you.

COMMISSIONER GRAHAM: All right, OPC, I take it you want to let Mr. Lawton go.

MR. McGLOTHLIN: Yes, sir.

COMMISSIONER GRAHAM: Mr. Lawton, thank you for your testimony.

THE WITNESS: Thank you very much, Commissioners.

COMMISSIONER GRAHAM: Well, the Chairman said that we were going to stop sometime between 6:00 and 7:00 today and it looks like it's about five minutes after 6:00, so I think it's a good time to call it quits.

We're going to start tomorrow morning at 9:30. Not 9:00, but 9:30. And we're probably going to end about 7:00 tomorrow, just so as long as everybody is prepared. Mr. Young?

MR. YOUNG: Just for the lineup for tomorrow, I think today we concluded OPC's case.

COMMISSIONER GRAHAM: That's correct.

MR. YOUNG: We will start with the Florida Retail Federation.

COMMISSIONER GRAHAM: That's correct.

MR. YOUNG: Then move down to -- we've taken care of FIPUG's case with witness Pollock. Then we'll move to South Florida Hospital with Baudino, Baron, Kollen, then move to the Federal Executive Agency with Gorman, Stephens -- witness Stephens has been stipulated.

COMMISSIONER GRAHAM: That's correct.

MR. YOUNG: And then Algenol with R. Paul Woods. The Staff would note that Mr. Hendricks and Mr. Saporito has already testified and Staff's witnesses are excused. At an appropriate time Staff will be moving their direct testimony and exhibits in with Kathy Welch's deposition. And after that we will start the Florida Power & Light rebuttal.

MR. SAPORITO: Mr. Chairman, I've touched base with Staff earlier on one of my exhibits, Number 501. I wanted that moved into the record. According to my research, it has been identified in the record but it hasn't been entered into the record.

COMMISSIONER GRAHAM: I did hear Mr. Young speak of that earlier, so we'll make sure that Exhibit 501 is entered into the record.

MR. YOUNG: Yes, sir, except for the second page dealing with the copper.

COMMISSIONER GRAHAM: Except for -- one more time, Mr. Young?

MR. YOUNG: I think it's the second -- the third? The third page.

COMMISSIONER GRAHAM: Let's make sure we've got it right, because I remember there was some objection about it.

MR. SAPORITO: I believe it was the third page. I have the transcript.

MR. YOUNG: The third page of that exhibit will not be moved into the record.

COMMISSIONER GRAHAM: So Exhibit 501 is going to be entered into the record except for the third page of that exhibit?

MR. YOUNG: Yes, sir.

COMMISSIONER GRAHAM: Okay, we'll do that.

(Exhibit 501 admitted in evidence.)

MR. LITCHFIELD: Mr. Chairman, also with respect to the testimony of Mr. Woods for Algenol, FPL was contacted to see if we would be willing to stipulate his testimony in. We agreed. We obviously can't speak for the other parties, so I'm not sure where that stands.

MR. YOUNG: He took my conversation with them out of my mouth. We were going to talk to the parties and see if they would stipulate Algenol, R. Paul Woods, and contact Mr. Ha, the representative from Algenol.

COMMISSIONER GRAHAM: Sounds like a good thing to do after we recess.

MR. BUTLER: One more -- one more matter I'd just like to bring to the Commission's attention. Our rebuttal witness, Mr. Flaherty, has a schedule limitation. He is available basically -- he needs to finish by no later than Wednesday, midday.

So we'll just have to see how things are going during the day tomorrow, and we may need to ask to move him forward a bit for getting him out by his deadline.

COMMISSIONER GRAHAM: Okay. Anything else before we conclude for the day? I want to thank you all very much for your time. I hope you all travel safe, and I'll see you tomorrow morning at 9:30. We are at recess.

(The hearing was recessed at 6:10 p.m. and the transcript continues in sequence in Volume 21.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, LAURA MOUNTAIN, Court Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings; and that the transcript is a true record of the aforesaid proceedings.

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

Dated this 30th day of August, 2012.

Laura Mountain

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