

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 120015-EI

In the Matter of:

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

RECEIVED-FPSC  
12 AUG 31 PM 3:53  
COMMISSION  
CLERK

VOLUME 23

Pages 3472 through 3640

PROCEEDINGS: HEARING

COMMISSIONERS  
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER ART GRAHAM  
COMMISSIONER EDUARDO E. BALBIS  
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, August 28, 2012

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

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

APPEARANCES: (As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER - DATE

05966 AUG 31 2012

FPSC-COMMISSION CLERK

## I N D E X

## WITNESSES

NAME:	PAGE NO.
ROSEMARY MORLEY	
Continued Cross Examination by Mr. Wright	3475
Cross Examination by Mr. Saporito	3478
Redirect Examination by Mr. Rubin	3482
KATHLEEN M. SLATTERY	
Direct Examination by Ms. Clark	3487
Prefiled Rebuttal Testimony Inserted	3491
Cross Examination by Mr. Moyle	3518
Cross Examination by Mr. Rehwinkel	3528
Cross Examination by Mr. Wright	3571
Cross Examination by Mr. Saporito	3573
Redirect Examination by Ms. Clark	3586
ROBERT E. BARRETT, JR.	
Direct Examination by Mr. Butler	3593
Prefiled Rebuttal Testimony Inserted	3595
Cross Examination by Mr. Moyle	3612
Cross Examination by Mr. Wiseman	3622
Cross Examination by Mr. Rehwinkel	3630

## EXHIBITS

	NUMBER:	ID.	ADMTD.
1			
2			
3	394, 395		3485
4	585, 587		3485
5	588		3486
6	589	3528	3592
7	590	3528	3592
8	591	3528	3592
9	396		3591
10	592	3628	3638
11	593	3636	3638

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

1  
2 (Transcript follows in sequence from  
3 Volume 22.)

4 **MR. WRIGHT:** Madam Chairman, this is an  
5 exhibit consisting of excerpts from Gulf Power Company's  
6 and Tampa Electric Company's most recent Ten Year Site  
7 Plans. This relates directly to the witness' testimony,  
8 I think, at Page 7.

9 **COMMISSIONER BROWN:** Are there any objections  
10 to this exhibit?

11 **MR. RUBIN:** If I can have a moment to see what  
12 counsel is referring to on Page 7?

13 **COMMISSIONER BROWN:** Okay.

14 **MR. RUBIN:** Provided that the single issue is  
15 whether these two utilities use a 20-year time frame for  
16 their weather normalization, I would have no objections.  
17 For any other purpose, I do object.

18 **COMMISSIONER BROWN:** I'll allow Mr. Wright to  
19 proceed.

20 **MR. WRIGHT:** Thank you.

21 **COMMISSIONER BROWN:** But carefully.

**CONTINUED CROSS EXAMINATION**

22 **BY MR. WRIGHT:**

23 **Q.** Dr. Morley, you talked about the load  
24 forecasts approved for both Gulf Power and Tampa  
25

1 Electric in their last rate cases at the bottom of Page  
2 7 of your testimony, did you not?

3 A. Yes, I did.

4 Q. Are you aware of what Tampa Electric's and  
5 Gulf Power Company's respective forecast load growth  
6 from 2011 to 2013 is?

7 MR. RUBIN: Madam Chairman, I object. This is  
8 precisely why I objected before. This is not the  
9 subject of the witness' rebuttal testimony.

10 COMMISSIONER BROWN: Mr. Wright, can you  
11 please restate the question.

12 MR. WRIGHT: I really can't restate the  
13 question, although --

14 COMMISSIONER BROWN: I didn't hear it.

15 MR. WRIGHT: Oh, I'm sorry. Well, then  
16 certainly. My question is this, will you agree that the  
17 load forecasts to which you referred for Tampa Electric  
18 and Gulf Power showed greater load growth from 2011 to  
19 2013 than FPL's load forecast from 2011 to 2013?

20 MR. RUBIN: And I object on many grounds.  
21 Number one, it's completely irrelevant to the  
22 proceeding. Number two, the Gulf and TECO orders, or  
23 the references, I should say, that were made in the  
24 rebuttal testimony of Dr. Morley to Gulf Power and TECO  
25 were simply to point out that those two utilities have

1 based their forecasts on 20 years of weather data to  
2 define normal weather conditions, and that's the extent  
3 of it.

4 **COMMISSIONER BROWN:** Ms. Helton.

5 **MS. HELTON:** I hate to do this, but can I ask  
6 Mr. Wright to ask the question one more time?

7 **COMMISSIONER BROWN:** Can you repeat the  
8 question, Mr. Wright?

9 **MR. WRIGHT:** Certainly.

10 **BY MR. WRIGHT:**

11 **Q.** Are you aware, Dr. Morley, that the load  
12 forecasts for Tampa Electric Company and Gulf Power  
13 Company, to which you referred in your testimony, each  
14 reflects higher load growth from 2011 to 2013 than FPL's  
15 load forecast?

16 **MR. WRIGHT:** And, Madam Chairman, I believe  
17 she has opened the door by talking about the companies,  
18 respective companies' load forecasts.

19 **COMMISSIONER BROWN:** Mr. Wright, I would  
20 agree. I agree with you.

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

22 **COMMISSIONER BROWN:** Uh-huh.

23 **THE WITNESS:** Yes, I am aware of that. I am  
24 also aware that Florida Progress is actually forecasting  
25 lower growth than we are. We are different companies,

1 we all have different weather stations, but we are all  
2 using the 20-year normal.

3 **MR. WRIGHT:** Thank you.

4 That's all the questions I have, Madam Chair.

5 Thank you, Doctor Morley.

6 **COMMISSIONER BROWN:** Thank you. Okay.

7 Mr. Saporito.

8 **CROSS EXAMINATION**

9 **BY MR. SAPORITO:**

10 **Q.** Good afternoon, Dr. Morley. My name is Thomas  
11 Saporito. I'm here pro se representing myself.

12 I've gotten a little bit confused with all  
13 these questions, and I'm just going to try to clarify  
14 some of this information for my participation in this  
15 proceeding.

16 You were asked some questions with respect to  
17 your rebuttal testimony, and it's my understanding that  
18 this chart behind you is identified in the record as  
19 RM-3, Page 1 of 1, is that correct?

20 **A.** That's correct.

21 **Q.** Okay. And this reminds -- I trade stocks, and  
22 this reminds me of a lot the stock charts. I want to  
23 ask you, if you look at that -- you have a red line and  
24 a blue line, do you see that?

25 **A.** Yes, I do.

1 Q. And I want you to focus on that red line for a  
2 second. It looks like you have made some indications,  
3 data points as I would interpret them, and you marked  
4 them with squares along that red line, is that true?

5 A. I'm sorry. I think I missed part of your  
6 question. I apologize. If you could repeat.

7 Q. Absolutely. The red line has some square  
8 marks on it, some square symbols. Do you see those?

9 A. Yes, I do.

10 Q. And they represent a data point or a year?

11 A. They represent for that particular year the  
12 twenty-year average of cooling degree hours. So that  
13 the last square shown, the last red square shown would  
14 be the average cooling degree hours between August 1991  
15 and July 2001.

16 Q. All right. And, you know, before I traded  
17 stock, I put the chart up and I draw a line to see if  
18 the stock is going up or down. If you drew a line from  
19 the year 2002 where you have that square mark to a line  
20 to extending to the right and up to the square above the  
21 2011, in your opinion, would that line be trending  
22 upwards?

23 MR. RUBIN: Let me just object. That's the  
24 precise question that has been asked and answered a few  
25 times.

1                   **COMMISSIONER BROWN:** It is a little  
2 duplicative. It has been asked, I think, six times so  
3 far.

4                   Can you ask another question?

5 **BY MR. SAPORITO:**

6                   **Q.** The red line data, is that primarily  
7 reflective of only FP&L's service territory?

8                   **A.** Yes.

9                   **Q.** Does FP&L maintain data greater than a 20-year  
10 history with respect to this graph?

11                   **A.** On this graph?

12                   **Q.** No. No. This graph, I believe your testimony  
13 was, shows a 20-year history. I'm asking does FPL  
14 maintain weather data greater than a 20-year period of  
15 time?

16                   **A.** Yes. We have weather data going back to the  
17 '40s.

18                   **Q.** And why wasn't a greater amount of data used  
19 when you constructed this graph?

20                   **MR. RUBIN:** Let me just object. It has been  
21 asked and answered. In fact, I believe staff on direct  
22 asked that very specific question, the reasons for the  
23 use of the 20 years.

24                   **MR. SAPORITO:** I'm just asking why a greater  
25 period of time wasn't, I'm not asking why the 20 years,

1 I'm asking why, if 40 years is available, why didn't  
2 they use 40 years of data?

3 **COMMISSIONER BROWN:** I will allow it.

4 **A.** I think we looked at 20 years in order to  
5 cover -- to be consistent with the fact that we used 20  
6 years of weather data, and also to not crowd the chart  
7 with too many points.

8 **Q.** If you used 40 years of data, would that have  
9 given you a better, more accurate reflection of the  
10 weather?

11 **MR. RUBIN:** Objection, calls for speculation.

12 **BY MR. SAPORITO:**

13 **Q.** Can you offer the Commission an expert opinion  
14 as to whether more data points, a 40-year period of time  
15 for your weather determination would be more accurate  
16 than the 20 year?

17 **MR. RUBIN:** Same objection.

18 **COMMISSIONER BROWN:** I'm going to allow it.

19 **THE WITNESS:** No, I don't think so.

20 **MR. SAPORITO:** I think that's all I have,  
21 Madam Chair.

22 **COMMISSIONER BROWN:** Mr. Hendricks.

23 **MR. HENDRICKS:** No questions for this witness.  
24 Thank you.

25 **COMMISSIONER BROWN:** Okay. Staff.

1           **MR. HARRIS:** We have no questions. Thank you.

2           **COMMISSIONER BROWN:** Commissioners? Nothing.  
3           Okay. Redirect.

4           **MR. RUBIN:** Just briefly. Thank you, Madam.

5                                   **REDIRECT EXAMINATION**

6           **BY MR. RUBIN:**

7                   **Q.** Dr. Morley, you have been asked a lot of  
8           questions about the use of the 20 years of actual  
9           weather data versus 10 years of actual weather data for  
10          the FPL load forecast. Is the FPL load forecast that  
11          you prepared used for anything in the sense of resource  
12          assessment planning or any other corporate purposes?

13                   **A.** Yes, absolutely.

14                   **MR. WISEMAN:** Objection. This is way beyond  
15          the scope of any cross-examination that I recall.

16                   **MR. MOYLE:** And I specifically was trying to  
17          ask about other uses and was not allowed to.

18                   **COMMISSIONER BROWN:** Mr. Rubin, can you  
19          restate your question?

20                   **MR. RUBIN:** Sure.

21           **BY MR. RUBIN:**

22                   **Q.** Let me ask it this way. You have been asked  
23          about the 10 versus 20 year use of actual weather data.  
24          Let me ask a different question. If you take a look at  
25          the chart that is behind you, you have been asked to

1 focus on that last point in time, and just explain if  
2 you will to the Commission to the far right what those  
3 two data points represent.

4 **A.** Yes. The last red box is the 20-year average  
5 of cooling degree hours that we based our load forecast  
6 on. The blue line which moves up and down is the  
7 rolling average of cooling degree hours just based on  
8 ten years, and ten years is the period of time that  
9 Witness Baron proposes.

10 As the chart shows, in many years the ten year  
11 is actually less than the 20-year average. However, for  
12 the year 2011, there is a large spike in the ten-year  
13 average, and that is a point upon which Witness Baron  
14 would propose to base the load forecast.

15 **Q.** And so if you looked at the 10 versus 20-year  
16 average for the year 2010, which would reflect more  
17 cooling degree hours, the 10-year average or the 20-year  
18 average?

19 **A.** For that year it would be the 20-year average.

20 **Q.** Okay. And the same question for the prior  
21 year?

22 **A.** For 2009, it would be the 20-year average  
23 would reflect more cooling degree hours, not the 10.

24 **Q.** You have been asked a lot of questions about  
25 weather and capturing data. Does your use of the

1 20-year time frame in terms of averaging the cooling  
2 degree hours capture all of the variations in  
3 temperature during the past 20 years?

4 **MR. WRIGHT:** Madam Chairman, I object. I  
5 don't think she has been asked whether it captures all  
6 the variations in temperature over the last 20 years.

7 **BY MR. RUBIN:**

8 **Q.** Let me ask you a different question. Does the  
9 use of the 20 years for weather data provide an average  
10 of that weather for the 20 years?

11 **MR. WRIGHT:** Madam Chairman, I think that has  
12 been asked and answered.

13 **COMMISSIONER BROWN:** I think you asked it.

14 **MR. WRIGHT:** Specifically, when I asked her  
15 what each point on her 20-year curve in RM-3  
16 represented, I think she answered that question.

17 **COMMISSIONER BROWN:** She did, and you asked  
18 that question.

19 **MR. RUBIN:** Okay. Thank you, Madam Chair.

20 I don't have any further questions.

21 **COMMISSIONER BROWN:** Okay. Exhibits.

22 **MR. RUBIN:** FPL would moves Exhibits 394 and  
23 395 into the record.

24 **COMMISSIONER BROWN:** Any objections?

25 Seeing none, Exhibits 394 and 395 will be

1 entered into the record.

2 (Exhibit Numbers 394 and 395 admitted into the  
3 record.)

4 **COMMISSIONER BROWN:** South Florida Hospital.

5 **MR. WISEMAN:** Thank you. SFHHA would move the  
6 admission of Exhibits 585 and 587 into the record.

7 **COMMISSIONER BROWN:** I thought you had 585,  
8 586, 587, and 588.

9 **MR. WISEMAN:** 586 was the one that we agreed  
10 that we will --

11 **COMMISSIONER BROWN:** That's right.

12 **MR. WISEMAN:** -- bring up with Mr. Ender.

13 **COMMISSIONER BROWN:** And 588?

14 **MR. WISEMAN:** That is someone else's.

15 **MR. WRIGHT:** I move 588.

16 **MR. WISEMAN:** I would be happy to move it in,  
17 but it's someone else's.

18 **COMMISSIONER BROWN:** Okay. Any objections to  
19 585 and 587? Seeing none, we will enter 585 and 587  
20 into the record.

21 (Exhibit Numbers 585 and 587 admitted into the  
22 record.)

23 **COMMISSIONER BROWN:** Mr. Wright.

24 **MR. WRIGHT:** I move 588.

25 **COMMISSIONER BROWN:** Any objections?

1           **MR. RUBIN:** Subject to the same objections we  
2 previously voiced.

3           **COMMISSIONER BROWN:** Okay. So noted. We will  
4 move Exhibit 588 into the record.

5           (Exhibit Number 588 admitted into the record.)

6           **COMMISSIONER BROWN:** Okay. FPL, would you  
7 like to have this witness excused?

8           **MR. RUBIN:** Thank you.

9           **COMMISSIONER BROWN:** Okay.

10          Thank you, Dr. Morley. Have a great day.

11          **THE WITNESS:** Thank you, Madam Chairman.

12          **COMMISSIONER BROWN:** The next witness is Ms.  
13 Slattery.

14          **MR. LITCHFIELD:** Yes. FPL's next witness is  
15 Ms. Slattery for her rebuttal testimony, and if we could  
16 just take a minute to get everybody reseated.

17          **COMMISSIONER BROWN:** Certainly.

18          **MR. LITCHFIELD:** And Ms. Slattery has been  
19 previously sworn in.

20          **COMMISSIONER BROWN:** That's right. Thank you.

21          (Pause.)

22          FPL.

23          **MS. CLARK:** Madam Chairman, we have an errata  
24 sheet we need to pass out. I want you to know that we  
25 have spoken to all the parties early this morning to let

1           them know what the errata sheet would be. I don't think  
2           they have any objections, but we need to pass it out and  
3           then take it up with Ms. Slattery.

4                       **COMMISSIONER BROWN:** Okay. Are there any  
5           objections?

6                       Okay. Ms. Clark.

7                               **KATHLEEN M. SLATTERY**

8           was called as a witness on behalf of Florida Power and  
9           Light, and having been duly sworn, testified as follows:

10                              **DIRECT EXAMINATION**

11           **BY MS. CLARK:**

12                       **Q.** Ms. Slattery, will you, again, state your name  
13           and business address?

14                       **A.** Kathleen Slattery, 700 Universe Boulevard,  
15           Juno Beach, Florida.

16                       **Q.** And by whom are you employed and in what  
17           capacity?

18                       **A.** I am employed by Florida Power and Light  
19           Company as Senior Director, Executive Services and  
20           Compensation.

21                       **Q.** And have you prepared and caused to be filed  
22           25 pages of rebuttal testimony?

23                       **A.** Yes, I have.

24                       **Q.** And you do have further changes to that on  
25           your errata sheet. Will you walk us through those

1 changes, please?

2 **A.** Yes. After filing my rebuttal testimony, I  
3 determined that the attached exhibit contained one  
4 incorrect historic overtime dollar amount. Correcting  
5 that dollar figure creates several errata in the exhibit  
6 and testimony.

7 In the rebuttal testimony on Page 18, Line 19,  
8 change negative 0.31 percent to negative 0.27 percent.  
9 On the Exhibit KS-9, Line 14, change 2006 actual  
10 overtime from 109,151 to 112,385. And change 2006 base  
11 plus OT from 748,815 to 752,049. Also, on Line 14,  
12 change 2006 base plus OT variance from negative 44,887  
13 to negative 41,653. Same Line 14, change 2006 variance  
14 percent from negative 5.99 percent to negative  
15 5.54 percent. And on Line 23 of Exhibit KS-9 change  
16 2002 to 2012 average from negative 0.31 percent to  
17 negative 0.27 percent.

18 **Q.** And, Ms. Slattery, a change had to be made  
19 also to your Late-Filed Exhibit 2 to your deposition,  
20 correct, based on that same change in number?

21 **A.** Yes, that's correct.

22 **MS. CLARK:** I would ask staff should we take  
23 that up now, the change to the late-filed exhibit?

24 **MR. YOUNG:** Not a problem.

25 **MS. CLARK:** Okay.

1           **MR. YOUNG:** Since we're doing it all.

2           **A.** Do you want me to read that, as well?

3           **Q.** Yes, please.

4           **A.** On Late-Filed Exhibit Number 2 to Slattery  
5 Deposition, Line 15, change 2006 actual overtime from  
6 109,151 to 112,385, and change 2006 OT variance dollars  
7 from 32,257 to 35,491.

8           **Q.** And that completes your changes, is that  
9 correct?

10          **A.** Yes, it does.

11          **Q.** Okay. With that errata, if I asked you the  
12 same questions contained in your rebuttal testimony,  
13 would your answers be the same?

14          **A.** Yes, they would.

15          **Q.** Are you also sponsoring an exhibit to your  
16 rebuttal testimony?

17          **A.** Yes.

18          **Q.** And is that a one-page Exhibit KS-9?

19          **A.** Yes.

20          **Q.** And I think you just went over the errata to  
21 that exhibit, as well?

22          **A.** Yes, I did.

23           **MS. CLARK:** Madam Chairman, that exhibit is  
24 labeled on staff's exhibit list as 396.

25           **COMMISSIONER BROWN:** Okay. At this time I

1 will enter Ms. Slattery's Prefiled Rebuttal Testimony  
2 with her errata sheet into the record as though read.

3 **MS. CLARK:** Thank you.

4 **COMMISSIONER BROWN:** Unless there are any  
5 objections.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

**ERRATA SHEET**

( ) DIRECT TESTIMONY, OR ( X ) REBUTTAL TESTIMONY

WITNESS: Kathleen Slattery

<u>PAGE #</u>	<u>LINE #</u>	<u>CHANGE</u>
Page 18	19	Change -0.31% to -0.27%
Exhibit KS-9	14	Change 2006 'Actual Overtime' from 109,151 to 112,385
Exhibit KS-9	14	Change 2006 'Base + OT' from 748,815 to 752,049
Exhibit KS-9	14	Change 2006 'Base + OT Variance' from (44,887) to (41,653)
Exhibit KS-9	14	Change 2006 'Variance Percent' from -5.99% to -5.54%
Exhibit KS-9	23	Change 2002 – 2012 Average from -0.31% to -0.27%

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**I. INTRODUCTION**

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

A. My name is Kathleen Slattery. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420.

**Q. Did you previously submit direct testimony in this proceeding?**

A. Yes.

**Q. Are you sponsoring any rebuttal exhibits in this case?**

A. Yes, I am sponsoring the following exhibit:

- KS-9, FPL Budget vs. Actual Gross Base Payroll and Overtime

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

A. The purpose of this testimony is to rebut the testimony of Office of Public Counsel (“OPC”) witness Schultz regarding the payroll expense, incentive compensation, employee benefits, and payroll tax expense of Florida Power & Light Company (“FPL” or “the Company”).

**II. SUMMARY**

**Q. Please summarize your rebuttal testimony.**

A. As demonstrated in my direct testimony, FPL’s projected compensation and benefits expense is reasonable. The only witness to take issue with any aspect of FPL’s compensation and benefits expense is OPC witness Schultz, who recommends several adjustments. Those recommended adjustments should be

1 rejected. First, witness Schultz recommends limiting FPL's recovery of non-  
2 executive performance-based variable compensation. Whether intentionally or  
3 not, he has failed to evaluate total compensation and benefit costs and has offered  
4 no evidence that the Company's total compensation and benefits costs are not  
5 necessary or reasonable. Witness Schultz, instead, focuses on cost sharing.  
6 Although he acknowledges that incentive plans benefit customers and finds no  
7 real fault with the design and administration of FPL's plan, he recommends a 50%  
8 disallowance of the cost based on the flawed premise that the costs of properly  
9 designed plans should be shared equally by shareholders and customers. My  
10 rebuttal testimony addresses: (1) the market-based evidence that supports the  
11 reasonableness of the plan; (2) the current competitive position of the plan and  
12 potential negative impact of witness Schultz's recommended disallowance; and  
13 (3) the most recent Commission precedent, all evidence of the inappropriateness  
14 of witness Schultz's position.

15  
16 OPC witness Schultz has also made several recommendations to disallow portions  
17 of payroll, benefits and employee tax expense, but again has not provided any  
18 empirical evidence or market data to demonstrate that the costs are unreasonable.  
19 My rebuttal testimony demonstrates the flaws in witness Schultz's analysis of  
20 staffing and payroll and the associated benefits and payroll tax expense and  
21 provides further evidence of the reasonableness of these costs. Finally, my  
22 testimony addresses witness Schultz's mistaken assumptions and inappropriate

1 recommendation regarding the O&M expense factor for employee benefits  
2 expense.

3

4 **III. TOTAL COMPENSATION AND BENEFITS EXPENSE**

5

6 **Q. Is FPL's projected total compensation and benefits expense for 2013**  
7 **reasonable?**

8 A. Yes. As previously demonstrated in my direct testimony (Exhibit KS-2, KS-4),  
9 FPL's projected total compensation and benefits expense is fair and reasonable.  
10 The reasonableness of the cost is clearly evident when the growth in the cost is  
11 compared to wage-based inflation indices, such as WorldatWork. The  
12 comparison of FPL's compensation cost to those of other utilities provides  
13 another useful measure of reasonableness, and, as demonstrated in my direct  
14 testimony (Exhibit KS-3), total compensation is lower than most comparable  
15 utilities on a per employee, per operating revenue, and per customer basis.  
16 Finally, the reasonableness of FPL's benefits programs is demonstrated through  
17 the use of an analytical survey that benchmarks the plans to those of peers, and  
18 the relative value of the Company's benefits plans is consistently below average  
19 when compared to its peers in the utility industry.

1    **Q.    OPC witness Schultz has taken issue with specific components of FPL's total**  
2           **compensation. In your view, is it appropriate to consider the individual**  
3           **components on a standalone basis?**

4    A.    No, the appropriateness of the various components of total compensation cannot  
5           and should not be assessed on a stand-alone basis. As stated in my direct  
6           testimony, FPL employs a total rewards approach. One of the stated objectives of  
7           this approach is to control fixed costs by placing emphasis on variable pay rather  
8           than fixed pay and traditional benefits. The strategic emphasis on variable pay  
9           rather than fixed salary and benefits lowers the Company's exposure to steadily  
10          increasing salary and fringe benefit costs and adds flexibility in recognizing  
11          performance. This approach has worked well. Numerous FPL witnesses have  
12          detailed the types of superior performance and cost management that FPL has  
13          been able to achieve with its total rewards program and pay for performance  
14          culture.

15

#### 16                                   **IV. VALIDITY AND COMPARISONS OF DATA**

17

18   **Q.    In his testimony, OPC witness Schultz takes issue with certain perceived**  
19           **variances in the Company's payroll-related discovery responses or other**  
20           **alleged discrepancies in information supplied by the Company. Are OPC**  
21           **witness Schultz's concerns valid?**

22    A.    No. Most of witness Schultz's concerns arise from his trying to compare apples  
23           to oranges, such as discovery responses based on gross dollars versus discovery

1 responses based on net O&M dollars. The following examples from witness  
2 Schultz's testimony demonstrate that the confusion is on his part:

- 3 ● Page 16, lines 1 through 6, regarding executive incentive adjustment: The  
4 supposed "significant" differences are a result of witness Schultz trying to  
5 compare amounts that are not comparable, specifically the MFR C-2 net  
6 operating income adjustments for executive incentives (net O&M after  
7 jurisdictional adjustment) to amounts on MFR C-35 work papers which  
8 reflect total gross amounts before subtraction of capital and below-the-line  
9 amounts, affiliate allocations and other amounts. This was explained by  
10 FPL to OPC in written responses to OPC questions on June 26, 2012. The  
11 Company's calculation of the 2013 executive incentive adjustment of  
12 \$28,240,042 (jurisdictional) is accurate.
- 13 ● Page 16, lines 8 through 17, regarding performance-based cash annual  
14 incentive program amounts for non-executives: witness Schultz states  
15 there is apparent uncertainty with regard to the amount that is included in  
16 the filing; however, the various discovery responses which he attempts to  
17 compare are not comparable. This was explained by FPL to OPC on June  
18 22, 2012 in written responses to OPC's questions, which included a  
19 concise statement that FPL's non-executive performance-based cash  
20 annual incentive net O&M and Capital expense, after removal of  
21 allocations to affiliates and clause amounts, is \$53.7 million for 2013.

- 1           • Page 17, lines 7 through 12, regarding “errors”: The items in question  
2           were identified by FPL, not a third party, and are limited to corrections to  
3           the MFR C-2 incentive compensation adjustment.

4           In summary, FPL’s filings and discovery responses are accurate and reliable.

5

6           **V. NON-EXECUTIVE PERFORMANCE-BASED VARIABLE COMPENSATION**

7

8           **Q.    What is the recommendation of OPC witness Schultz regarding non-**  
9           **executive performance-based variable compensation?**

10          A.    Witness Schultz refers to performance-based variable compensation as incentive  
11                compensation and is recommending a disallowance of 50% of such compensation  
12                to non-executives.

13          **Q.    Is witness Schultz’s recommendation based on empirical data or other**  
14                **analysis which suggests that the Company’s non-executive performance-**  
15                **based variable compensation is not reasonable or effective?**

16          A.    No. Significantly, witness Schultz has not criticized either FPL employee pay  
17                levels or FPL’s performance-based variable compensation plan design. Neither  
18                witness Schultz nor any other witness has made any allegations or presented any  
19                evidence that the total compensation paid to FPL employees, including  
20                performance-based variable compensation, is not reasonable, necessary or  
21                effective. Nor have they presented any analysis of FPL’s compensation levels  
22                compared to market pay levels to refute the evidence presented in my direct  
23                testimony that FPL employees’ base salaries and performance-based variable

1 compensation are at or near the market median (Exhibits No. KS-2 and KS-4).  
2 Witness Schultz's recommendation is therefore not based on empirical evidence.

3 **Q. Then on what basis does witness Schultz recommend a 50% disallowance?**

4 A. Witness Schultz's recommendation is based on the flawed premise that a properly  
5 designed performance-based variable compensation plan benefits shareholders  
6 and customers equally and therefore should be shared equally. In his testimony,  
7 witness Schultz admits that he is not aware of any utility that does not have some  
8 form of incentive compensation (page 22, lines 16 and 17), indicates that FPL's  
9 plan is properly developed and administered (page 24, lines 4 through 6) and  
10 well-conceived (page 23, lines 17 through 21), and states that his recommendation  
11 is not to eliminate FPL's plan, but to limit the amount to be included in rates  
12 (page 23, lines 16 and 17). He also concedes on pages 19 and 20 of his testimony  
13 that properly designed incentive compensation plans provide "enhanced  
14 performance" that benefits customers. Witness Schultz asserts, nonetheless, that  
15 the enhanced performance benefits customers and shareholders equally and so the  
16 costs should be split 50/50. He does not provide any empirical data to support his  
17 statements that benefits are shared equally.

18 **Q. Do you agree with witness Schultz's recommendation?**

19 A. No. Witness Schultz's recommendation to disallow 50% of non-executive  
20 performance-based variable compensation that he implicitly concedes is  
21 legitimate and reasonable would be confiscatory and is inconsistent with sound  
22 regulatory policy and basic principles of ratemaking, as discussed in detail by  
23 FPL witness Deason in rebuttal testimony. FPL should be permitted to include in

1 the 2013 Test Year 100% of non-executive performance-based variable  
2 compensation because it is a reasonable and necessary cost incurred by FPL in  
3 providing service to customers. It is like any other type of expense in that regard.  
4 Neither witness Schultz nor any witness in this case has presented testimony or  
5 evidence that the expense in question is unreasonable or unnecessary, and only if  
6 the Commission finds that the expense is unreasonable or unnecessary should any  
7 portion be disallowed in calculating the company's revenue requirement.

8  
9 Furthermore, witness Schultz's recommendation is not supported by empirical  
10 data or analysis of the reasonableness of the net amount of compensation that  
11 would remain in cost of service after incentive compensation is partly or fully  
12 eliminated. He has not provided any evidence to demonstrate that the level of  
13 compensation remaining after his adjustment would be competitive in the market  
14 or that it would not harm FPL's ability to attract and retain qualified employees.  
15 His position is simply a maneuver to lower FPL's cost of service for rate-setting  
16 purposes.

17  
18 Finally, at bottom witness Schultz is recommending the Company be penalized  
19 because shareholders also may benefit from the enhanced performance driven by  
20 performance-based variable pay plans. Simply stated, to disallow any portion of  
21 these costs because shareholders may also benefit effectively deprives the  
22 Company of cost recovery for providing electric service and would send precisely

1 the wrong signal to utilities regulated by the Commission and the labor markets in  
2 which they compete.

3 **Q. If FPL's non-executive performance-based variable compensation expense is**  
4 **disallowed, in whole or in part, what impact would a corresponding**  
5 **elimination or reduction of the program have on FPL salaried employee's**  
6 **compensation compared to market median?**

7 A. In the aggregate, FPL salaried employees would be compensated more than 11%  
8 below market median if performance-based variable compensation were  
9 eliminated. As shown in Exhibit KS-4 to my direct testimony, median levels of  
10 performance-based variable pay have recently been at 11% of base salaries. Also,  
11 as shown in Exhibit KS-2 to my direct testimony, exempt employees' base  
12 salaries are, in the aggregate, 1.6% below the market median. Without its current  
13 levels of performance-based variable compensation, FPL would not be able to  
14 attract and retain the caliber of employees that sustain a high-performing  
15 organization.

16 **Q. OPC witness Schultz makes several references to the Progress Energy**  
17 **Florida rate case (Docket No. 090079-EI), wherein the Commission**  
18 **disallowed all incentive compensation costs due to the plans' design. Are**  
19 **there other cases not cited by witness Schultz?**

20 A. Yes. In rebuttal testimony, FPL witness Deason cites a number of relevant cases  
21 in which the same type of performance-based variable compensation was allowed.  
22 One such case is the recent Gulf Power rate case (Docket No. 110138-EI). In its  
23 April 2012 order in that case (Order No. PSC-12-0179-FOF-EI), this Commission

1 rejected OPC's recommended adjustment to exclude all incentive compensation,  
2 calling it "unreasonable" and citing the negative impact such a disallowance  
3 would have on Gulf employee's compensation compared to market median (page  
4 97). The Commission allowed 100% of Gulf's non-executive annual cash  
5 incentive program to be included in O&M expense (page 94). This is a more  
6 recent and highly relevant precedent.

7 **Q. As support for his recommendation for 50% disallowance, OPC witness**  
8 **Schultz states that in his opinion "the non-executive compensation**  
9 **adjustment in Docket No. 080677-EI inadvertently omitted the cash-based**  
10 **portion of the non-executive incentive compensation." Do you agree with this**  
11 **assertion?**

12 A. No. Witness Schultz claims on page 18 of his testimony that "the OPC witness'  
13 recommended adjustment was similar to the executive incentive compensation  
14 cost adjustment recommendation that consisted of both cash-based incentives as  
15 well as stock-based incentives." However, that assertion is inaccurate. In  
16 addressing "Non-Executive Incentive Compensation" in her testimony in Docket  
17 No. 080677-EI, OPC witness Sheree L. Brown recommended an adjustment of  
18 \$5.7 million for 2010 to "the stock-based compensation for non-executives" (page  
19 57, lines 11 through 16). She proposed no adjustment to non-executive cash-  
20 based compensation. Witness Schultz's testimony on this point is nothing short  
21 of an attempt to rewrite the testimony of OPC's witness in the last case.

22

1 Finally, OPC witness Schultz admits on page 17 of his testimony that the non-  
2 executive incentive compensation adjustment made by the Company in its current  
3 filing, as amended, “appears to be consistent in the mechanics of the  
4 Commission’s determination.”

5 **Q. Witness Schultz indicates at page 22 that he has not found a utility that**  
6 **actually shifted costs from traditional fixed-cost programs to more flexible**  
7 **performance-based programs and that incentive pay was just added**  
8 **compensation. Is this true of FPL?**

9 A. No. As mentioned in my direct testimony, FPL’s approach to the design and  
10 administration of compensation and benefits is to consider them parts of one total  
11 rewards package, and I specifically addressed the redesign of the employment  
12 package in 1997. Prior to the redesign, the Company did not have a broad-based  
13 non-executive incentive plan; any awards were granted on a very limited basis to  
14 top management. The redesign of the employment package implemented the  
15 current non-executive performance-based variable pay plan, but not as an “extra”  
16 program element. The variable pay component was funded by reducing benefit  
17 plan costs, specifically the conversion of the traditional pension plan to a much  
18 leaner cash balance plan and the elimination of retirement medical and life  
19 insurance benefits for all employees hired after 1997. To be clear, FPL did not  
20 reduce base salaries at the time that it implemented the non-executive  
21 performance-based variable pay plan, but it did reduce the value of the pension  
22 plan and cut other post-retirement benefits. Witness Schultz appears to be  
23 looking only for evidence of a shifting of dollars from base salaries to variable

1 pay programs, and is ignoring the impact of fixed-cost benefit plans in the total  
2 rewards equation.

3 **Q. Would FPL need to consider restructuring its total compensation package if**  
4 **any non-executive performance-based variable compensation was excluded?**

5 A. Yes. Contrary to witness Schultz's contention, if denied recovery of its  
6 reasonable, prudently-incurred variable compensation expense, FPL would need  
7 to consider reallocating non-executive total compensation and benefits to assure  
8 cost recovery for a reasonable, competitive level of total rewards. This could  
9 potentially lead us to a reduction in performance-based variable compensation  
10 programs and an increase in base salaries and/or other traditional fixed-cost  
11 programs.

12

13 Witness Schultz points out that FPL has not eliminated its executive incentive  
14 programs since those costs were disallowed in the prior rate case, and cites this as  
15 evidence that FPL would not eliminate its non-executive programs if denied  
16 recovery for them in the current rate case. In fact, FPL has taken a temporary  
17 "wait and see" approach during the recent period of uncertainty around recovery  
18 of cash and equity incentive compensation expense. FPL believes that its current  
19 total rewards program, with its emphasis on performance-based pay, is optimal  
20 and directly benefits customers. However, if regulatory decisions perpetuate  
21 disallowance of performance-based incentive compensation, then FPL would  
22 have an obligation to its shareholders to re-evaluate the program design.  
23 Legitimate, reasonable expenses incurred in delivering service to our customers

1 need to be recovered; if regulatory policy precludes recovery of a legitimate  
2 expense, then FPL and other penalized utilities will be induced to re-design their  
3 compensation and benefits programs to conform to regulatory policy that  
4 disfavors performance-based compensation, rather than to drive performance of  
5 the organization for the benefit of customers.

6 **Q Please summarize why it would be inappropriate to disallow 50% of the cost**  
7 **of the incentive plans as recommended by OPC witness Schultz?**

8 A. There are five primary reasons: (1) the plans are part of a market-based,  
9 competitive total rewards program that has been demonstrated to be prudent and  
10 reasonable, and effective in producing the desired results; (2) the focus of the  
11 discussion should be on how much is paid, not how it is paid, and no witness has  
12 presented evidence that FPL's employee compensation is excessive or  
13 unreasonable; (3) the incentive plans rely on customer-focused operating  
14 performance goals to determine employee payouts; (4) eliminating or reducing the  
15 plans would negatively impact the competitive position of the Company's total  
16 rewards package and the Company's ability to attract and retain talent; and (5)  
17 disallowance of part or all of the cost would be inconsistent with the most recent  
18 Commission precedent.

19



1           **reductions, for the 2013 Test Year. Should the Commission accept that**  
2           **analysis?**

3    A.    No. His conclusion is premised on the incorrect assumption that the payroll  
4           budget is solely a function of staffing levels. FPL has historically estimated  
5           employee projections based on optimal staffing levels, but historically somewhat  
6           under-estimated salaries and wages. This is because FPL budgets employee  
7           projections at the staffing level necessary to most efficiently get the work done to  
8           ensure the Company delivers on its customer service and reliability commitments.  
9           However, market conditions and workforce demographic factors have caused the  
10          Company to fall slightly short of its staffing goals. The result is that the Company  
11          has to sometimes rely on less efficient staffing models (such as overtime,  
12          temporary labor, etc.), which drives costs up. In order to insulate customers from  
13          these potentially higher costs, the Company focuses on total compensation and  
14          benefits at optimal staffing levels when formulating its forecast. Therefore, the  
15          methodology employed by OPC witness Schultz, which only considers one input  
16          in a dynamic equation, is an incomplete analysis, underestimates FPL's actual  
17          costs, and should be rejected. As I will discuss subsequently, the past 10 years of  
18          history for actual versus budgeted base and overtime payroll bears this out.

19   **Q. Do you have other concerns with OPC witness Schultz's methodology?**

20    A.    Yes. Although he presents more than 10 years of data on his exhibit (HWS-2), he  
21          elects to base his recommended adjustment on five months of data, January to  
22          May of 2012, not even half of one annual cycle. Even if one accepted his  
23          methodology, and I do not, it would be difficult to consider five months of data as

1 a representative sample in any industry or company. It shows a lack of  
2 understanding of the variability and complexity of the work.

3 **Q. Is there a more appropriate methodology to analyze the reasonableness of**  
4 **payroll costs?**

5 A. Yes. It would be more appropriate to actually analyze the dollars spent on  
6 payroll. In fact, it is surprising that OPC witness Schultz would recommend a  
7 disallowance of the magnitude he has proposed without any consideration of  
8 historical payroll dollars.

9 **Q. Have you analyzed the Company's historical payroll expense?**

10 A. Yes. Exhibit KS-9 presents a variance analysis of FPL's budgeted to actual gross  
11 payroll expense from 2002 to 2012, including both base and overtime payroll.  
12 The inclusion of overtime expense is essential to get a representative view of  
13 reasonable and necessary payroll expense, and its omission is a flaw in OPC  
14 witness Schultz's analysis.

15 **Q. Please summarize the results of the analysis of historical payroll expense.**

16 A. As demonstrated in the table on Exhibit KS-9, the size and direction of the  
17 variance between actual and budgeted gross base and overtime payroll fluctuates  
18 from year to year. However, the average variance for the 10 year period is less  
19 than one percent (-0.31%). In other words, actual expenditures have been nearly  
20 at budgeted levels on average, which supports the conclusion that no payroll  
21 adjustment of any size is warranted. Moreover, even if an adjustment were made,  
22 it could not reasonably be greater than this 10-year average, which is over three  
23 percentage points below witness Schultz's recommended adjustment of 3.76%.

1 **Q. What conclusions should the Commission draw from the expense analysis in**  
2 **Exhibit KS-9?**

3 A. The analysis demonstrates that the five-month sample upon which witness Schultz  
4 bases his recommendation is wildly skewed and cannot be considered  
5 representative; it illustrates the considerable impact of overtime expense, raising  
6 questions about a methodology that entirely ignores that part of the equation; and  
7 it provides evidence that the assumed predictability inherent in witness Schultz's  
8 analysis and recommendation does not exist.

9  
10 My analysis demonstrates what I have stated previously: this is a dynamic  
11 equation and the payroll budget is not solely a function of the staffing levels.  
12 Based on ever changing operational demands, environmental challenges, and  
13 economic conditions, payroll expense will fluctuate, sometimes slightly under and  
14 sometimes slightly over budget. But overall the average variance is far less than  
15 OPC witness Schultz's recommended adjustment.

16 **Q. Based on his analysis, OPC witness Schultz makes reference to "excessive"**  
17 **headcount and recommends a disallowance of the payroll associated with**  
18 **nearly 400 positions. Should the Commission accept that recommendation?**

19 A. No. Even if one accepted witness Schultz's methodology, his recommendation  
20 can only be characterized as excessive. Witness Schultz has referenced dozens of  
21 headcount figures from various disparate sources in his testimony, but I would  
22 highlight three relevant numbers with respect to the Company's staffing  
23 complement:

1	2011 Average Actual Staffing	9,971
2	July 2012 Actual Staffing	10,207
3	2013 Test Year Average Budgeted Staffing	10,147

4 The July 2012 actual staffing number is only one percent below the MFR C-35  
5 2012 average staffing figure of 10, 312, and is .6% above the 2013 Test Year  
6 average staffing figure of 10, 147. Despite the fact that the Company's 2013 Test  
7 Year projected average staffing level is 60 positions less than the current actual  
8 staffing level, OPC witness Schultz considers it reasonable to recommend a  
9 disallowance of 381 positions from the 2013 Test Year staffing, and claims he is  
10 making a "conservative adjustment." His analysis is flawed and anything but  
11 conservative, and should be rejected.

12

## 13 VII. BENEFITS AND PAYROLL TAXES

14

15 **Q. OPC witness Schultz has recommended an adjustment of \$4.9 million in**  
16 **employee benefits costs based on his analysis of headcount. Do you have**  
17 **concerns with his recommendation?**

18 **A.** Yes. His recommendation is inappropriate based on the objections I have  
19 previously raised. But beyond that, his assumptions and analysis are invalid in  
20 that benefits participation is not identical to the Company headcount numbers that  
21 witness Schultz used in his analysis. FPL employees are not required to elect  
22 benefits coverage, and some opt out of the various benefits plans. FPL's benefits

1 department calculates the benefits costs included in MFR C-35 based on enrolled  
2 headcount.

3 **Q. Do you have other concerns with witness Schultz's analysis of benefits?**

4 A. Yes. Witness Schultz's analysis of benefits costs seems to include or exclude  
5 pension and post-retirement benefits ("OPEB") costs arbitrarily – including them  
6 in testimony when referencing costs, but excluding them from his calculated  
7 disallowance.

8 **Q. Did Witness Schultz provide an explanation for his treatment of pension and**  
9 **OPEB costs?**

10 A. Yes. He states that he excluded pension and OPEB from his adjustments mainly  
11 because those cost estimates are "based on actuarial assumptions and  
12 calculations."

13 **Q. Is that a logical basis for his methodology and explanation?**

14 A. No. Most of FPL's benefits costs are based on actuarial assumptions and  
15 calculations. It appears that witness Schultz may have determined he could  
16 increase the amount of his proposed disallowance by excluding the pension credit  
17 and thus increasing the base cost for purpose of calculating his disallowance.

18 **Q. OPC witness Schultz has recommended an adjustment of \$1.6 million in**  
19 **payroll tax expense based on his analysis of headcount. Do you have**  
20 **concerns with his recommendation?**

21 A. Yes. His recommendation is inappropriate based on the objections I have  
22 previously raised on his payroll headcount analysis. It should be rejected.

1 **Q. OPC witness Schultz has also suggested that the O&M factor for employee**  
2 **benefits expense in the 2013 Test Year is excessive and recommends a**  
3 **disallowance. Could you comment on his analysis?**

4 A. Yes. This is one more example of witness Schultz trying to compare data that is  
5 not comparable. In this instance, he uses two different sources of data, fails to  
6 validate the comparability of the data, calculates an artificial variance, and then  
7 uses it as the basis for recommending a \$9.957 million disallowance.

8 **Q. Please elaborate on the problems with his analysis.**

9 A. As indicated in his notes on his Exhibit HWS-4, page 2 of 2, labeled "Benefit  
10 Expense Analysis," witness Schultz used different sources for his historical and  
11 budget data; the historical data from MFR C-35 and the budget data for FERC  
12 account 926 from MFR C-4, apparently assuming that the benefits-related data on  
13 the forms are equivalent. However, although the two sources are substantially the  
14 same, there are differences between them. FERC account 926 from MFR C-4  
15 reflects all amounts forecasted for employee-related benefit expenses. The  
16 amounts reflected on MFR C-35, which include amounts forecasted in FERC  
17 accounts 925, 926, and 408, represent fringe benefits related to the Company's  
18 standardized benefits programs and exclude a few items included in FERC  
19 account 926 on MFR C-4, such as the Company's vacation accrual, certain  
20 clause-related adjustments, and non-recurring items not considered part of the  
21 employee benefits package.

22

1 The other major problem with witness Schultz’s analysis is that he formulates his  
2 recommendation on actual May 2012 year-to-date data, failing to consider even  
3 one full annual cycle. FPL is setting rates using forecasted 2013 Test Year data,  
4 and witness Schultz’s proposed disallowance based on historical amounts from a  
5 completely different time period should not be accepted.

6 **Q. If the Commission were to adopt witness Schultz’s recommendation to adjust**  
7 **FPL’s employee benefit expenses for the 2013 Test Year, can you please**  
8 **provide the proper calculation of the O&M factor for employee benefit**  
9 **expense?**

10 A. Yes. The table below presents the O&M factor for employee benefit expense,  
11 using MFR C-35 as the source for 2012 and 2013, not FERC account 926 from  
12 MFR C-4, consistent with witness Schultz’s methodology for 2009 to 2012 YTD:

13 O&M Factor for Employee Benefit Expense

	<u>MFR C-4</u>	<u>MFR C-35</u>
14 2009		78.82%
15 2010		72.08%
16 2011		73.86%
17 2012 YTD		74.47%
18 2012 Budget	80.69%	76.49%
19 2013 Budget	82.10%	78.27%

20  
21 As clearly shown above, the O&M expense factor trend for employee benefits  
22 was distorted on witness Schultz’s Exhibit HWS-4. His claim that the expense  
23 allocation is excessive is incorrect and should be rejected.

1 **Q. Is there a valid reason why the benefits expense factor for 2012 and 2013 is**  
2 **slightly higher than prior years?**

3 A. Yes. I would first point out that the O&M expense factor for 2013 is within an  
4 expected and reasonable range, approximately the same as 2009. However, there  
5 is a very valid reason for the increase in 2013 compared to 2010-2011. In 2013,  
6 the amount of overtime being capitalized is reduced by \$20.3 million from 2012,  
7 because of the rampdown of the Nuclear Extended Power Uprate project. The  
8 elimination of that overtime from both total payroll and capitalized payroll has  
9 resulted in a 2% increase in total payroll expensed. Because the allocation of the  
10 benefits pool follows the allocation of payroll, there is also a 2% increase from  
11 2012 to 2013 for benefits allocated to expense.

12 **Q. What conclusion can you draw from the Benefit Expense Analysis on OPC**  
13 **witness Schultz's Exhibit HWS-4 and his recommended disallowance?**

14 A. It is a flawed analysis and his recommendation should be rejected. The O&M  
15 expense factor for the 2013 Test Year is properly forecasted, and there is a valid  
16 reason for the slight increase in 2013.

17

## 18 **VIII. CONCLUSION**

19

20 **Q. Does OPC witness Schultz provide any valid evidence to challenge the overall**  
21 **reasonableness of the total compensation and benefits package?**

22 A. No. He has proposed reducing non-executive cash incentive pay by attempting to  
23 revise the history of the last order, and he has recommended reducing payroll

1           without analyzing payroll expense. But importantly, he has not provided any  
2           evidence to challenge the overall reasonableness of the total compensation and  
3           benefits package. And that is the real test of any total compensation and benefits  
4           plan. FPL's plan has been demonstrated to be prudent and reasonable, and has  
5           supported the Company's achievement of superior performance.

6   **Q.   Does this conclude your rebuttal testimony?**

7   **A.   Yes.**

1 **BY MS. CLARK:**

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

4 A. Yes, I do.

5 Q. Would you give that now?

6 A. Yes. Thank you.

7 Good afternoon, Madam Chair and Commissioners.  
8 There is only one witness in this case who takes issue  
9 with any aspect of FPL's compensation and benefits  
10 package, and that is OPC Witness Schultz. However,  
11 neither Mr. Schultz nor any other witness has made any  
12 allegations or presented any evidence that the total  
13 compensation paid to FPL employees, including  
14 performance-based variable compensation, is not  
15 reasonable, necessary, or prudent.

16 No intervenor witness has analyzed FPL's  
17 compensation levels compared to market pay levels to  
18 refute the evidence presented in my testimony that FPL  
19 employees' base salaries and performance-based variable  
20 compensation are at or near the market median.  
21 Nevertheless, Mr. Schultz recommends limiting FPL's  
22 recovery of nonexecutive performance-based variable  
23 compensation. Although Mr. Schultz acknowledges that  
24 incentive plans benefit customers and finds no real  
25 fault with the design and administration of FPL's plans,

1 he recommendation a 50 percent disallowance of the cost.

2 There are five primary reasons why Mr.  
3 Schultz's position should be rejected. First, the  
4 nonexecutive performance-based variable compensation  
5 plans are part of a market-based competitive total  
6 rewards program that has been demonstrated to be prudent  
7 and reasonable and effective in producing the desired  
8 results.

9 Second, the plans rely on customer focused  
10 operating performance goals to determine employee  
11 payouts.

12 Third, the focus of the discussion should be  
13 on how much is paid, not how it is paid, and no witness  
14 has presented evidence that FPL's employee compensation  
15 is excessive or unreasonable.

16 Fourth, eliminating or reducing the plans  
17 would negatively impact the competitive position of the  
18 company's total rewards package and the company's  
19 ability to attract and retain talent.

20 And, fifth, disallowance of part or all of the  
21 costs would be inconsistent with the most recent  
22 Commission precedent in the Gulf Power rate case.

23 Contrary to what Mr. Schultz told you  
24 yesterday, this Commission allowed Gulf to include  
25 100 percent of its nonexecutive annual cash incentive

1 program in O&M expense in its most recent case. For  
2 these reasons, 100 percent of nonexecutive  
3 performance-based variable compensation should be  
4 recovered in rates just like any other type of expense  
5 FPL prudently incurs in serving its customers.

6 Mr. Schultz also cites differences between  
7 historical staffing levels and budgeted staffing levels  
8 to support a recommended payroll and benefits adjustment  
9 based on head count, but Mr. Schultz's approach is  
10 flawed. FPL prepares its payroll budgets based on  
11 optimal staffing levels, but staffing levels are only  
12 one variable in the compilation of forecasted payroll  
13 expense. We don't spend head count. We spend payroll  
14 dollars, and we consistently spend them at near budgeted  
15 levels.

16 My comparison of historical base salary and  
17 overtime to budgeted base salary and overtime is a more  
18 appropriate analysis for reviewing forecasted  
19 compensation costs because the inclusion of overtime  
20 expense is essential to get a representative view of  
21 reasonable and necessary payroll expense and its  
22 omission is a flaw in Mr. Schultz's approach.

23 The average actual base salary and overtime  
24 variance to budget for the past ten-year period is less  
25 than 3/10ths of one percent. In other words, on

1 average, actual payroll expenditures have been nearly at  
2 budgeted levels which supports the conclusion that no  
3 payroll adjustment of any size is warranted.

4 As previously demonstrated in my Direct  
5 Testimony and reaffirmed in my Rebuttal Testimony, FPL's  
6 projected total compensation and benefits expense is  
7 necessary and reasonable. The company has designed a  
8 total rewards program that allows FPL to maximize  
9 economic efficiency and attract, retain, and engage the  
10 employees who are the engine that drives the  
11 performance-based culture that has benefited customers.

12 This concludes my summary.

13 **COMMISSIONER BROWN:** Thank you.

14 **MS. CLARK:** We tender the witness for cross.

15 **COMMISSIONER BROWN:** Mr. Moyle.

16 **MR. MOYLE:** Thank you.

17 **CROSS EXAMINATION**

18 **BY MR. MOYLE:**

19 Q. I want to refer you to certain portions of  
20 your testimony and ask you questions. So if we could  
21 just kind of walk through it. The first portion I want  
22 to refer you to is found on Page 10, Line 19.

23 A. Yes.

24 Q. All right. And you are stating here and  
25 taking on a contingent of Mr. Schultz. Mr. Schultz is

1 recommending the company be penalized because  
2 shareholders may also benefit from the enhanced  
3 performance driven by performance-based variable pay  
4 plans, correct?

5 A. Yes, that's correct.

6 Q. Isn't it true that, indeed, shareholders  
7 benefit from performance-based variable pay plans? If  
8 you can do yes or no. I know it has been a couple of  
9 days, but that would help.

10 A. Yes, shareholders benefit from the strong  
11 performance of our employees.

12 Q. And then flipping over to the next page,  
13 you're asked the question if the nonexecutive  
14 performance-based variable compensation is disallowed in  
15 whole or part, what impact would a corresponding  
16 elimination or reduction of the program have on FPL's  
17 salaried employees' compensation compared to market  
18 median. Do you see that?

19 A. Yes, I do.

20 Q. All right. So in reading your answer, you say  
21 that it would -- they would receive 11 percent less  
22 money, correct?

23 A. More accurately, I say they would be  
24 approximately 11 percent or more below market median.

25 Q. Okay. But you're not saying that if this

1 Commission were to award less than 100 percent, if they  
2 were to award 80 percent, or 50 percent, as Mr. Schultz  
3 recommends, that you would discontinue the variable  
4 compensation program, correct?

5 A. Well, that's not what this part of my  
6 testimony is talking about. It's describing the impact  
7 that a corresponding elimination or reduction of the  
8 program would have on our position to market.

9 Q. Right. And I'm just trying to understand  
10 whether you have already made a decision that you would  
11 discontinue this program if this Commission said you  
12 only get 75 percent of this. Have you already made a  
13 decision that unless you get 100 percent, the program  
14 will be discontinued, or is that something that would be  
15 addressed in the future?

16 A. That's not a decision that has been made at  
17 this point. It would have to be addressed in the  
18 future. But as described later in my testimony, FPL  
19 would have to consider the ramifications of, you know,  
20 regulatory decisions that did not encourage us to  
21 continue with our performance-based variable  
22 compensation program.

23 Q. Okay. And you would agree in the global  
24 context of a rate case that decisions have to be  
25 analyzed and judgments made relative to the decision,

1 correct?

2 **A.** I'm not sure I understand your question.

3 **Q.** I guess -- I read this testimony possibly to  
4 suggest that you were testifying that this program would  
5 be discontinued in the event that it was not allowed  
6 100 percent recovery, but I think you have addressed  
7 that and said no, so I just wanted to clarify that.

8 **A.** No, that's not an accurate summary of my  
9 testimony, Mr. Moyle. Instead, I said that FPL would  
10 need to consider restructuring its total compensation  
11 package if nonexecutive performance-based variable  
12 compensation was disallowed in whole or in part.

13 **Q.** And you state on Line 12, without its current  
14 levels of performance-based variable compensation, FPL  
15 would not be able to attract and retain the caliber of  
16 employees that sustain a high performing organization.  
17 Is that your testimony?

18 **A.** Yes, it is.

19 **Q.** Okay. You don't have any studies or analysis  
20 to support that statement, do you?

21 **A.** Yes, I have a number of market surveys which  
22 reflect the fact that all utilities offer incentive  
23 compensation to salaried employees. As a matter of  
24 fact, that was even a statement made in OPC Witness  
25 Schultz's testimony. So without it, we would not be

1 able to be competitive.

2 Q. So notwithstanding, you know, the average wage  
3 and the benefits package, and, you know, some of the  
4 things that we had talked about previously, it's your  
5 belief that this variable compensation -- that it's  
6 critical and crucial, you know, to being able to retain  
7 employees, is that right?

8 A. Yes, that's exactly my testimony.

9 Q. On Page 13, again, this is on the variable pay  
10 component, Line 16. You state that the variable pay  
11 component was funded by reducing benefit plan costs,  
12 specifically the conversion of the traditional pension  
13 plan to a much leaner cash balance plan and the  
14 elimination of retirement, medical, and life insurance  
15 benefits for all employees hired after 1997. Is that  
16 correct?

17 A. Yes.

18 Q. So am I reading this correctly, in effect,  
19 that the variable component pay plan was, in effect,  
20 self-funded because you did some other things relative  
21 to your benefits?

22 A. What I'm saying is that the expense for the  
23 variable compensation program was more than offset by  
24 the reduction in costs in benefits for the pension and  
25 post-retirement medical.

1 Q. And you described the traditional pension plan  
2 as a much leaner cash balance plan, is that right?

3 A. Yes, that's correct.

4 Q. Isn't it true if you take the -- if you just  
5 did the math on an average FPL employee, just round  
6 numbers, is 100,000 average per year, and assumed that  
7 they worked 15-years, that their pension plan would give  
8 them \$72,000 a year?

9 MS. CLARK: Madam Chairman, I don't believe  
10 that is anywhere in the rebuttal testimony.

11 COMMISSIONER BROWN: Mr. Moyle.

12 MR. MOYLE: Well, I think she, you know,  
13 brings it into play by talking about the leaner cash  
14 balance plan, the pension plan, and I think that I'm  
15 entitled to ask her about the leaner plan and explore  
16 that a little bit.

17 COMMISSIONER BROWN: You can go ahead.

18 THE WITNESS: Mr. Moyle, if you could please  
19 repeat your question.

20 MR. MOYLE: Sure. And I tried to just get to  
21 a summary point.

22 BY MR. MOYLE:

23 Q. But, you know, currently the pension, if you  
24 work for one year you get 4-1/2 percent credit, is that  
25 right?

1           **A.**    That's correct.

2           **Q.**    And that's for the first five years?

3           **A.**    Uh-huh.

4           **Q.**    So if you worked five years you get 22-1/2  
5 percent credit, five times 4.5?

6           **A.**    That's correct.

7           **Q.**    Okay. And then if you worked another ten  
8 years, you get 5 percent credit per year, correct?

9           **A.**    That's correct.

10          **Q.**    Okay. So that comes out to -- my math is like  
11 72.5. And if you assume an average salary of 100,000,  
12 72.5 of 100,000 is 72,000, correct?

13          **A.**    I don't have the ability to double-check your  
14 calculations, Mr. Moyle.

15                   **MS. CLARK:** Madam Chairman --

16                   **THE WITNESS:** Oh, go ahead.

17                   **MS. CLARK:** I didn't mean to interrupt my  
18 witness, but I frankly don't see how this relates at all  
19 to the rebuttal testimony.

20                   **COMMISSIONER BROWN:** Mr. Moyle, I tend to  
21 agree. Can you explain why you are asking this  
22 question?

23                   **MR. MOYLE:** Sure. Because they are saying  
24 that they have got to have this incentive comp, it's  
25 critical, it's crucial, that if they don't have this

1 then people won't come to work there. And I think that  
2 may not be exactly the case. You know, if you look at  
3 the average salary wage for the utility folks and you  
4 look at the pension that they, you know, call leaner,  
5 you know, if it's paying 72,000 over a 15-year time  
6 frame, I think those are all factors that should be  
7 considered by this Commission to determine, you know,  
8 whether to allow or disallow a portion of the incentive  
9 compensation plan.

10 **MS. CLARK:** Madam Chairman, I believe that  
11 assumes facts not in evidence. And, frankly, I don't  
12 see how the comparison even relates to what Ms. Slattery  
13 is talking about here. This was talking about an annual  
14 trade-off.

15 **COMMISSIONER BROWN:** I'm going to sustain the  
16 objection.

17 **BY MR. MOYLE:**

18 **Q.** On Page 8, and I think you made this comment  
19 on your opening statement, you say that neither Witness  
20 Schultz nor any other witness has made any allegations  
21 or presented any evidence that the total compensation  
22 paid to FPL employees, including performance-based  
23 variable compensation, is not reasonable, necessary, or  
24 effective. Is that right?

25 **A.** Yes, that's correct.

1 Q. Okay. And you are a lawyer, right?

2 A. Yes, I am.

3 Q. Okay. Nonpracticing; congratulations.

4 A. Nonpracticing.

5 Q. But with respect to testimony, I mean, you  
6 would agree that you have provided testimony relative to  
7 compensation, correct?

8 A. Yes, I have.

9 Q. And you would also agree that the trier of  
10 fact is free to weigh that testimony and make judgments  
11 based on testimony that you have provided on whether the  
12 level of compensation for FPL employees, you know, in  
13 your direct on the raises, whether that presents  
14 credible evidence that they can make a decision on,  
15 correct?

16 A. I would agree with that.

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

19 COMMISSIONER BROWN: Thank you.

20 Mr. Wiseman.

21 MR. WISEMAN: No questions, Madam Chair.

22 COMMISSIONER BROWN: Okay. Captain Miller.

23 CAPTAIN MILLER: No questions.

24 COMMISSIONER BROWN: Mr. Rehwinkel.

25 MR. REHWINKEL: I have a couple, in the Moyle

1 sense.

2 (Laughter.)

3 **MR. REHWINKEL:** Madam Chairman, I have passed  
4 out three exhibits that I intend to use, just to do it  
5 one time. I don't know --

6 **COMMISSIONER BROWN:** I don't think we have  
7 them.

8 **MR. REHWINKEL:** I apologize. I think we gave  
9 them to staff, and I think they are ready to pass them  
10 out now. So I would like to pass out at one time three  
11 exhibits.

12 **COMMISSIONER BROWN:** That would be great.  
13 Would you like to do a composite or identify  
14 them individually?

15 **MR. REHWINKEL:** They probably should be done  
16 separately.

17 **COMMISSIONER BROWN:** Okay. So I have got 589  
18 and 590.

19 **MR. REHWINKEL:** Okay. For 589, I would like  
20 the one that says FPL responses to OPC, June 13 and  
21 June 14, 2012, informal request.

22 **COMMISSIONER BROWN:** Okay. That's 589.

23 **MR. REHWINKEL:** And then the next one is --  
24 and that was Question 7, I'm sorry, that should be 589.  
25 And Questions 1 through 9 should be the next one of 590.

1                   **COMMISSIONER BROWN:** Okay.

2                   **MR. REHWINKEL:** And then that leaves the FPL  
3 salaries and wages comparative analysis with detail as  
4 591.

5                   **COMMISSIONER BROWN:** All right.

6                   **MR. REHWINKEL:** Okay.

7                   **COMMISSIONER BROWN:** Any objections from the  
8 parties?

9                   **MS. CLARK:** Not at this point.

10                   (Exhibit Number 589 through 591 marked for  
11 identification.)

12                   **COMMISSIONER BROWN:** Okay. You may proceed,  
13 Mr. Rehwinkel.

14                   **MR. REHWINKEL:** Thank you.

15   **CROSS EXAMINATION**

16                   **BY MR. REHWINKEL:**

17                   **Q.** Ms. Slattery, good afternoon.

18                   **A.** Good afternoon.

19                   **Q.** What was your undergraduate major?

20                   **A.** Communications. That's why I had to go to law  
21 school.

22                   **Q.** Okay. You didn't take any classes or major in  
23 anything that had to do with HR, or payroll, or  
24 compensation, is that right?

25                   **A.** No, I did not, but I have been an experienced

1 compensation professional for over 15 years now.

2 Q. Yes. You didn't have to go to school for  
3 that, though, right?

4 A. No, I did not.

5 Q. Okay. Let me get you to turn to Page 4 of  
6 your rebuttal testimony, and direct you to Line 3. Is  
7 it true that in your rebuttal testimony you state that  
8 Mr. Schultz has failed to evaluate total compensation  
9 and benefit costs?

10 A. That's correct.

11 Q. Okay. And then further down on Line 4 you  
12 further testify that Mr. Schultz has not offered any  
13 evidence that the total compensation is not necessary or  
14 reasonable?

15 A. That's correct.

16 Q. Okay. And then if I could get you to go to  
17 Page 6, Lines 4 and 5?

18 A. Yes.

19 Q. Is it also your testimony that the various  
20 components of total compensation cannot and should not  
21 be assessed on a stand-alone basis?

22 A. Yes.

23 Q. Okay. And when you refer to total  
24 compensation here, that would include base pay, overtime  
25 pay, premium pay, incentive pay, and all of the various

1 benefits provided to the employees of FP&L?

2 A. Yes, that is correct, regarding our total  
3 rewards approach.

4 Q. I'm sorry?

5 A. Yes.

6 Q. Okay. What was the last thing you said?

7 A. That is a correct summary of our total rewards  
8 approach.

9 Q. Okay.

10 A. We look at all of it together.

11 Q. Now, you reference KS-2 several times in your  
12 rebuttal testimony, your Exhibit KS-2?

13 A. Yes, I do.

14 Q. And that is from your direct testimony?

15 A. Uh-huh.

16 Q. And I think earlier you agreed with -- earlier  
17 in this hearing you agreed with me that that exhibit was  
18 a comparison of FPL base salary to market, is that  
19 right?

20 A. Yes.

21 Q. Okay. And you also agree that KS-2 is  
22 relevant to the Commission's consideration in this  
23 proceeding, right?

24 A. Yes.

25 Q. Okay. Now, I want to ask you a question about

1 a confidential document. I don't want to know anything  
2 about what is in it except are you familiar with the  
3 Confidential Response to OPC POD 6-67?

4 **MS. CLARK:** Even if she is, I'm not, and I'd  
5 like to know what it is.

6 **MR. REHWINKEL:** Would these be the  
7 compensation studies? These are the compensation  
8 studies I think that were reviewed in Ms. Clark's  
9 offices.

10 **MS. CLARK:** Can we have just a minute?

11 **COMMISSIONER BROWN:** Sure.

12 **MR. REHWINKEL:** If you'd like, I could ask  
13 the -- I have only got one question. I can ask that  
14 question and it may obviate the need to do anything  
15 else.

16 **MS. CLARK:** I would be amiable to that.

17 **MR. REHWINKEL:** Okay.

18 **COMMISSIONER BROWN:** Proceed.

19 **MR. MOYLE:** Are they in the record? I'm not  
20 sure. I mean, if they are not in the record --

21 **COMMISSIONER BROWN:** Mr. Rehwinkel, is it in  
22 the record?

23 **MR. REHWINKEL:** No.

24 **COMMISSIONER BROWN:** How is it relevant to her  
25 rebuttal?

1           **MR. REHWINKEL:** If you would just let me ask  
2 the question, I think we can judge it based on that.  
3 I'm just trying to lay the predicate for the witness to  
4 understand my question. I'm not asking about anything  
5 in the exhibit.

6           **COMMISSIONER BROWN:** If it's not relevant to  
7 the rebuttal, though --

8           **MR. REHWINKEL:** It definitely is relevant to  
9 the rebuttal, Madam Chairman. I don't know why Mr.  
10 Moyle suggested that it wasn't, because he doesn't know  
11 what I'm about to ask.

12           **MR. MOYLE:** I'm intrigued.

13           **COMMISSIONER BROWN:** Okay. Proceed.

14           **MR. REHWINKEL:** Okay.

15           **MS. CLARK:** Madam Chairman, just so I'm clear,  
16 he's not going to refer to the document, he's just going  
17 to ask a different question.

18           **COMMISSIONER BROWN:** I think that's what you  
19 indicated, Mr. Rehwinkel?

20           **MR. REHWINKEL:** Yes.

21           **COMMISSIONER BROWN:** We can confirm that.

22 **BY MR. REHWINKEL:**

23           **Q.** Okay. So here's my question. Do the studies  
24 provided by and utilized by the company evaluate  
25 individual employee positions and compensation levels?

1           **A.**    Yes.

2           **Q.**    Okay.  That's all I have about that.  Let me  
3 ask you to turn to Page 7 of your testimony, and I want  
4 to ask you about Lines 1 through 12.  If you could just  
5 quickly review those.

6           **A.**    Yes.

7           **Q.**    In your rebuttal testimony here, are you  
8 suggesting that Mr. Schultz demonstrates confusion in  
9 his testimony at Page 16, Lines 1 through 6?

10          **A.**    Yes, I am.

11          **Q.**    And do you also then suggest in your testimony  
12 that this concern was fully explained on June 26th in a  
13 written response?

14          **A.**    Yes, I am.

15          **Q.**    Okay.  Now, I think -- have you seen exhibits  
16 what are now marked as Exhibits 589 through 591 before?

17          **A.**    Yes, I have.

18               **MS. CLARK:**  Madam Chairman, I would like to  
19 inquire of Mr. Rehwinkel, as noted in this testimony, it  
20 is a reference to executive incentives, and I had  
21 understood that we had a stipulation with respect to  
22 executive incentives.

23               **COMMISSIONER BROWN:**  So your question to Mr.  
24 Rehwinkel would be --

25               **MS. CLARK:**  My question is I don't believe

1 it's relevant to any of the issues that remain at issue  
2 with respect to executive incentives.

3 **COMMISSIONER BROWN:** Correct. Mr. Rehwinkel.

4 **MR. REHWINKEL:** Well, I think part of the  
5 theme of the rebuttal testimony is that Mr. Schultz does  
6 not know what he is doing.

7 **COMMISSIONER BROWN:** Is not what?

8 **MR. REHWINKEL:** Know what he is doing in his  
9 testimony. I mean, that's a very broad -- there is a  
10 criticism about the way he approaches this, and she has  
11 just testified that he was confused, and I just need to  
12 be able to explore that. I mean, if they want to  
13 withdraw this testimony, too, that could be done, too.  
14 I just think it would be easier to clear this up,  
15 because the attack in the rebuttal is on the quality of  
16 Mr. Schultz's direct testimony.

17 **COMMISSIONER BROWN:** But you did stipulate to  
18 the incentive compensation for executives?

19 **MR. REHWINKEL:** The stipulation was  
20 specifically to Issue 99, and I don't think this is  
21 specifically related to 99, the overall thematic  
22 criticism of Mr. Schultz.

23 **COMMISSIONER BROWN:** Before you proceed, I'd  
24 like to ask staff's opinion on this. Whoever wants to  
25 take it.

1           **MS. HELTON:** As far as the stipulations go, I  
2 mean, the Commission still has not approved any  
3 stipulations. So until the Commission approves the  
4 stipulation, in my mind, if there are issues that the  
5 parties want to raise or testimony that the parties want  
6 to bring out, then they should do that.

7           **MS. CLARK:** Well, I would only respond that  
8 Mr. Rehwinkel has indicated this is not an issue for OPC  
9 at this point. And further, that was just one piece of  
10 the examples given with respect to the errors that  
11 Mr. Schultz made. There are other examples there that  
12 Mr. Rehwinkel could use if he has a point.

13           **COMMISSIONER BROWN:** Ms. Helton, I think what  
14 Mr. Rehwinkel is trying to do is bolster Mr. Schultz's  
15 credibility. So Mr. Young.

16           **MR. YOUNG:** I think what he is trying to do,  
17 correct me, Mr. Rehwinkel, is rehabilitate the witness,  
18 rehabilitate his witness' statements. And I think to  
19 the extent he can -- to the extent that he asks his  
20 questions to rehabilitate his witness, I think he is  
21 allowed to do that, because Ms. Slattery made some  
22 comments that his witness statements are wrong.

23           **COMMISSIONER BROWN:** Uh-huh.

24           **MR. YOUNG:** I think he's offered the ability  
25 to do that with some latitude.

1                   **COMMISSIONER BROWN:** That's fair.

2                   **MR. REHWINKEL:** That is exactly right, and so  
3 my fourth question from here will be directed at that.

4                   **COMMISSIONER BROWN:** Fair enough.

5                   **MR. REHWINKEL:** Thank you.

6                   **BY MR. REHWINKEL:**

7                   **Q.** Okay. Ms. Slattery, I think we were on 589.  
8 Do you have that before you?

9                   **A.** Yes, I do.

10                  **Q.** Okay. On the first page under the Number 7,  
11 would you read for me just the question, read out loud  
12 the question and that response. Excuse me, before you  
13 do that, I lost this a little bit in the colloquy on the  
14 objection. 589 is the response that you are referring  
15 to in your testimony on Page 7, or is at least a part of  
16 it?

17                  **A.** Yes.

18                  **Q.** Okay. So now my question to you is would you  
19 read the question that goes with Number 7?

20                  **A.** The question is, "Executive incentives on the  
21 worksheet for 2012 and 2013 is \$42,899,777, and  
22 \$44,745,161 respectively. Can a reconciliation be  
23 provided to show where the other dollars are, since the  
24 gross adjustments on Schedule C2, Page 1, for 2012 and  
25 2013 is 36,176,000 and 28,459,000, respectively, and

1 those include a small amount for nonexecutive  
2 performance compensation?"

3 Q. Okay. So you would agree with me that the  
4 concern identified in Mr. Schultz's testimony and in the  
5 question relates to a disparity between the 2012 and  
6 2013 amounts of 36.2 million and \$28.5 million  
7 respectively, would you not?

8 A. The testimony that Mr. Schultz provided on  
9 Page 16, Lines 1 through 6, is a slightly different  
10 issue in that it references some different figures. And  
11 in his testimony he was comparing net figures on C-2 to  
12 gross figures on C-35. And that testimony at Lines 1  
13 through 6 contain additional amounts that are not part  
14 of OPC's clarifying question. So, no, I would not agree  
15 that it's the exact same issue.

16 Q. Well, my question to you was with respect to  
17 Question Number 7.

18 A. Uh-huh.

19 MS. CLARK: Madam Chairman, I think the  
20 witness has just said that is not what she is addressing  
21 in her rebuttal, so I don't think this line of  
22 questioning is related to the rebuttal.

23 COMMISSIONER BROWN: Mr. Rehwinkel.

24 MR. REHWINKEL: That question has been asked  
25 and answered, and I have another question that I'm going

1 to ask now.

2 COMMISSIONER BROWN: Okay.

3 MR. REHWINKEL: Okay.

4 BY MR. REHWINKEL:

5 Q. So if I looked on the third page, or the  
6 second page of this Exhibit 489, and I don't know if the  
7 quality of this is my fault or what we got from the  
8 company, but can you tell what Footnote 3 is? Do you  
9 see where notes -- do you see Footnote 3?

10 A. I vaguely see it. I'm trying to read it.

11 Q. Okay. It's under "notes continued".

12 A. Yes.

13 Q. Could you read aloud that footnote?

14 A. I believe it says, "In preparing the response  
15 to this question, FPL noted that the 2012 Commission  
16 adjustment for executive incentive compensation was  
17 incorrect. The corrections are comprised of the  
18 following items."

19 Q. And I don't need you to read the rest of that,  
20 but what is referenced below that is the correction?

21 A. I'm sorry, the font is very faint. I'm trying  
22 to read what is below that. This is related to MFR C-2  
23 corrections.

24 Q. That footnote would relate to an item up in  
25 the 2012 and 2013 columns above, correct?

1           **A.** I'm sorry, I can't read the font on it. The  
2 bottom of the page is so faint. Let's see.

3           **Q.** Okay. Look at Line 10.

4           **A.** Line 10, correction identified to MFR C-2.

5           **Q.** Okay. Is that what is being referenced?

6           **A.** Yes. That dollar figure matches the footnote.

7           **Q.** Okay. Let me get you to turn to Page 7 of  
8 your testimony, Lines 13 through 21.

9           **A.** Yes.

10           **MS. CLARK:** I'm sorry, Mr. Rehwinkel, I need  
11 you to repeat your question.

12           **MR. REHWINKEL:** Certainly. I'm going to  
13 direct her to Page 7, Lines 13 through 21 of her  
14 testimony.

15           **MS. CLARK:** Thank you.

16           **COMMISSIONER BROWN:** Mr. Rehwinkel, can you  
17 move the microphone closer to your mouth?

18           **MR. REHWINKEL:** Yes.

19           **COMMISSIONER BROWN:** Thank you. Please.

20           **MR. REHWINKEL:** Is that better?

21           **COMMISSIONER BROWN:** Yes.

22 **BY MR. REHWINKEL:**

23           **Q.** Therein in your testimony, you state that the  
24 June 22nd, 2012, response included a concise statement  
25 that the nonexecutive incentive compensation is

1 \$53.7 million, correct?

2 A. Yes.

3 Q. Okay. Now, do you have what has been marked  
4 as Exhibit 590?

5 A. Yes, I do.

6 Q. Okay. Are these responses what you are  
7 referring to in that part of your rebuttal testimony?

8 A. Yes, they are.

9 Q. Okay. Now, do you have with you Mr. Schultz's  
10 testimony?

11 A. Yes, I do.

12 Q. Could you turn to Page 16?

13 MS. CLARK: Mr. Rehwinkel, will you let us get  
14 there?

15 MR. REHWINKEL: Yes. I have to get there,  
16 too.

17 MS. CLARK: What was the page number?

18 MR. REHWINKEL: Page 16.

19 COMMISSIONER BROWN: Are you ready, Ms.  
20 Slattery?

21 THE WITNESS: Yes, I am. Okay.

22 MR. REHWINKEL: Ms. Clark, are you ready?  
23 Okay.

24 BY MR. REHWINKEL:

25 Q. I want to direct you to Lines 8 through 17 of

1 Mr. Schultz's testimony. Okay. Have you had a chance  
2 to review those lines?

3 A. Yes, I have.

4 Q. Okay. Would you read aloud the lines in Mr.  
5 Schultz's testimony that your rebuttal testimony on Page  
6 7, Lines 13 through 21, addresses?

7 A. My testimony addresses Lines 8 through 17 of  
8 Mr. Schultz's testimony. Would you like me to read all  
9 of that?

10 Q. No, that's already on the record. I don't  
11 need you to do that. Thank you. Okay. Let me redirect  
12 to Exhibit 590, and ask that you show me where in this  
13 response the company explains why there is a difference  
14 between the numbers Mr. Schultz asked you about?

15 A. There are two questions and answers in the set  
16 of questions related to non-officer performance-based  
17 variable cash compensation.

18 Q. When you say non-officer, did you mean  
19 non-executive?

20 A. Non-executive.

21 Q. Okay.

22 A. Uh-huh. Primarily it is Question and Answer  
23 6.

24 Q. Okay. So what part of 6 explains the  
25 difference that Mr. Schultz asked about or that the

1 Public Counsel asked you about?

2 **A.** It clearly states that 63.5 million is the  
3 total gross amount budgeted for 2013 employee  
4 incentives, but that includes 61.3 million for company's  
5 non-executive exempt employees performance-based cash  
6 compensation and the remainder is business unit  
7 programs. And then it goes through a discussion of  
8 getting that gross figure down to the net of  
9 53.7 million.

10 **Q.** Is it possible that you did not understand the  
11 concern Mr. Schultz identified in his testimony  
12 regarding these differing amounts? I'm sorry, in his  
13 question.

14 **MS. CLARK:** Madam Chairman -- what question  
15 are you referring to, Mr. Rehwinkel?

16 **MR. REHWINKEL:** Madam Chairman, let me restate  
17 the question.

18 **COMMISSIONER BROWN:** Thank you.

19 **BY MR. REHWINKEL:**

20 **Q.** Is it possible that you did not understand the  
21 concern Mr. Schultz identified in the questions that are  
22 in Exhibit 590 regarding the differing amounts?

23 **MS. CLARK:** Madam Chairman, I believe that  
24 calls for speculation on the witness' part. She has  
25 indicated in her testimony her interpretation of, and

1 the errors with what Mr. Schultz was suggesting in his  
2 testimony.

3 **COMMISSIONER BROWN:** Mr. Rehwinkel, can you  
4 restate the question? I think you said that her -- Ms.  
5 Slattery's interpretation.

6 **MR. REHWINKEL:** I was just asking the witness  
7 if it is possible that in her -- in the answers that the  
8 company provided in Exhibit 590, that they did not  
9 understand the concern that was identified by the Public  
10 Counsel in the question.

11 **COMMISSIONER BROWN:** I'll allow it.

12 **THE WITNESS:** I believe I do understand  
13 Mr. Schultz's testimony in which he compares the  
14 responses to a POD and two separate interrogatories.  
15 The issue with him comparing these different amounts is  
16 that one of the interrogatories was prepared on the  
17 basis of gross figures, and, in addition, one of them  
18 includes, as I discussed in this response to the OPC  
19 Informal Question Number 6, that there are approximately  
20 \$2 million in other business unit incentive programs  
21 included in the starting amount. So I do understand  
22 that he is comparing, you know, three different  
23 responses that address three different issues, and I was  
24 simply trying, in my testimony, to boil it down to an  
25 affirmation of what the correct number is.

1           **MR. REHWINKEL:** Let me now ask you to turn to  
2 Page 9.

3           **COMMISSIONER BROWN:** Mr. Rehwinkel, these  
4 aren't labeled. There is no page numbers.

5           **MR. REHWINKEL:** Oh, I apologize, Madam  
6 Chairman. I'm talking about her rebuttal testimony. My  
7 fault.

8           **COMMISSIONER BROWN:** Thanks.

9           **MR. REHWINKEL:** Yes. I'm ready to put 590  
10 aside for now.

11           **COMMISSIONER BROWN:** Okay.

12 **BY MR. REHWINKEL:**

13           **Q.** Does Mr. Schultz state there, on Page -- let  
14 me strike that, and ask you to -- I want to ask you to  
15 turn to Page 24 of Mr. Schultz's testimony, his direct  
16 testimony, and then I want to ask you a question with  
17 respect to that reference on Page 9 of your testimony.

18           **A.** Yes, I'm there.

19           **Q.** Okay. Does Mr. Schultz actually state on Page  
20 24 at Lines 4 through 6 of his testimony that FPL's  
21 incentive compensation plan is properly developed and  
22 administered?

23           **A.** No, but it's a reasonable interpretation,  
24 because he states that as long as the plan is properly  
25 developed and administered, then the sharing of costs is

1 appropriate. And he goes on to recommend the sharing of  
2 costs in FPL's case.

3 Q. Okay. So that's your interpretation of his --  
4 well, you would agree that his statement is a generic  
5 statement, correct?

6 A. Yes, but it's a very reasonable  
7 interpretation, since he goes on to state that he does,  
8 in fact, recommend cost sharing in this case.

9 Q. Now, on Page 9 -- back to your rebuttal  
10 testimony at Page 9, Line 10. Does Mr. Schultz actually  
11 state on Page 23, Lines 17 through 21 of his testimony,  
12 that FPL's compensation plan is well conceived?

13 A. If you could please clarify which page of  
14 Mr. Schultz's testimony I'm supposed to be looking at?

15 Q. Yes. Page 23, Lines 17 through 21.

16 A. I'm there at his testimony, but I'm not sure  
17 what part of my testimony you are referencing. On Lines  
18 17 through 21 on Page 23 of Mr. Schultz's testimony he  
19 discusses the issue of whether a well-conceived plan  
20 should be shared by the benefactors.

21 Q. Okay. And with respect to that statement in  
22 your testimony, I'm asking you if on Page 23, Lines 17  
23 through 21 of his testimony, does he state that FPL's  
24 incentive compensation plan is well conceived?

25 A. No, he does not state that there.

1 Q. Okay. And then next to Page 10 of your  
2 rebuttal testimony, and when you get there I want to  
3 direct you to Lines 9 through 16.

4 MS. CLARK: Mr. Rehwinkel, will you give me  
5 that --

6 MR. REHWINKEL: Yes. Page 10, Lines 9 through  
7 16.

8 THE WITNESS: Yes.

9 BY MR. REHWINKEL:

10 Q. Do you take exception to Mr. Schultz's  
11 testimony because you contend that he has not provided  
12 any evidence that after his adjustment the remaining  
13 compensation would be competitive in the marketplace?

14 A. Yes, that is true.

15 Q. Okay. Now, let me take you back to Mr.  
16 Schultz's testimony at Page 23, Lines 3 through 13.

17 A. Yes.

18 Q. Okay. Is it your testimony that this  
19 testimony of Mr. Schultz does not -- does not address  
20 the comparison of compensation?

21 A. No, it does not.

22 Q. Okay. So let's now go to Page 13 of your  
23 testimony. Don't you state here that prior to 1997, FPL  
24 did not have a broad-based non-executive incentive plan?

25 A. That's correct.

1           Q.    Did the company have an executive incentive  
2 compensation plan then?

3           A.    Yes, it did.

4           Q.    Do you then refer to the replacing of the  
5 traditional pension plan with a cash balance plan and  
6 with the elimination of retiree health care benefits for  
7 employees hired after 1997?

8           A.    Yes.

9           Q.    Have any other utilities, to your knowledge,  
10 done similar cost-cutting measures?

11          A.    I don't have any information about that.

12          Q.    On Page 14, Lines 3 through 11; are you there?

13          A.    Yes, I'm there.

14          Q.    There do you discuss the possibility of the  
15 company eliminating the incentive compensation plan if  
16 the Commission were to disallow 50 percent of the cost  
17 in rates?

18          A.    Yes. I state that we would need to consider  
19 it.

20          Q.    Okay. Isn't it true that you made a similar  
21 statement in Docket Number 080677?

22          A.    I don't recall my exact prefiled testimony in  
23 that case, but it is possible. I'd just like to point  
24 out that in our last rate case the Commission did allow  
25 100 percent recovery of non-executive variable

1 compensation.

2 Q. But in rebuttal to the Public Counsel's  
3 Witness Sheri Brown, didn't you make a very similar, if  
4 not identical statement about the company having to  
5 consider eliminating?

6 A. I don't recall.

7 Q. I see. Okay. The Commission did eliminate  
8 some incentive compensation in that case, did they not?

9 A. Yes, it did.

10 Q. Okay. As a result of that decision, did the  
11 company eliminate any plan due to that disallowance?

12 A. No. At this point we are taking a  
13 wait-and-see approach as we wait for more clarification  
14 on what the regulatory approach will be to  
15 performance-based variable compensation from this  
16 Commission.

17 Q. Do you know if any other utility in this  
18 country has had some or even all of their incentive  
19 compensation disallowed in a rate proceeding?

20 A. Yes, I am familiar with some cases,  
21 particularly in our jurisdiction, but I'm not an expert  
22 on that topic and would not want to speculate.

23 Q. Okay. How many companies that you are aware  
24 of have eliminated their incentive compensation plan  
25 because there was a disallowance of incentive

1 compensation in rates?

2           **A.** I do not have any information about that. I  
3 do not have any knowledge of it. I don't believe that  
4 any that I know of have eliminated these programs,  
5 because without them a utility cannot be market  
6 competitive due to the prevalence of these programs.

7           **COMMISSIONER BROWN:** Mr. Rehwinkel --

8           **MR. REHWINKEL:** Yes.

9           **COMMISSIONER BROWN:** -- I'm trying to gauge  
10 when we should take a break for our court reporter. How  
11 many more?

12           **MR. REHWINKEL:** I would say I am probably a  
13 little more than halfway through. I don't have to go  
14 through any more, maybe one more exhibit, so I don't  
15 think we will have to do that. So this might be a good  
16 time. I have one last question on incentive  
17 compensation, and then I want to go to payroll.

18           **COMMISSIONER BROWN:** Okay. Then ask that last  
19 question.

20           **MR. REHWINKEL:** Okay.

21 **BY MR. REHWINKEL:**

22           **Q.** Ms. Slattery, is there a difference at FPL  
23 between what would be non-executive incentive  
24 compensation and stock-based compensation for  
25 non-executives?

1           **A.** Well, that's not a yes or no question, because  
2 non-executive performance-based variable compensation  
3 can include either cash or equity, and we do have  
4 programs for each of cash and equity for non-executives.  
5 As you know, a portion of the equity-based non-executive  
6 compensation expense has been adjusted out of the test  
7 year revenue requirement.

8           **MR. REHWINKEL:** Thank you.

9           **COMMISSIONER BROWN:** Okay. At this time we  
10 will take a ten-minute recess, and we will reconvene at  
11 5:15.

12           (Recess.)

13           **COMMISSIONER BROWN:** Okay. We will reconvene  
14 the hearing.

15           **MR. REHWINKEL:** Madam Chairman, I didn't  
16 intentionally mislead you. I said I was done with  
17 incentive compensation, but I have one follow-up  
18 question that I discussed with counsel before -- I mean,  
19 on the break.

20           **COMMISSIONER BROWN:** Okay.

21           **MR. REHWINKEL:** And I just wanted to ask -- I  
22 showed Ms. Clark the rebuttal testimony from the last  
23 FPL rate case, and I asked her if -- and I think the  
24 witness looked at the page, so if I could just ask a  
25 question about her testimony relative to what I had

1 asked earlier.

2 **MS. CLARK:** Just to be sure, Ms. Slattery, you  
3 have that in front of you?

4 **THE WITNESS:** Yes.

5 **COMMISSIONER BROWN:** We are going to do what  
6 we just did with FIPUG, the last witness.

7 **MR. REHWINKEL:** I just want to refresh her  
8 recollection and ask her the question this way.

9 **BY MR. REHWINKEL:**

10 **Q.** If you could look on Page 14 of your testimony  
11 in this case, your rebuttal, and the Q&A that is on  
12 Lines 3, 4, and 5. Do you see that?

13 **A.** Yes, I do.

14 **Q.** Did you say something similar in the last rate  
15 case with respect to FPL needing to consider  
16 restructuring its total compensation package, if any  
17 non-executive performance-based variable compensation  
18 was excluded, or something to that effect?

19 **A.** Yes, I did think in the last rate case. And  
20 in this rate case this Q&A goes on to state that FPL is  
21 taking a temporary wait-and-see approach during the  
22 recent period of uncertainty around recovery of  
23 incentive-based compensation.

24 **Q.** Okay. Thank you.

25 Now I'm done with incentive compensation.

1 Thank you.

2 Turning to payroll, if I could get you now to  
3 go to Page 16 of your rebuttal testimony. And generally  
4 on Pages 16 and 17, isn't it correct that you state the  
5 Commission should not accept Mr. Schultz's staffing  
6 adjustment?

7 A. Yes, that's correct.

8 Q. Isn't it true that in the last rate case,  
9 080677 was the docket, that the Commission did adjust  
10 FPL's payroll request, payroll expense request using a  
11 staffing adjustment?

12 A. Yes, that's correct.

13 Q. On Page 17 of your rebuttal, Lines 20 through  
14 23, if I could direct you there.

15 A. Yes.

16 Q. Don't you take issue with Mr. Schultz's use of  
17 the five months of 2012 staffing, even though he had ten  
18 years of data available to him?

19 A. Yes, I do.

20 Q. Did the OPC recommend in Docket 080677 the use  
21 of a five-year average to adjust the staffing of FPL?

22 A. I don't recall.

23 Q. Okay. In that same docket, didn't the  
24 Commission adjust FPL's payroll request using a staffing  
25 adjustment based on 2007, or a single year?

1           **A.** Yes, they did, and they made that decision in  
2 early 2010, which is why Mr. Schultz's testimony  
3 yesterday confused me when he said that the Commission  
4 used the most recent data available in the last case to  
5 determine a staffing adjustment, because that was not  
6 the case. It was three-year-old data.

7           **Q.** On Page 17, Lines 3 and 4, don't you suggest  
8 there that Mr. Schultz's conclusion is premised on the  
9 incorrect assumption that the payroll budget is solely a  
10 function of staffing levels?

11           **A.** Yes, because staffing levels are one variable  
12 in the development of the payroll budgets. The primary  
13 driver of which is the work plan and scope of work for  
14 the coming year.

15           **Q.** Okay. Mr. Schultz doesn't specifically state  
16 that in his testimony, does he?

17           **A.** I don't recall if he explicitly states it in  
18 his testimony, but his recommendation is based solely on  
19 it.

20           **Q.** So can you point me to anywhere in his  
21 testimony where he specifically states that the payroll  
22 budget is solely a function of staffing levels?

23           **A.** I don't recall specifically in his testimony  
24 if he states that, but, again, his recommendation is  
25 predicated upon that assumption that it is a staffing

1 level adjustment, and he completely ignored the overtime  
2 part of the equation.

3 **COMMISSIONER BROWN:** Ms. Clark.

4 **MS. CLARK:** I was just going to ask that Mr.  
5 Rehwinkel point her to Mr. Schultz's testimony where he  
6 references that, or give Ms. Slattery a minute to look  
7 through Mr. Schultz's testimony.

8 **MR. REHWINKEL:** Well, I come at it a different  
9 way, Madam Chairman. I asked her if she could point me  
10 to anywhere in his testimony, and I think the answer was  
11 no. But I didn't get a yes or no. So I will give her  
12 as much time as she needs, if there is a -- if he  
13 specifically states that in his testimony.

14 **COMMISSIONER BROWN:** His testimony is  
15 voluminous, and that will take some time for her to sort  
16 through. Are you trying to --

17 **MR. REHWINKEL:** I don't think it's in there,  
18 and I'm asking if she can point me to that. And I think  
19 she said no, she can't, but I think I'm entitled to a  
20 yes or no.

21 **MS. CLARK:** I don't think that's what she  
22 said, and I would like her to take a minute to find  
23 that, because she has identified that in her rebuttal  
24 testimony.

25 **COMMISSIONER BROWN:** That's fair.

1 Ms. Slattery, take some time to look through  
2 the testimony.

3 (Pause.)

4 **MR. LITCHFIELD:** Madam Chairman, while we are  
5 waiting, I can take care of one small housekeeping item.

6 We had agreed off-line to provide Mr. Wright  
7 with zip codes that are served by FPL so that they could  
8 begin to facilitate the response to Commissioner  
9 Balbis's question. And I will distribute those to him,  
10 but I just want to note that to the best of our ability  
11 we pulled these, but obviously some of the zip code  
12 areas that we serve are also served by other utilities.  
13 So with that caveat in terms of what Mr. Wright will be  
14 able to do with these, I'd furnish him with a copy of  
15 these.

16 **COMMISSIONER BROWN:** Okay.

17 **MR. LITCHFIELD:** Thanks.

18 **MS. CLARK:** Ms. Slattery, are you --

19 **THE WITNESS:** I am ready.

20 **MS. CLARK:** Can Mr. Rehwinkel ask the question  
21 again?

22 **COMMISSIONER BROWN:** Yes. Mr. Rehwinkel, will  
23 you pose the question again?

24 **MR. REHWINKEL:** Yes, I will gladly.

25 **COMMISSIONER BROWN:** Please.

1 **BY MR. REHWINKEL:**

2 Q. Can you point me to any place in Mr. Schultz's  
3 testimony where he specifically states that the FPL  
4 payroll budget is solely a function of staffing levels?

5 A. No, and nor can I point to any part in his  
6 testimony that discusses the scope of work or the  
7 overtime that we have to work employees when we are  
8 under compliment.

9 Q. Isn't the company's payroll budget developed  
10 using staffing levels?

11 A. Yes. As I have stated, that is one variable  
12 in our development of our payroll budgets.

13 Q. And isn't it true that the staffing forecast  
14 is done by the various FPL business units?

15 A. Yes, that is correct. They base their  
16 forecasts on optimal staffing levels to accomplish the  
17 scope of work required for the coming year.

18 Q. And isn't it true that those business units  
19 are very experienced in producing those forecasts that  
20 are accurate and reliable based on the optimal staffing?

21 A. Yes, that's correct. They are very  
22 experienced at producing accurate budgets and forecasts  
23 for payroll as evidenced by KS-9 of my testimony.

24 Q. Now, do you have Mr. Schultz's Exhibit HWS-2  
25 with you?

1           A.    Yes, I do.

2           Q.    Specifically directing you to Page 2 of 3?

3           A.    Yes.

4           Q.    Did you review this schedule?

5           A.    Yes, I did.

6           Q.    Is there anything on it that is inaccurate?

7           A.    No, there is not.

8           Q.    The source of this information is from the  
9 company, right?

10          A.    That's true, yes.

11          Q.    Okay. Now, do you dispute the fact that  
12 historically these very experienced business units that  
13 we just referenced have consistently budgeted more staff  
14 than actually were employed?

15          A.    I do not disagree that our staffing actual  
16 compliment has been below optimal staffing levels due to  
17 normal healthy turnover and backfilling of those  
18 vacancies. So in a typical year we will have 7 percent  
19 turnover and in a typical year we will hire 700 to 1000  
20 people externally. And as demonstrated in my analysis  
21 of our payroll spend because the work still must be  
22 accomplished to consistently deliver optimal performance  
23 to our customers, we still spend the payroll.

24          Q.    Let me get you to turn to Page 18 of your  
25 rebuttal and there direct you to Lines 5 through 8.

1 Now, isn't it true right here you state that Mr. Schultz  
2 should have analyzed the dollars spent on payroll?

3 A. Yes.

4 Q. Would the dollars that you are referring to be  
5 total payroll dollars?

6 A. That would have been available to him through  
7 our interrogatories, yes, but --

8 Q. My question is the dollars you think he should  
9 have and analyzed, would they be total payroll dollars,  
10 is that what you are saying he should have looked at?

11 A. I think the most important thing for him to  
12 analyze is overtime and base salary, but he also would  
13 have been able to analyze total payroll spend and look  
14 at those relationships, as well.

15 Q. Is there any payroll that he should have --  
16 let me strike that. Is there any payroll dollars that  
17 he shouldn't have analyzed? In other words, should  
18 anything have been excluded from payroll?

19 A. I'm not sure I understand your question.

20 Q. In his analysis that you said he should have  
21 done, is there anything that shouldn't have been  
22 included, any type of payroll?

23 A. I believe that base salary and overtime  
24 demonstrate the direct relationship that we're talking  
25 about as far as working existing employees in overtime

1 to accomplish the work we need to perform for customers  
2 when we are filling vacancies, and that there is --  
3 again, there is other wage types that are less pertinent  
4 to the analysis and would not have been demonstrative of  
5 the relationship, no.

6 Q. Okay. But there is nothing he analyzed that  
7 he shouldn't have?

8 A. He did not perform any analysis beyond head  
9 count that I saw.

10 Q. Okay. And, so on Page 18, the same Page 18,  
11 on Lines 12 through 14, it's a fair characterization of  
12 your testimony, is it not, that you believe Mr. Schultz  
13 never considered overtime in analyzing total payroll?

14 A. That is correct.

15 Q. Okay. And so, you also testified that Mr.  
16 Schultz does not factor in any overtime in his  
17 recommended adjustment, right?

18 A. Correct.

19 Q. Now, KS-9 is your only rebuttal exhibit,  
20 right?

21 A. Yes.

22 Q. This exhibit doesn't include any incentive pay  
23 or pay other than base pay and overtime, does it?

24 A. No, it does not.

25 Q. Now, Exhibit 2 that we just referenced, of Mr.

1 Schultz, HWS-2?

2 A. Yes.

3 Q. You would agree with me, wouldn't you, that  
4 the source of Mr. Schultz's total payroll numbers from  
5 that that he put in this exhibit -- let me strike that  
6 and ask it a different way.

7 You would agree with me that the source of Mr.  
8 Schultz's total payroll number that he used in his  
9 staffing adjustment is Company Schedule C-35, right?

10 A. On Page 1 of 3, on HWS-2, is that correct?

11 Q. Yes.

12 A. Yes.

13 Q. Okay. Now, you have with you Exhibit 591, do  
14 you not?

15 A. Yes, I do.

16 Q. Okay. Would you agree with me that this is a  
17 workpaper that was provided in POD 12, the response to  
18 OPC POD Number 12?

19 A. Yes, that is correct.

20 Q. Okay. And you would also agree with me that  
21 that if you look in the table, the results column, which  
22 is the very bottom line of that table, that the numbers  
23 in the 2012 and 2013 columns tie to the corresponding  
24 years in MFR C-35?

25 A. Yes.

1           Q.    Okay.  The workpaper that is in Exhibit 591,  
2 you would agree it includes incentive pay?

3           A.    Yes.

4           Q.    And you would also agree with me that this  
5 workpaper, the numbers on this workpaper include other  
6 pay, right?

7           A.    Yes.

8           Q.    And you would agree with me also that the  
9 numbers on the workpaper in Exhibit 591 include overtime  
10 pay, right?

11          A.    Yes.

12          Q.    Okay.  Now, do you have Exhibit C-35 with you?

13          A.    Yes, I do.

14          Q.    Do the historical years on Exhibit C-35 in the  
15 gross pay line that's on Line 3, do they include  
16 overtime?

17          A.    Yes, they do.

18          Q.    Since the amounts used by Mr. Schultz included  
19 overtime, how can you state that he ignored overtime in  
20 making his recommendation?

21          A.    Because I believe that is comparing apples to  
22 oranges, and the reason I say that is that he included  
23 gross payroll, including overtime, in calculating the  
24 recommended dollars and cents adjustment.  But, when he  
25 calculated the percentage reduction in the request he

1 completely ignored the full-time employee equivalent for  
2 the overtime variance above budget, which was something  
3 I demonstrated on -- it was Late-Filed Exhibit Number 2  
4 to my deposition and entered into the record by staff as  
5 Exhibit 541. Mr. Schultz never performed that analysis,  
6 and I believe that was a flaw in his approach.

7 Q. Is that what KS-9 shows?

8 A. KS-9 shows this in payroll dollars, so it  
9 shows the actual overtime relationship to base pay.

10 Q. Wouldn't you agree with me that from 2006 --  
11 well, let's look at KS 9. Do you have that?

12 A. Yes, I do.

13 Q. Wouldn't you agree with me that from 2006  
14 through 2011 actual base pay and overtime were below the  
15 budget?

16 A. Could you please repeat the years?

17 Q. 2006 through 2011, actual base pay and  
18 overtime below the budget?

19 A. Yes, they were slightly below. Although,  
20 year-to-date 2012 they are above. And, furthermore, on  
21 a total gross payroll basis budget-to-actual sometimes  
22 has run a little bit over and sometimes a little bit  
23 below for that same period.

24 Q. Okay. Let's go back to C-35. Would you agree  
25 with me that on Schedule C-35 that for the year 2012

1 budgeted payroll is approximately \$46.6 million higher  
2 than the 2012 -- than the 2011 actual?

3 **MS. CLARK:** Madam Chairman, so I can follow  
4 along, Mr. Rehwinkel, will you tell me where you are on  
5 C-35?

6 **MR. REHWINKEL:** Okay. I'm asking her about  
7 the 2012 budgeted.

8 **COMMISSIONER BROWN:** On Schedule C-35?

9 **MR. REHWINKEL:** Yes, C-35.

10 **MS. CLARK:** Do you have a line and column?

11 **BY MR. REHWINKEL:**

12 **Q.** My question is the budget amount for 2012,  
13 \$46 million -- \$46.6 million higher than the actual for  
14 2011?

15 **A.** Yes, I believe that is accurate.

16 **Q.** Okay. And back to KS-9. What is the amount  
17 of test year 2011 overtime?

18 Let me do it this way. Isn't the 2011  
19 overtime shown on KS-9, 123.536 million?

20 **A.** Yes, it is.

21 **Q.** And for budgeted overtime for 2012, that  
22 amount is 113.236 million?

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

24 **Q.** Okay. So, wouldn't you agree with me that the  
25 2012 budget for overtime then is approximately

1 \$10 million less than the 2011 actual?

2 A. Yes, it is.

3 Q. And would you consider overtime for 2011 and  
4 that budgeted for 2012 to be comparable?

5 A. I'm sorry, I don't follow your question. If  
6 you could please help me.

7 Q. Is there anything about 2012 that makes the  
8 budget for overtime not comparable to 2011 overtime  
9 actual?

10 A. Other than the fact that the amounts are  
11 different, no, there is nothing significantly different  
12 about it.

13 Q. All right. Now let's go back to C-35. Would  
14 you agree with me, subject to check, that the 2011  
15 payroll amount of 1,029,367,000, excluding the overtime  
16 amount that we just talked about of 123,536,000, is  
17 approximately 905,831,000?

18 A. I'm not able to perform that calculation in my  
19 head.

20 Q. Okay. Would you agree with me subject to  
21 check?

22 A. Subject to check.

23 Q. Okay. And assuming that I am correct in what  
24 I represent to you, could you then agree with me that  
25 the 2012 payroll of 1,075,925,000 after excluding the

1 overtime of 113,236,000 is approximately  
2 962.689 million?

3 A. Again, I have no way to verify that, but I  
4 will accept it subject to check.

5 Q. Okay. You would agree with me the  
6 calculations I have asked you to accept subject to check  
7 are verified by arithmetic from the numbers that are on  
8 the two documents that we just referenced, right?

9 A. I would agree they are verifiable.

10 Q. Okay.

11 A. I haven't yet verified them.

12 Q. Okay. But we would only use the numbers that  
13 I have referenced to you, the overtime amounts on KS-9  
14 and the payroll dollars that are on C-35, those are the  
15 four sets of numbers that you would use, right?

16 A. That I would use for what?

17 Q. To verify the math I asked you to --

18 **COMMISSIONER BROWN:** Mr. Rehwinkel, one  
19 second, please.

20 **MS. CLARK:** I would like him to ask his  
21 question again because I'm not sure that I understand  
22 his point with regard to these numbers.

23 **COMMISSIONER BROWN:** Mr. Rehwinkel, can you --

24 **MR. REHWINKEL:** Yes.  
25

1 **BY MR. REHWINKEL:**

2 Q. What I was asking the witness was the numbers  
3 that we went through are either found on KS-9 or C-35,  
4 and I asked her to do certain calculations to yield  
5 payroll excluding overtime for '11 and '12, and those  
6 calculations would yield the numbers of 905,831,000 for  
7 2011 and 962,689,000 for 2012. So all I wanted was her  
8 to verify or agree that the information to do the math,  
9 which is just simply subtraction --

10 **COMMISSIONER BROWN:** I think she answered that  
11 they were verifiable.

12 **MR. REHWINKEL:** My question was were they  
13 verifiable from the numbers that are on either these two  
14 pieces of paper, C-35 or KS-9.

15 **MS. CLARK:** Madam Chairman, I would -- there  
16 are a lot of numbers there, and Ms. Slattery has  
17 indicated she can't do the math in her head. I don't  
18 blame her. I would like to take some time for her to  
19 look and verify that.

20 **MR. REHWINKEL:** That's fine with me. It's a  
21 simple calculation. She can do it or -- actually, we  
22 could go on, and if someone wants to do the math and  
23 then show it to her, I have no problem with her --

24 **MS. CLARK:** If we could move on to another  
25 line of questioning, and we could get that done.

1                   **THE WITNESS:** If I could interject one thing,  
2 Mr. Rehwinkel. What concerns me is my version of KS-9  
3 contains 2012 year-to-date information, which is not a  
4 full year. And you have asked me to perform a  
5 calculation for 2012 using full year data for overtime,  
6 which is not on KS-9. And you have asked me to confirm  
7 that KS-9 would be the source for that number, and that  
8 would not be accurate. It would have a different  
9 source.

10 **BY MR. REHWINKEL:**

11                   **Q.** Okay. That's a fair point. So you do have a  
12 budgeted amount for 2012 overtime, correct?

13                   **A.** Yes, and you have stated the accurate amount.  
14 I'm just clarifying that KS-9 would not be the source.

15                   **Q.** That's fair.

16                   **MR. REHWINKEL:** So with that clarification,  
17 we'll get the math done by the time I am done here or  
18 before she leaves the stand would be fine. Is that  
19 okay?

20                   **MS. CLARK:** I think we need to take a break to  
21 verify the math, but I'm comfortable with moving on if  
22 he has another line of questions.

23                   **COMMISSIONER BROWN:** I'd like to motor  
24 through, if that's okay, and start with a new line of  
25 questioning, Mr. Rehwinkel.

1                   **MR. REHWINKEL:** Okay.

2           **BY MR. REHWINKEL:**

3                   **Q.** Assuming that these numbers that we are asking  
4 to be done subject to check, this is the question I  
5 would like to pose.

6                   Ms. Slattery, would you agree with me that the  
7 increase in 2012 payroll, excluding overtime, is  
8 approximately \$56.9 million higher than the 2011 actual  
9 payroll excluding overtime?

10                  **A.** Subject to check.

11                  **Q.** Okay. So that's kind of the math that we  
12 would get verified on the subject to check basis.

13                  Schedule C-35, what was the actual employee  
14 count for 2011?

15                  **MS. CLARK:** Madam Chairman, I just want to  
16 make sure that we would want to do that math, as well,  
17 that he just asked.

18                  **COMMISSIONER BROWN:** Certainly. And I think  
19 we're just going to proceed ahead right now with the  
20 rest of his questioning and we will get back.

21                  **MR. REHWINKEL:** Thank you.

22                  **MS. CLARK:** Okay.

23           **BY MR. REHWINKEL:**

24                  **Q.** For 2011, would you agree with me that the  
25 actual employee count shown on C-35, MFR C-35, is 9,971?

1           **A.**    Yes.

2           **Q.**    And would you also agree with me that for 2012  
3 the corresponding employee count budgeted is 10,312?

4           **A.**    Yes.

5           **Q.**    Would you further agree with me, if you have  
6 to do this subject to check, that an increase in the --  
7 this equates to an increase in employee staffing of 341  
8 positions?

9           **A.**    Yes.

10          **Q.**    Okay.  Therefore, isn't it true that the 2012  
11 \$56.9 million that I have asked you to check increase,  
12 excluding overtime, is attributed to added staff  
13 positions and escalation?

14          **A.**    I cannot verify that that is the sole source  
15 of that.  First, I want to go back to the premise that  
16 it is appropriate to review the total payroll budget  
17 without including the overtime that we have properly  
18 budgeted, particularly since some of that is driven by  
19 the nuclear outages that we have in '11 and '12.  And if  
20 we were to analyze it without overtime, I would have to  
21 look at a number of drivers that are in the  
22 year-over-year increases, not just the 341, you know,  
23 positions increased.

24          **Q.**    So your answer to me is that it is not solely  
25 attributed to staff positions and escalation?

1           **A.**     That's correct.

2           **MR. REHWINKEL:** Madam Chairman, we are at a  
3 point where I am done except for the verifications that  
4 I have asked for. I don't need them at this point. We  
5 can go on to others, we can take a break, whatever is  
6 necessary. I just need them before she leaves the  
7 stand.

8           **COMMISSIONER BROWN:** What is your preference?

9           **MS. CLARK:** My preference would be to take a  
10 break now so we can verify those numbers and be finished  
11 with OPC's questioning.

12          **COMMISSIONER BROWN:** Five minutes?

13          **MS. CLARK:** We may need -- can we do until  
14 6:00 and check it out then? Madam Chairman, I just  
15 can't say how long that's going to take.

16          **THE WITNESS:** If I could, I think I can do it  
17 in five minutes.

18          **COMMISSIONER BROWN:** Okay. All right. We  
19 will recess for five minutes and reconvene at 5:55.

20          **MS. CLARK:** Thank you.

21                    (Recess.)

22          **COMMISSIONER BROWN:** We will reconvene this  
23 hearing at this time. I think Ms. Slattery has had an  
24 opportunity to verify the information.

25                    Mr. Rehwinkel.

1                   **MR. REHWINKEL:** Thank you.

2                   **BY MR. REHWINKEL:**

3                   **Q.** Ms. Slattery, have you had an opportunity to  
4 verify the numbers I asked you to verify subject to  
5 check, or agree with subject to check?

6                   **A.** Yes, I have.

7                   **Q.** Okay. Can you verify the math?

8                   **A.** Yes, I have verified your math, although I  
9 still do not believe that that is a relevant  
10 calculation, since overtime is a valid component of our  
11 total payroll budget.

12                   **Q.** But the numbers that I asked you about, you  
13 agree with the math?

14                   **A.** Yes, they are accurate.

15                   **MR. REHWINKEL:** Thank you. I have no further  
16 questions.

17                   Thank you, Ms. Slattery.

18                   **COMMISSIONER BROWN:** Okay. Thank you.

19                   Retail Federation. Are they in here? I  
20 almost, almost skipped over you.

21                   Mr. Wright.

22                   **MR. WRIGHT:** Thank you, Madam Chairman, I had  
23 5:49 when we left, so I thought I was within the five  
24 minutes.

25                   **CROSS EXAMINATION**

1 **BY MR. WRIGHT:**

2 Q. Very briefly, Ms. Slattery. Good afternoon.

3 A. Good afternoon.

4 Q. Good to see you again.

5 A. You, too, Mr. Wright.

6 Q. Thanks. I just have one or perhaps two  
7 general questions that are not unique to either direct  
8 or rebuttal. Does any part of your evaluation --

9 **MS. CLARK:** I'm sorry, would you repeat that?

10 **MR. WRIGHT:** Sure. I have a couple of  
11 questions that are not unique to either direct or  
12 rebuttal. The question I'm going to ask is the same  
13 question Mr. Wells asked my witness this morning.

14 **MS. CLARK:** Madam Chairman --

15 **COMMISSIONER BROWN:** Your witness on direct?

16 **MR. WRIGHT:** Yes, ma'am. Well, he had only  
17 one set of testimony.

18 **MS. CLARK:** Madam Chairman, as he said, it  
19 doesn't relate to rebuttal.

20 **COMMISSIONER BROWN:** Mr. Wright, how is it  
21 relevant to this rebuttal witness?

22 **MR. WRIGHT:** Well, my proffer is simply I'm  
23 going to ask her whether her evaluation depends on the  
24 outcome of the rate case. It's not a question that's  
25 unique to either direct or rebuttal.

1                   **COMMISSIONER BROWN:** Whether her evaluation is  
2 unique to the rate case?

3                   **MS. CLARK:** Madam Chairman -- I'm sorry for  
4 interrupting.

5                   **COMMISSIONER BROWN:** It's okay. Proceed.

6                   **MS. CLARK:** I don't see how this relates in  
7 any way to the rebuttal, and there is no basis for him  
8 to ask this question. We are on cross-examination of  
9 rebuttal.

10                   **COMMISSIONER BROWN:** Mr. Wright, I'm having a  
11 hard time understanding what it is that you are asking  
12 her.

13                   **MR. WRIGHT:** I'll withdraw. Thank you.

14                   **COMMISSIONER BROWN:** Okay. Mr. Saporito.

15                   **MR. SAPORITO:** Thank you, Madam Chairman.

16                   **CROSS EXAMINATION**

17 **BY MR. SAPORITO:**

18                   **Q.** I think I questioned you on your direct. My  
19 name is Thomas Saporito. I'm here pro se.

20                   With respect to your testimony, your rebuttal  
21 testimony on Page 15, and specifically Lines 14 through  
22 16, am I correct in understanding that part of FPL's  
23 incentive program with respect to executive  
24 compensation, part of its intent is to recruit and  
25 retain executive level managers?

1           **MS. CLARK:** Madam Chairman, I would object to  
2 this question again. Mr. Saporito was one of the  
3 parties that stipulated to Issue 99. It is no longer an  
4 issue for him.

5           **COMMISSIONER BROWN:** Can you rephrase the  
6 question?

7 **BY MR. SAPORITO:**

8           **Q.** Can you explain to the Commission whether or  
9 not the incentive program, the compensation program,  
10 executive compensation program of FPL is intended to  
11 retain executive level management?

12           **COMMISSIONER BROWN:** Mr. Saporito, I'm going  
13 to have to object to that question. I'm going to have  
14 to disallow that question. I asked you to rephrase it  
15 as it relates to the executive incentive compensation.

16 **BY MR. SAPORITO:**

17           **Q.** Ms. Slattery, is it your testimony here that  
18 if FP&L's compensation program as you have explained  
19 on -- your rebuttal testimony explains on Lines 14  
20 through 16, is it your testimony here that if the  
21 Commission would not approve this in this rate case that  
22 it would somehow negatively impact FPL's ability to  
23 retain executive management?

24           **A.** Mr. Saporito, my testimony on these pages  
25 explicitly refers to non-executive performance-based

1 variable compensation. So if your question is about  
2 executive compensation, it's not pertinent to the page  
3 you have referred me to in my testimony.

4 **Q.** All right. Is any of your rebuttal testimony  
5 relevant to the question that I just asked you?

6 **A.** Not as it pertains to executive compensation,  
7 no.

8 **MR. SAPORITO:** Okay. Then I have no further  
9 questions.

10 **COMMISSIONER BROWN:** Thank you.

11 Mr. Hendricks.

12 **MR. HENDRICKS:** No questions for this witness.

13 **COMMISSIONER BROWN:** Thank you. Staff.

14 **MR. YOUNG:** No questions.

15 **COMMISSIONER BROWN:** Commissioners.

16 Commissioner Edgar.

17 **COMMISSIONER EDGAR:** Thank you.

18 I think just one. On Page 16 of your rebuttal  
19 testimony, the third sentence down after the second  
20 question, Lines 13 through 16. You were asked in the  
21 testimony to explain the gap between forecast and actual  
22 staffing in light of your direct testimony and Witness  
23 Schultz's testimony. The phrase there at the end where  
24 you say that one of the reasons for -- one of the  
25 reasons for that gap, I think, I don't completely

1 understand this, so if you could elaborate, where you  
2 say the fiscal constraints the company has placed on the  
3 competitiveness of its pay and benefits package, what  
4 fiscal constraints and how -- what are the fiscal  
5 constraints that you are referring to, and how does that  
6 either explain or not explain the gap between the  
7 forecast and actual staffing between your testimony and  
8 Schultz's testimony?

9 **THE WITNESS:** Well, the fiscal constraints I'm  
10 refer to are the fact that we benchmark our jobs at  
11 market median as demonstrated in my direct testimony,  
12 and we are not willing to pay whatever a candidate from  
13 the market demands. If they have expectations that  
14 exceed the market reference points we maintain for our  
15 jobs based on benchmarking at median we often cannot  
16 come to terms with that candidate, and that is one of  
17 the examples of the fiscal constraints.

18 Another is, for example, that our relocation  
19 packages do not allow for the buying of homes. So that  
20 is another example of a fiscal constraint we place on  
21 our total rewards package that sometimes makes it  
22 difficult to hire from the market. And this sentence in  
23 my testimony explains why when we have turnover, which  
24 is about 7 percent a year, it sometimes takes us a few  
25 months to fill a position.

1 Right now, for example, we are actively  
2 recruiting 290 positions. We are always recruiting and  
3 we are all recruiters in the company, and we do a very  
4 good job of filling quickly, but we do have some  
5 constraints and boundaries that we place.

6 **COMMISSIONER EDGAR:** Do you have any either  
7 numbers empirically or more of a qualitative sense in  
8 virtue of your position as to, you know, how often or  
9 what percentage of candidates that are selected for a  
10 position are not ultimately hired because their salary  
11 request is higher than the company will provide?

12 **THE WITNESS:** It's difficult to give empirical  
13 evidence on this because we always shoot for a goal of  
14 90 percent acceptance rate or higher for our written job  
15 offers. But we have a practice of holding back a little  
16 bit on the written job offer to make sure that we don't  
17 have a candidate that is just trying to get a written  
18 offer from FPL to try to, kind of, convince their  
19 current employer to raise their pay without them having  
20 to take the risk of selling their home in the market and  
21 moving and so forth. So the empirical evidence is that  
22 we have about a 90 percent acceptance rate. But there  
23 are some, like I said, additional -- there is an  
24 additional percentage that I can't quantify that we  
25 lose.

1                   **COMMISSIONER EDGAR:** Thank you.

2                   **COMMISSIONER BROWN:** Commissioner Balbis.

3                   **COMMISSIONER BALBIS:** Thank you. And good to  
4 see you again, Ms. Slattery. I'm glad you came back on  
5 rebuttal, because one of the benefits of having direct  
6 separate from rebuttal is I get to hear the other  
7 witnesses and the cross-examination questions. So thank  
8 you for that.

9                   I think OPC clarified a lot of the confusion I  
10 had between your Exhibit KS-9 and C-35, so I may be  
11 finished with that. But I do want to -- I do want to  
12 ask about -- you discuss on Pages 5 and 6 total  
13 compensation, and I just want to confirm that the total  
14 compensation that is discussed includes the raises that  
15 we discussed during your direct testimony.

16                   **THE WITNESS:** Yes, it does.

17                   **COMMISSIONER BALBIS:** Okay. And do you have  
18 an exhibit, or a table, or any information that shows  
19 employees by classification so we can get a sense of how  
20 many are power engineers and technicians, you know,  
21 which in your testimony you indicated they are difficult  
22 to hire. Do you have that information anywhere in a  
23 response to an interrogatory or anything?

24                   **THE WITNESS:** That is not something that is an  
25 exhibit to my direct or rebuttal testimony, nor do I

1 believe were there any interrogatories that had us break  
2 down our employee population that way. Some of the  
3 interrogatories broke it down by union, nonunion,  
4 salary, hourly, and also broke it down by business unit,  
5 but I believe you are referencing what percentage of our  
6 workforce is skilled. Is that your question?

7 **COMMISSIONER BALBIS:** No, I didn't really use  
8 the term skilled. I guess I'm trying to tie in the  
9 total compensation discussed in your rebuttal testimony,  
10 and kind of expand upon what was discussed previously  
11 where you indicated the difficulty to fill positions,  
12 and also in response to Commissioner Edgar's question,  
13 again, the length of time it takes to fill a position.

14 So I want to know how much of your workforce,  
15 how many in your workforce are power engineers and  
16 technicians, which in your direct testimony indicated  
17 that would be difficult to hire because the raises that  
18 are included in your total compensation are across the  
19 board.

20 **THE WITNESS:** Although there is no exhibit or  
21 interrogatory response that goes directly to this, some  
22 of the production of documents that we have provided do  
23 breakdown payroll by function, and that would give some,  
24 you know, breakdown to the intervenors to look at. But  
25 regarding skilled labor, I know you were interested in

1 this topic as far as power engineers, you know, craft  
2 labor, administrative, et cetera, when I was here on  
3 direct. So I did take a look at it since I was last  
4 here, and I broke it down a little bit differently than  
5 I think you're asking for it, and I was trying to  
6 anticipate.

7 We have approximately 4,180 skilled  
8 professional workers, 2,729 skilled craft workers, and  
9 114 skilled technicians. This is to kind of give a  
10 sense of those with professional engineering degrees,  
11 certifications, and those that are in positions that  
12 require extensive training and years on the job.

13 **COMMISSIONER BALBIS:** Now, what was the first  
14 category of 4,180?

15 **THE WITNESS:** Professional skilled.

16 **COMMISSIONER BALBIS:** Professional skilled.  
17 Does that include job functions that require a  
18 professional skill, or is it just employees that have an  
19 engineering degree and they may be doing cost estimates,  
20 for example?

21 **THE WITNESS:** It does have all the engineers  
22 kind of grouped together in there, as well as system  
23 analysts, program analysts, system operators, power and  
24 control engineers, area managers. I don't have that  
25 broken down.

1                   **COMMISSIONER BALBIS:** Okay. But I think  
2 that's helpful as far as that line of questioning. And  
3 I guess the final question as far as the employee types,  
4 are all of your collective bargaining unit employees  
5 under that skilled laborer, or skilled professional, or  
6 crafts or technicians?

7                   **THE WITNESS:** No. I did not consider all of  
8 them to be skilled, because entry level positions, such  
9 as apprentices, are not quite skilled yet, so we  
10 excluded them from that count. So for craft workers,  
11 any apprentice-level job is not included. We did not  
12 consider that skilled. But line specialists,  
13 distribution dispatchers, division load dispatchers and  
14 the like are included in the skilled craft number that I  
15 gave of you of 2,729.

16                   **COMMISSIONER BALBIS:** Okay. Then that's  
17 perfect. Thank you. To change gears a little bit back  
18 to your KS-9 Exhibit. I just want to make sure that I  
19 understand it, because if we look at 2011, which is the  
20 last full year of actual data, you have the actual  
21 number of base pay and overtime of 897,462,000, correct?

22                   **THE WITNESS:** That's correct.

23                   **COMMISSIONER BALBIS:** Okay. And then go to  
24 C-35 and that number there is around a billion dollars.  
25 So what is included in the gross payroll in C-35 that is

1 not included in your KS-9?

2 **THE WITNESS:** There are other wage types that  
3 are included. KS-9 was meant to largely focus on the  
4 relationship between overtime dollars and base, but the  
5 other things that are included in gross payroll include  
6 shift differentials or shift premiums for our bargaining  
7 unit employees, incentive pay, the performance-based  
8 incentive pay, other lump sums that are -- some of it is  
9 related to the collective bargaining agreement, some of  
10 it is amounts that we provide to our non-bargaining  
11 employees, such as, for example, when we have someone  
12 attain a required license in the nuclear business unit,  
13 there is usually a lump sum related to that. There is  
14 relocation and sign-on bonus and other hiring costs that  
15 flow through payroll, as well.

16 **COMMISSIONER BALBIS:** Okay. And I think this  
17 is my last question. Going to your Exhibit KS-9, I'm  
18 just trying to make sense of these numbers. Because  
19 looking at your budgeted base and overtime, it appears  
20 that between 2002 and 2011 your base pay and overtime  
21 has gone up by around 50 percent. Is that about right?  
22 A little less than 50 percent, maybe.

23 **THE WITNESS:** I'm sorry, Commissioner Balbis,  
24 if you could repeat the years you're looking at.

25 **COMMISSIONER BALBIS:** Sure. In 2002 your

1 budgeted base plus overtime was 636 million. In 2011  
2 your base plus overtime was 910 million, and yet your  
3 employee count was about the same. And I understand the  
4 relationship between filled positions and overtime, and  
5 usually with the lack of filled positions you increase  
6 the overtime. But you have increased the base pay and  
7 the overtime pay you budgeted the same. So what is FPL  
8 doing to control overtime?

9 **THE WITNESS:** FPL is doing everything it can  
10 to control costs. We use overtime as prudently as we  
11 can to have a scalable workforce for nuclear outages and  
12 for other construction maintenances projects. As far as  
13 the 2002 to 2011 growth, I do not have the -- I have not  
14 analyzed the head count growth from 2002, but this would  
15 include the annual increases that we discussed with  
16 regard to the non-bargaining merit programs and the  
17 bargaining unit, collective bargaining agreement. And  
18 so roughly there is a 3 percent per year increase in  
19 wages and salaries according to World at Work, plus an  
20 increase in head count.

21 With regard to overtime, we have been using it  
22 more in the last couple of years, largely due to the  
23 extended power uprate outages. But as we discussed with  
24 OPC, the amount of budgeted overtime for 2013 is  
25 significantly lower than 2012 and 2011 because of the

1 ramp-down of the EPU project.

2 **COMMISSIONER BALBIS:** Okay. And I'm looking  
3 at, I believe it was Mr. Schultz's extensively discussed  
4 HWS-2, Page 2, which has the head count. In 2002, the  
5 head count is 9,973, and in 2011 it is 9,951 or 61. So  
6 the employee count has actually gone down, but temporary  
7 labor has gone up. I don't know how important that is.

8 **THE WITNESS:** Well, we do include the  
9 temporary labor, which is FPL employees hired on a  
10 project basis for six months or less in our payroll  
11 budgets, so that would be something that would also  
12 impact these budgets.

13 **COMMISSIONER BALBIS:** Okay. And the last  
14 question as far as the project process. The 2013 O&M  
15 budget, and let's talk about total compensation. Has  
16 that been set?

17 **THE WITNESS:** For 2013?

18 **COMMISSIONER BALBIS:** Yes.

19 **THE WITNESS:** Yes, it has been. It's part of  
20 this rate case forecast.

21 **COMMISSIONER BALBIS:** Okay. And does it ever  
22 change in that year?

23 **THE WITNESS:** Do we ever change during the  
24 year? I'm not actually somebody who works in  
25 forecasting or budgeting. That's FPL Witness Barrett,

1 and so I believe he could answer that question.

2 **COMMISSIONER BALBIS:** Okay. The only reason  
3 I'm asking, there was a witness, I believe it was Hardy  
4 that mentioned his budget gets cut every year, and they  
5 have to do more with less. I was just wondering if  
6 there is a reassessment of the budget that's scheduled,  
7 you know, mid-year or anything else like that.

8 **THE WITNESS:** I'm not familiar with that  
9 process, but Witness Barrett would be.

10 **COMMISSIONER BALBIS:** Okay. That's all I  
11 have.

12 **COMMISSIONER BROWN:** Any other questions?

13 Ms. Slattery, I have one question regarding  
14 your skilled employee numbers that you came out with.  
15 What is the percentage of those skilled employees, the  
16 total as they relate to FPL's entire staffing? Do you  
17 have that?

18 **THE WITNESS:** Yes. It's 70 percent.

19 **COMMISSIONER BROWN:** Okay. Thank you.

20 **THE WITNESS:** Madam Chair, I actually owed you  
21 two pieces of information from direct and I have that if  
22 you would like it.

23 **COMMISSIONER BROWN:** I would love it.

24 **THE WITNESS:** You asked me the total payroll  
25 O&M as a percentage of the test year nonfuel O&M, and

1 that is 47 percent. And you also asked me the total  
2 payroll O&M as it relates to the customer bill, and we  
3 have estimated that to be \$8.33 on a typical  
4 1,000-kilowatt hour residential bill. And as a  
5 reminder, Exhibit KS-3 to my direct testimony  
6 demonstrated the efficiency of our compensation expense  
7 as it pertains to on a per customer basis.

8 **COMMISSIONER BROWN:** Thank you for that  
9 information.

10 Redirect.

11 **MS. CLARK:** Yes, I have a few.

12 **REDIRECT EXAMINATION**

13 **BY MS. CLARK:**

14 **Q.** I guess I would like to start with  
15 Commissioner Balbis asked you some questions regarding  
16 the increases in compensation. Do you have any  
17 information that compares those increases to the CPI?

18 **A.** Only as -- with me only what was on C-35. I  
19 don't have it for a period that extends prior to 2009  
20 with me.

21 **Q.** Okay. And what is that comparison? And I  
22 think you also mentioned it in your direct testimony, as  
23 well.

24 **MR. MOYLE:** I'm going to object to the form in  
25 that it is ambiguous. I think the question is, she's

1 trying to ask her to compare to CPI and then she is  
2 saying the raises. And it is unclear, at least to me,  
3 with respect to she is talking about raises for the test  
4 year, which are 3 percent, or raises, you know, for the  
5 period of time that were set forth in that interrogatory  
6 that had it from the last rate case until the present.  
7 So I think if she can just clearly indicate what period  
8 of time with respect to the raises she is talking about,  
9 that would be helpful.

10 **MS. CLARK:** I think Ms. Slattery knows what I  
11 have asked, and I would ask for her to answer that  
12 question.

13 **COMMISSIONER BROWN:** Ms. Clark, I would  
14 actually would like the clarification, too, as well.

15 **MS. CLARK:** Okay.

16 **BY MS. CLARK:**

17 **Q.** Commissioner Balbis had asked you some  
18 questions regarding increases in compensation expense, I  
19 believe.

20 **A.** Yes, he did.

21 **Q.** And I'm just asking you if you have  
22 information regarding a comparison of increases in  
23 compensation and expense in CPI?

24 **A.** Yes, I do. The 2009 to 2013 increase in gross  
25 payroll was approximately 7.8 percent as compared to the

1 projected CPI growth of 8.3 percent and the projected  
2 compensation increase of 11.2 percent from the World at  
3 Work Index for the same period.

4 Q. Turning now to some questions that  
5 Mr. Rehwinkel asked you regarding your interpretations  
6 of Mr. Schultz's testimony, and I'm on Page 9 of your  
7 rebuttal testimony, and I think he asked you some  
8 questions regarding Lines 6 through 10, and then --  
9 well, let's just do 6 through 10. Can you explain how  
10 you reached that conclusion with regard to his  
11 testimony?

12 A. Yes. In this part of my testimony, I  
13 summarize some of Mr. Schultz's statements, including  
14 the fact that he indicated in his testimony that if a  
15 performance-based variable compensation program is  
16 appropriately designed and administered, then it would  
17 be appropriate for there to be a cost sharing between  
18 customers and shareholders. And although I definitely  
19 disagree with him regarding that cost sharing, I noted  
20 that he immediately followed that up by recommending  
21 that FPL's plan be shared 50 percent between  
22 shareholders and customers. So it's a reasonable  
23 conclusion that he concluded that we have a properly  
24 designed and administered performance-based variable  
25 compensation plan.

1           **Q.**    And then I think another question was asked,  
2 again, on Page 9, on Lines 19 through 22. Can you  
3 explain how you reached that conclusion, as well?

4           **A.**    Yes. I stated here that Mr. Schultz's  
5 recommendation to disallow 50 percent of the  
6 non-executive performance-based variable compensation,  
7 which I feel he implicitly concedes is legitimate and  
8 reasonable, because he did not criticize the design of  
9 the plan, the administration of the plan, or the total  
10 expense of the plan. I stated that it would be  
11 inconsistent with sound regulatory policy and basic  
12 principles of ratemaking to not allow it in rates as a  
13 legitimate business expense for the company.

14          **Q.**    And I think Mr. Moyle asked you questions  
15 along those lines, too. What is your understanding of  
16 the general standard for recovery of costs through  
17 rates?

18          **A.**    The standard is that if a cost is prudently  
19 incurred and it's necessary and reasonable in providing  
20 service to customers, then it should be recoverable in  
21 rates. And FPL's performance-based variable  
22 compensation program is necessary, as demonstrated  
23 through benchmarking the prevalence of these programs,  
24 it is reasonable and prudently incurred, as demonstrated  
25 by my benchmarking, and, therefore, it should be

1 included in rates.

2 Q. And if a legitimate operating expense is  
3 disallowed, what impact does that have on the rate of  
4 return?

5 A. I'm not an expert on the rate of return, but  
6 certainly when a legitimate business expense is not  
7 allowed in rates and it has to be an expense borne at  
8 the corporate level out of, you know, shareholders'  
9 profits, then it would have a negative impact. And,  
10 again, I think that would be inappropriate, because  
11 there is no reason to disallow a legitimate business  
12 expense that is necessary, reasonable, and prudent.

13 Q. I just want to clarify one other thing  
14 regarding what is included in the average compensation.  
15 Isn't variable incentive -- the performance-based  
16 variable incentive -- performance-based incentive  
17 compensation included in the average compensation?

18 A. Yes, it is.

19 Q. You were asked a number of questions by Public  
20 Counsel regarding Exhibit 589?

21 A. Yes, I was.

22 Q. And I just want to clarify, when was this  
23 informal response provided to Public Counsel?

24 A. I believe it was around June 22nd.

25 Q. Okay. And when did Mr. Schultz file his

1 testimony in this case?

2 **A.** The very beginning of July.

3 **Q.** Yes. So he had this before he filed his  
4 testimony, is that correct?

5 **A.** Yes, he should have.

6 **MS. CLARK:** One minute. We have no further  
7 redirect.

8 **COMMISSIONER BROWN:** Okay. Exhibits. I  
9 understand that staff may have made a little error in  
10 citing the errata to the deposition, Mr. Young?

11 **MR. YOUNG:** Yes, ma'am. I think I stated that  
12 the errata to Ms. Slattery's deposition goes to Exhibit  
13 Number 111. That was in error. It actually goes to  
14 Exhibit Number 541.

15 **COMMISSIONER BROWN:** 541, okay. FPL.

16 **MS. CLARK:** Yes. I would move Exhibit 396.

17 **COMMISSIONER BROWN:** 396. Any objections?

18 That is the deposition? I'm sorry, 396 is --

19 **MS. CLARK:** KS-9.

20 **COMMISSIONER BROWN:** Okay. Thank you.

21 Any objections? Seeing none, Exhibit 396 will  
22 be entered into the record.

23 (Exhibit Number 396 admitted into the record.)

24 **MR. REHWINKEL:** Public Counsel would move 589  
25 through 591.

1                   **COMMISSIONER BROWN:** Any objections? Exhibits  
2 589, 590, and 591 will be entered into the record.

3                   **MS. CLARK:** I'm just checking them, Madam  
4 Chairman.

5                   Mr. Rehwinkel, what was 591, again?

6                   **MR. REHWINKEL:** It was a POD 12 worksheet.

7                   **MS. CLARK:** Okay.

8                   **COMMISSIONER BROWN:** Mr. Young, is there  
9 anything I need to do with regard to 541?

10                  **MR. YOUNG:** No, ma'am.

11                  **COMMISSIONER BROWN:** Okay. Thank you.

12                  **MS. CLARK:** Madam Chairman, we have no  
13 objection to those exhibits.

14                  (Exhibit Numbers 589 through 591 admitted into  
15 the record.)

16                  **COMMISSIONER BROWN:** Okay. At this time would  
17 you like to excuse the witness?

18                  **MS. CLARK:** Yes, I would.

19                  **COMMISSIONER BROWN:** Ms. Slattery, thank you,  
20 and I hope you have a good night.

21                  **THE WITNESS:** Thank you.

22                  **COMMISSIONER BROWN:** FPL, your next witness.

23                  **MR. LITCHFIELD:** Thank you. FPL's next  
24 witness is Mr. Robert Barrett, and he was sworn  
25 previously when he appeared for his direct testimony.

1 And, Mr. Butler will present him.

2 **COMMISSIONER BROWN:** Okay. Just a reminder  
3 for all the parties here, we are going until about 7:00  
4 o'clock tonight, so let's motor on.

5 **MR. BUTLER:** Madam Chair, one thing in that  
6 regard, just to bring up and considering where we might  
7 end up posture of the witnesses is that we had talked  
8 earlier about the fact that we do need to get  
9 Mr. Flaherty on tomorrow morning because he has other  
10 commitments and he needs to leave by noon. So let's see  
11 how well we do with Mr. Barrett, and we'll have to  
12 decide, based on that, what we do about the schedule for  
13 the morning.

14 **COMMISSIONER BROWN:** Okay.

15 **MR. BUTLER:** Thank you.

16 **ROBERT E. BARRETT, JR.**

17 was called as a witness on behalf of Florida Power &  
18 Light Company, and having been duly sworn, testified as  
19 follows:

20 **DIRECT EXAMINATION**

21 **BY MR. BUTLER:**

22 Q. Mr. Barrett, have been previously sworn,  
23 correct?

24 A. Yes.

25 Q. Is your mike on?

1           A.    Yes.

2           Q.    Would you please state your name and business  
3 address for the record?

4           A.    Robert Barrett, Jr., at 700 Universe  
5 Boulevard, Juno Beach, Florida.

6           Q.    And by whom are you employed and in what  
7 capacity?

8           A.    Florida Power and Light as Vice-President of  
9 Finance.

10          Q.    Have you prepared and caused to be filed in  
11 this docket 15 pages of Prefiled Rebuttal Testimony?

12          A.    I have.

13          Q.    Do you have any changes or revisions to your  
14 prefiled rebuttal testimony?

15          A.    No, sir.

16          Q.    If I asked you the questions contained in your  
17 rebuttal testimony today, would your answers be the  
18 same?

19          A.    Yes.

20               **MR. BUTLER:** Madam Chair, I would ask that Mr.  
21 Barrett's prefiled rebuttal testimony be inserted into  
22 the record as though read.

23               **COMMISSIONER BROWN:** Seeing no objections, I  
24 will enter Mr. Barrett's prefiled rebuttal testimony  
25 into the record as though read.



1 and (5) to address non-recurring costs and FiberNet charges identified in Staff  
2 witness Kathy Welch's testimony and audit report.

3 **Q. Please summarize your rebuttal testimony.**

4 A. In my rebuttal testimony, I will demonstrate why none of the proposed  
5 forecast adjustments by the intervenor witnesses described above would be  
6 appropriate. The Company has a rigorous forecasting process, as described in  
7 my direct testimony, and it has a proven track record of reasonableness and  
8 reliability. I will discuss why a holistic view of the financial forecast is a  
9 more accurate approach than focusing on specific costs or costs savings in  
10 isolation. FPL's 2013 Test Year forecast is representative of costs that will be  
11 incurred in 2013, and it should be the basis on which rates are set.

12

13 **II. 2013 TEST YEAR AND FORECAST**

14

15 **Q. OPC witness Ramas and SFHHA witness Kollen assert that a forecast**  
16 **developed for the 2009 rate case proceeding of 2013 cost savings for the**  
17 **smart meter program should be used rather than the current forecast for**  
18 **the purpose of setting base rates in this docket. (Ramas, pages 19-23)**  
19 **(Kollen, pages 42-45) Do you agree with this assertion?**

20 A. No. The Company prepares multi-year forecasts, and inherently the closer the  
21 preparation of a forecast is to the forecasted time period, the more precise the  
22 estimations will be. Accordingly, a current view of a forecast period should  
23 always be preferred for rate setting purposes over older views of that period.

1 The company's forecast of 2013 that was included with this 2012 filing is  
2 much more current than the forecast that was referenced in the 2009 rate case.  
3 For additional information regarding the smart meter program 2013 costs and  
4 cost savings, refer to FPL witness Santos' rebuttal testimony. I should point  
5 out that neither witness Ramas nor witness Kollen, nor any other witness, has  
6 questioned the reasonableness of FPL's current 2013 O&M forecast for the  
7 smart meter program.

8 **Q. OPC witness Ramas suggests that it is "unfair" to FPL's customers for**  
9 **them to pay the net O&M expense of \$3.7 million that is projected for the**  
10 **smart meter program in the 2013 test year, because there will be net**  
11 **O&M savings outside the test year. (Ramas, pages 21, 22) Would this be**  
12 **a valid basis to adjust FPL's test year O&M expenses for the smart meter**  
13 **program?**

14 A. No. In fact, a very similar argument was specifically addressed and rejected  
15 by the Commission in FPL's 2009 rate case. SFHHA witness Kollen  
16 recommended that the Commission impute a higher level of savings from the  
17 smart meter program into the 2010 test year that was used in that case, based  
18 on FPL's projection that the savings would increase in the years following  
19 2010. The Commission rejected this recommendation as follows:

20 We believe SFHHA's arguments are unfounded. While we  
21 agree the savings are not in the test year, it would be  
22 inappropriate to move costs or savings from outside of the test  
23 year into the test year.

1 (Order No. PSC-10-0153-FOF-EI, at page 96)

2 **Q. Is it appropriate to apply a “normalized level” for O&M expenses as**  
3 **recommended by OPC witness Ramas in her testimony regarding**  
4 **overhaul expenses? (Ramas, pages 23, 24)**

5 A. No. The 2013 Test Year is representative of the overhaul expenses that are  
6 projected to be incurred in that year. As referenced in witness Kennedy’s  
7 rebuttal testimony, the projected 2013 overhaul expenses are appropriate and  
8 witness Ramas’ proposed adjustment lacks appropriate justification.  
9 Additionally, witness Ramas does not attempt to substantiate her approach  
10 with any facts, such as specifics of planned activities, duration of overhaul  
11 activities, or any other substantive basis. She arbitrarily asserts that the 2010-  
12 2013 average is indicative of the 2013 test year with no foundation. Moreover,  
13 her approach would actually have the effect of disallowing the reasonably  
14 estimated expenses of delivering the overhaul work planned for 2013.

15

16 The goal of a test year forecast is to be representative of the period in which  
17 rates will be in effect. As noted by the Commission in Order No. PSC-10-  
18 0153-FOF-EI discussed above, “it would be inappropriate to move costs or  
19 savings from outside of the test year into the test year.” The first year the  
20 rates will be in effect is 2013, and the level of overhaul expenses in the test  
21 year is representative of the expenses for 2013 – much more so than the  
22 “normalized level” proposed by witness Ramas. For the years beyond 2013, it  
23 would be speculative to attempt to “normalize” one element of expenses in

1           anticipation of the trend that specific element might take.     Witness Ramas  
2           recommends that the Commission normalize expenses “based on a four-year  
3           average cost level” (Ramas, page 25). The Commission should reject this  
4           notion, as it would be inconsistent with the holistic approach to forecasting to  
5           average one specific category of expense over a multiple-year period while  
6           using the specific test-year values for the other categories of expenses and  
7           revenues.

8  
9           In this regard, I would like to point out that the ultimate measure of whether a  
10          test year forecast remains representative during the period in which rates are  
11          in effect is the Commission’s earnings surveillance process. Earnings  
12          surveillance reports show actual revenues, expenses, investment and  
13          borrowing costs that a utility experiences during the period when rates are in  
14          effect. The Commission evaluates the continued appropriateness of a utility’s  
15          rates by comparing its earned Return On Equity (“ROE”) to the approved  
16          ROE range for that utility; it does not attempt to use the earnings surveillance  
17          process to compare individual elements of revenues, expenses, investment or  
18          borrowing costs to the values that appear in the test year. This process  
19          inherently recognizes that it is the holistic relationship among the elements of  
20          a forecast -- rather than individual values within the forecast -- that must  
21          remain intact.

1 **Q. Has witness Ramas been consistent in applying her “normalization”**  
2 **approach?**

3 A. No. Witness Ramas’ approach to generation overhaul expense is completely  
4 at odds with her suggested approach on the smart meter program just  
5 discussed. “Normalizing” the net O&M expense of the smart meter program  
6 as she suggests for overhaul expense would have yielded a normalized value  
7 of \$7.5 million, an increase of \$3.8 million to the forecasted net O&M of \$3.7  
8 million. However, witness Ramas employs a different argument to  
9 recommend lowering smart meter program revenue requirements by \$20  
10 million (*i.e.*, she resorts to an outdated forecast of 2013 rather than a  
11 normalized view over multiple years). Witness Ramas appears to be basing  
12 her adjustments on whatever approach results in the greatest decrease to  
13 revenue requirements, without regard for logic or consistency.

14  
15 “Cherry picking” individual elements to increase or decrease expenses based  
16 on anticipated changes outside the test year would be inconsistent with a  
17 holistic view of a forecasted test year. There are instances of adjustments to  
18 the test year forecast for out-of-period changes that go the other direction from  
19 the adjustment that witness Ramas proposes. For example, FPL’s proposed  
20 2013 revenue requirements benefit from the amortization of \$191 million of  
21 depreciation reserve surplus, but FPL will amortize absolutely no reserve  
22 surplus after the end of 2013. This credit to revenue requirements in 2013 is  
23 not indicative of a “normal” level of depreciation. However, to maintain the

1 integrity of the forecast for the test year, FPL has not attempted to adjust it for  
2 those changes that would increase revenue requirements, and the intervenors  
3 should not be permitted to “cherry pick” adjustments going the other way.

4 **Q. Is it appropriate to apply a “normalized level” for O&M expenses as**  
5 **recommended by SFHHA witness Kollen regarding nuclear maintenance**  
6 **reserve accrual?**

7 A. No. SFHHA witness Kollen simply computes an average of the nuclear  
8 maintenance outage accruals for 2010, 2011 and 2012 and asserts that average  
9 as an appropriate level of outage expense for 2013. What he fails to  
10 acknowledge is that the appropriate level of accrual for 2013 should be based  
11 on the specific outage work to take place in 2013 and subsequent year outages  
12 that are being reserved for in 2013. The reserve-in-advance method followed  
13 by FPL specifically looks *forward* not backward to determine the accrual  
14 amount. All nuclear refueling outages are unique to the maintenance work to  
15 be performed in that outage. While there is standard refueling work to be  
16 performed, there is also maintenance work that is based on certain intervals  
17 driven by the technical specifications of the unit that was approved by the  
18 NRC. This work is required to be completed in order to stay in compliance  
19 with those specifications.

20 **Q. Is witness Kollen correct in his statement on page 31 of his testimony that**  
21 **“the Company’s request fails to recognize that in some years it incurs the**  
22 **costs for three outages and in some years it incurs the costs of only two**

1           **outages,” and that the Company should levelize these expenses to reflect**  
2           **an average?**

3    A.    No. He is not correct and, furthermore, it appears he does not understand the  
4           reserve-in-advance method. His testimony states that FPL reserves for two  
5           outages in some years and three outages in others, when in fact FPL is  
6           continually reserving for 12 months of outage expenses for each of its four  
7           units in every year. The number of outages to which each year’s reserves  
8           relate depends on the timing of the completion of an outage. For example, if  
9           an outage ends in May 2013 for a unit, FPL’s 2013 accrual for that unit would  
10          reflect five months of the outage expenses for that outage and then seven  
11          months of the outage expenses for the next outage at that unit after 2013. In  
12          contrast, if there were no outage for a unit in 2013, the accrual for that unit  
13          would reflect 12 months of the outage expenses for that unit’s next outage  
14          after 2013. By using this approach, FPL ensures that twelve months of outage  
15          expenses are included for each unit in every year.

16   **Q.    Is Mr. Kollen correct in his statement that outage expenses for 2014 and**  
17          **2015 are lower than the 2013 Test Year? (Kollen, page 30, 31)**

18    A.    No. One could see how Mr. Kollen might get that impression from FPL’s  
19           response to SFHHA POD 1:9. In fact, however, the forecasts for years  
20           subsequent to the test year are not complete for outage reserve purposes in  
21           FPL’s response to POD 1:9 because they are not relevant to what is being  
22           requested in FPL’s 2013 Test Year. Under the reserve-in-advance method,  
23           FPL estimates costs in 2014 and 2015 for outages that will take place in 2014,

1 2015, 2016, and in some cases, depending on outage timing, 2017. Outages  
2 that far in the future were not fully estimated at the time FPL's forecast was  
3 completed in 2011. In addition, the response to POD 1:9 does not include any  
4 accruals for outages beyond the end of 2015. If the response to POD 1:9  
5 reflected the total projected expenses for all outages through the end of 2017,  
6 then the outage reserve expenses in 2014 and 2015 would be comparable to  
7 the 2013 Test Year, and assuming the same scope of outage work the amounts  
8 of expense would be materially similar each year.

9 **Q. Is witness Kollen correct that FPL attempted to maximize its estimate of**  
10 **outage expenses in the 2013 Test Year?**

11 A. No. FPL's forecast reflects FPL's best projections of the scope and related  
12 expenses for its nuclear outages.

13

14 **III. ACCELERATED AMORTIZATION OF DEPRECIATION SURPLUS**

15

16 **Q. OPC witness Schultz asserts that "the Company has overestimated the**  
17 **depreciation reserve surplus amortization requirement for 2012 by**  
18 **overstating expenses," basing his judgment of accuracy on the budget to**  
19 **actual difference for reserve surplus in 2010. (Schultz, page 35) Do you**  
20 **agree with his assessment?**

21 A. No. Witness Schultz references the accuracy of the 2010 projection of reserve  
22 surplus amortization as a basis for his reservations regarding the accuracy of  
23 the 2012 projection. In 2010, however, extreme weather contributed almost

1 all of the variance between the projected and actual amortization of  
2 depreciation surplus, as I discussed in my direct testimony.

3 **Q. Is OPC witness Schultz's proposed adjustment to the amount of**  
4 **depreciation surplus to be amortized in 2012 reasonable? (Schultz,**  
5 **Exhibit HWS-10, page 1)**

6 A. No. As addressed previously, the 2013 forecast was developed using a  
7 rigorous forecasting process with proven performance. FPL's 2012 Prior  
8 Year forecast was developed using that same rigorous process. The forecasted  
9 2012 depreciation surplus amortization of \$526 million is based upon the best  
10 available information at the time of forecast preparation. Year-to-date  
11 performance, and the best available information for the remainder of the year  
12 indicate that this projected amortization level is still reasonable and reliable.  
13 As referenced in the rebuttal testimony of FPL witnesses Slattery and Hardy,  
14 there is no justification for making the adjustments that witness Schultz  
15 proposes for 2013. Witness Schultz asserts the same invalid justification for  
16 his adjustments to the 2012 surplus requirement shown on HWS-10.  
17 Therefore, those adjustments are unfounded and would be inappropriate. The  
18 amount of depreciation surplus amortization estimated in the 2013 Test Year  
19 forecast is therefore reasonable and appropriate.

20 **Q. What is the Company's recommendation of the amount of depreciation**  
21 **surplus to be amortized in 2013?**

22 A. FPL recommends that \$191 million of depreciation surplus be recorded as  
23 amortized in 2013. The actual amount of depreciation surplus remaining of

1 the original \$894 million established in the last rate case may vary from this  
2 amount. FPL's proposal is to amortize \$191 million of reserve surplus in 2013  
3 and then not to amortize any additional reserve surplus in the subsequent years  
4 in which the newly approved base rates remain in effect, regardless of what  
5 the actual amount remaining at the end of 2013 turns out to be. This will  
6 ensure a proper matching of expected revenues at new rates with the revenue  
7 requirements upon which those rates were established. This approach also is  
8 the most fair and administratively efficient approach for both FPL and  
9 customers.

10

11

#### IV. WORKING CAPITAL

12

13 **Q. OPC witness Schultz recommends an adjustment to working capital**  
14 **relating to Other Accounts Receivable. (Schultz, pages 44, 45) Do you**  
15 **agree with this adjustment?**

16 **A.** No. Witness Schultz states that he excluded specific Other Accounts  
17 Receivable accounts that he assumes do not provide utility services. The  
18 accounts that witness Schultz is excluding in the Test Year via his proposed  
19 adjustment are necessary for providing utility service, as discussed in FPL  
20 witness Ousdahl's rebuttal testimony and the audit performed by the  
21 Commission Staff.

22



1 plant balances is exceeding the rate of depreciation. Additionally, there are  
2 other costs that are part of the FiberNet monthly charges to FPL, such as  
3 property taxes, sales taxes, and other operations and maintenance costs which  
4 vary depending on the business needs and external factors such as tax rates.

5 **Q. Does this conclude your rebuttal testimony?**

6 **A. Yes.**

1 **BY MR. BUTLER:**

2 Q. Mr. Barrett, are there any exhibits  
3 accompanying your rebuttal testimony?

4 A. No, there are not.

5 Q. Okay. Have you prepared a summary of your  
6 rebuttal testimony?

7 A. Yes, I have.

8 Q. Okay. Would you please give it at this time?

9 A. Yes.

10 Good evening, Commissioners.

11 Intervenors in this proceeding have suggested  
12 adjustments to FPL's forecasted test year that are  
13 inappropriate and unwarranted for setting rates in 2013.  
14 FPL's forecasted test year and request for an increase  
15 in base revenues is reasonable and reliable for use by  
16 this Commission.

17 Specifically, my rebuttal testimony will  
18 address five specific issues raised by intervenor  
19 witnesses. First, both Witnesses Ramas and Kollen have  
20 proposed that the Commission ignore the current forecast  
21 of costs and savings for the smart meter project, and  
22 instead rely upon the forecast made by the company three  
23 years earlier. Neither witness is an expert in the  
24 planning, design, or execution of a smart meter  
25 initiative as being implemented by FPL.

1           Neither witness suggests that the 2009 smart  
2 meter project forecast is more reliable or more  
3 representative of the expected costs and savings than  
4 the company's 2013 test year forecast of costs and  
5 savings. Rather, their sole justification seems to be  
6 that adopting their recommendation would lower revenue  
7 requirements for customers. The Commission should  
8 reject the intervenors' position as arbitrary and  
9 unreasonable.

10           Second, Witness Ramas argues that generation  
11 overhaul expenses should be normalized over a four-year  
12 period ending with the 2013 test year. Her position  
13 begins and ends with the observation that the 2013  
14 projected generation overhaul expenses are higher than  
15 the 2010 to '13 average. She has not asserted that the  
16 2013 expenses are unreasonable or that they do not  
17 represent what the company is expected to incur in 2013.  
18 Neither has she demonstrated that the '10 through '13  
19 average that she derives is representative of the  
20 company's expected costs in 2013 and beyond, the period  
21 which new rates will be effective.

22           Additionally, she chose not to apply a  
23 consistent methodology to smart meters which would have,  
24 in fact, increased revenue requirements. She has  
25 selectively made downward adjustments to the company's

1 projected revenue requirements. Accordingly, the  
2 Commission should reject Ms. Ramas' proposed adjustment.

3 Third, Witness Kollen recommends a similar  
4 normalization adjustment for nuclear outage amortization  
5 expenses. FPL accrues outage expense in advance of an  
6 outage and FPL projects the outage costs for each unit  
7 according to the scope of work planned for that unit,  
8 and then establishes a monthly accrual that will build a  
9 reserve to equal the expected cost. The nuclear  
10 maintenance accrual for '13 accurately reflects that  
11 process.

12 The basis for Mr. Kollen's adjustment is that  
13 the outage accrual projected for 2013 is higher than the  
14 outage accruals for 2010 through 2012. However,  
15 Mr. Kollen never asserts that the 2013 outage accrual is  
16 an inaccurate outcome of FPL's accrue-in-advance  
17 methodology. He wrongly asserts that 2013 is a higher  
18 level of accrual than future periods, because he  
19 mischaracterizes those future outage costs based on  
20 incomplete information. Accordingly, the Commission  
21 should reject Mr. Kollen's proposed adjustment.

22 Fourth, OPC Witness Schultz proposes several  
23 adjustments to certain 2013 operating costs discussed in  
24 more detail in FPL Witness Ousdahl's testimony. By  
25 extension, Witness Schultz applies his adjustments to

1 2012 and suggests that FPL has overstated its required  
2 use of surplus depreciation amortization and thereby  
3 understated that depreciation available for use in 2013.  
4 As demonstrated by FPL Witness Ousdahl, Mr. Schultz's  
5 proposed adjustments to 2013 are inappropriate and,  
6 therefore, they are inappropriate in 2012, as well.

7 Mr. Schultz also makes adjustments to 2013  
8 working capital based upon his review of 2011 actual  
9 data. FPL Witness Ousdahl demonstrates that Mr.  
10 Schultz's adjustments to working capital are  
11 inappropriate. The Commission should reject each of Mr.  
12 Schultz's proposed adjustments.

13 Finally, my rebuttal testimony addresses the  
14 FPSC staff audit report sponsored by Witness Welch's  
15 testimony regarding nonrecurring costs and FPL Fibernet  
16 charges. Substantially all of the 2011 nonrecurring  
17 costs identified by Ms. Welch were appropriately not  
18 included in the 2013 test year.

19 Secondly, Ms. Welch suggests that Fibernet's  
20 charges to FPL should be lower than the charges  
21 contained in the 2013 test year. However, the Fibernet  
22 charges reflected in FPL's 2013 test year are  
23 appropriate.

24 This concludes the summary of my rebuttal  
25 testimony.

1           **MR. BUTLER:** Thank you, Mr. Barrett.

2           I tender the witness for cross-examination.

3           **COMMISSIONER BROWN:** Thank you. Mr. Moyle.

4           **MR. MOYLE:** Thank you.

5                           **CROSS EXAMINATION**

6           **BY MR. MOYLE:**

7           **Q.** Good evening, Mr. Barrett.

8           **A.** Good evening.

9           **Q.** Are you testifying as an expert?

10          **A.** Could you be more specific?

11          **Q.** You're aware that in proceedings like this  
12 there's expert testimony and fact testimony?

13          **A.** Yes.

14          **Q.** So I'm just curious with respect to your  
15 rebuttal testimony is any of your -- I mean, are you  
16 testifying as an expert? I don't know how I can be more  
17 clear.

18          **A.** With respect to the forecast for 2013, I  
19 believe I am the expert for that.

20          **Q.** Anything else?

21          **A.** I believe those are the issues that I'm  
22 rebutting.

23          **Q.** So you are an expert with respect to  
24 forecasts -- I mean, obviously you are Vice-President of  
25 Finance, so you would probably be an expert in financial

1 matters, as well?

2 A. I guess it would depend on what you would  
3 proffer as those financial matters.

4 Q. Okay. So with respect to your rebuttal  
5 testimony, just so I'm clear, the only portion for which  
6 you are considering yourself an expert is on the  
7 forecast for 2013?

8 A. I'm putting forth my testimony as an expert to  
9 rebut the positions of the intervenors as far as they  
10 are making adjustments to the forecasted test year,  
11 correct.

12 Q. And in your opening you had criticized some of  
13 the intervenor witnesses because they weren't an expert  
14 in smart meter implementation. You know, likewise,  
15 you're not an expert in smart meter implementation, are  
16 you?

17 A. I have been part of the -- no, I'm not an  
18 expert in smart meter implementation. But as part of  
19 FPL's management, I have reviewed the project and rely  
20 on Witness Santos' testimony regarding the costs and  
21 savings regarding the AMI project.

22 Q. So you have familiarity with it, but likewise  
23 with the other witnesses, you don't have a special  
24 expertise? I mean, I think you have given me the  
25 answer, that you don't consider yourself an expert in

1 smart meter implementation.

2 Let me direct you to Page 5, Line 21.

3 A. Which line?

4 Q. It's Line 21. I guess it's probably fair to  
5 start up at the top on Line 8. And you are asked a  
6 question about the OPC Witness Ramas' suggestion that it  
7 is unfair for FPL customers to pay O&M expense of 3.7  
8 for the smart meter program in 2013 test year, because  
9 there will be net O&M savings outside the test year, and  
10 you comment in your answer to this, correct?

11 A. Yes.

12 Q. Okay. Is Ms. Ramas correct that it is  
13 projected that there will be savings outside of the test  
14 year?

15 A. Yes.

16 Q. What is the order of magnitude?

17 A. I believe that was the subject of Ms. Santos'  
18 testimony. I don't have it in front of me.

19 Q. Okay. And I guess you -- there's a statement  
20 that you quote. You say that while we agree the savings  
21 are not in the test year, it would be inappropriate to  
22 move costs or savings from outside the test year into  
23 the test year. Is that right?

24 A. Yes. I'm quoting from the Commission's order  
25 from our last rate case where a similar adjustment was

1 proposed by the Hospital Association's witness, and the  
2 Commission found that it would be inappropriate to pull  
3 costs and savings from outside the test year into the  
4 test year. And so I'm using that as some of my support  
5 for rejecting it this time.

6 Q. Okay. But this isn't a hard-and-fast rule  
7 with respect to moving costs in and out of the test  
8 year, is it?

9 A. I don't believe so. But I believe if we look  
10 at the facts in this case it's not really fair to impute  
11 costs or savings into the test year that we don't expect  
12 to incur. That's sort of cherry-picking.

13 Q. But I guess the Commission could do it, if it  
14 were so inclined; wouldn't you agree?

15 A. I suppose if the Commission were to decide  
16 that they wanted to put a different revenue requirement  
17 impact in the test year, they could do so. I would hope  
18 that they would recognize that nobody has contested the  
19 costs and savings of this program in the test year, so  
20 they would be doing so over the evidence for what we  
21 will actually incur in 2013.

22 Q. But isn't it true in this case that you, you  
23 being Florida Power and Light, is also seeking to move  
24 costs that it will not incur fully in the test year into  
25 the test year in full?

1           **MR. BUTLER:** I think that question is  
2 extremely ambiguous. If he has something specific in  
3 mind that he thinks is being moved into the test year he  
4 ought to ask about it.

5           **MR. MOYLE:** Well, I would --

6           **COMMISSIONER BROWN:** I'm going to rule in your  
7 favor, so don't say anything.

8           (Laughter.)

9           I'll allow the question, and allow the witness  
10 an opportunity to respond if he understands it. If he  
11 doesn't, that's fine.

12           **THE WITNESS:** I would like for you to give me  
13 an example.

14 **BY MR. MOYLE:**

15           **Q.** Well, if you would answer the general  
16 question, and then we can maybe look at --

17           **A.** I don't know. So if you would give me the  
18 specific reference that you are referring to, I might be  
19 able to answer that.

20           **Q.** Okay. Your Cape Canaveral project is supposed  
21 to come in in July, isn't that right?

22           **A.** No, that's not correct.

23           **Q.** June?

24           **A.** June of 2013.

25           **Q.** And isn't it true that typically in ratemaking

1 when a project like that would come in in the middle of  
2 a test year that you would look at the costs associated  
3 with that, and, in effect, prorate them so that if it  
4 came in halfway through the test year you would get half  
5 of the cost? Is that generally fair and correct, as you  
6 understand it?

7 **A.** No, I don't think that that is fair that that  
8 is the typical way that you would do a large generation  
9 project like that. I think there are other cases where  
10 you would look at stepping up the rates for a large  
11 generation addition like that. And as I said in my  
12 direct, we put all of the evidence before the Commission  
13 for all of the costs for Canaveral to be considered.  
14 And so, you know, we feel like that the step increase is  
15 necessary and appropriate to get its fully recovered  
16 costs so we don't start 2014 with an underrecovered  
17 position on that particular plant.

18 **Q.** Okay. And I don't mean to retread back onto  
19 the whole issue, but I guess with respect to your  
20 testimony that it's unfair for the smart meter  
21 adjustment to be made, you know, the rule has, I guess,  
22 some flexibility. Because in this case, as I understand  
23 it, the useful life of the Cape Canaveral plant is only  
24 going to be for six months, not the whole test year,  
25 correct?

1           **MR. BUTLER:** The useful life?

2           **MR. MOYLE:** The revenue requirements, I'm  
3 sorry.

4           **THE WITNESS:** Can you please rephrase the  
5 question?

6           **BY MR. MOYLE:**

7           **Q.** Let me ask it this way. If Cape Canaveral  
8 were coming in in December of 2013, how much, under a  
9 normal ratemaking process, would you be looking to  
10 receive for Canaveral if you assumed it was worth \$100?

11           **A.** I guess I would characterize your -- you have  
12 said normal. We would probably ask for a step increase  
13 in December for Canaveral for the full 100.

14           **Q.** Okay. But if you don't ask for a step  
15 increase you get 1/12th, isn't that correct?

16           **A.** If you don't get the step increase, then I  
17 guess that would be the case, but we would think a step  
18 increase in that case would be appropriate.

19           **Q.** And isn't the step increase really a euphemism  
20 for deviating from the standard practice as the  
21 Commission deals with rate case expense? It's an ask  
22 for an extraordinary out-of-the-usual type of treatment  
23 because the plant has a lot of dollars associated with  
24 it. You would agree with that, correct?

25           **A.** I would agree that it has a lot of dollars

1 associated with it. As far as out the ordinary, if you  
2 go back in our recent past, we have had what we call  
3 GBRA, generation base rate adjustment, increases which  
4 were specifically for power plants coming in in the  
5 middle of a year. So there is a lot of precedent for  
6 the Commission granting a generation step-up increase  
7 for a unit very much like Canaveral. I mean, in fact,  
8 our step-up increase is really analogous to the  
9 generation base rate adjustments we have done in the  
10 prior settlement agreements.

11 **Q.** Let me shift gears with you. On Page 14 you  
12 have some testimony about Fibernet; this is on Line 21.  
13 I guess if I understand this you are disagreeing with  
14 PSC staff, when they audited they found some charges  
15 that should have been adjusted, and you disagree with  
16 that adjustment, is that right?

17 **A.** Not exactly. As I understand Ms. Welch's  
18 testimony, it wasn't that she was suggesting an  
19 adjustment, just that she thought that the -- as I have  
20 stated here, excerpted from her testimony, that they  
21 thought that the charges probably would continue to  
22 decrease. And I just disagree with that. Because as  
23 plant has been added to Fibernet and we basically get  
24 charged on a cost basis, the charges that are being  
25 reflected coming across to Florida Power and Light are

1 based on the costs, and they are appropriate in the 2013  
2 test year.

3 Q. I was under the impression, based on the  
4 testimony of, I think, Ms. Ousdahl and others that  
5 Fibernet was a stand-alone telecom company that was  
6 looked to and competed against AT&T and Verizon. Is  
7 that your understanding?

8 A. Yes.

9 Q. Does Fibernet charge FPL things like -- and  
10 this is on Page 15 -- do they charge property taxes?

11 A. They charge us a cost-based rate which would  
12 include the typical revenue requirements of return on  
13 capital at what our allowed cost of capital is and the  
14 other components of the capital costs, like property  
15 taxes, insurance, like they would charge any other  
16 customer, but it is just cost-based for us.

17 Q. You would agree that that is a different way  
18 of charging than Verizon or AT&T would charge you for a  
19 telecom service, correct?

20 A. Yes. We are probably getting it cheaper than  
21 we would get it from AT&T or Verizon because of that.

22 Q. Do you know that for a fact, or are you  
23 speculating on that?

24 A. Well, I can't imagine they would charge us  
25 below cost. So it's somewhat speculative, but I can't

1 imagine them charging us below cost.

2 Q. But you haven't done any analysis of their  
3 cost, i.e., AT&T and Verizon's costs comparable to FPL's  
4 costs, have you?

5 A. No, I have not. But I believe that Witness  
6 Ousdahl, when she was on direct, talked about how we  
7 have contracts with lots of our vendors, including  
8 Fibernet. And when we get to the end of those  
9 contracts, we put out for bid for services and, you  
10 know, we take the lowest cost.

11 Q. And, finally, just with respect to your  
12 comment about the business needs and external factors,  
13 such as tax rates, are there -- what did you mean by  
14 business needs? Do you see that on Line 4?

15 A. Yes. Just as they run their business, the  
16 cost of them providing their services.

17 Q. So if they have some costs and they say, well,  
18 these are additional costs this month, you know, here  
19 they are, and they can justify it, then FPL pays it, is  
20 that how that works?

21 A. You might want to ask Ms. Ousdahl about that,  
22 but I believe we are under contract with them for the  
23 services that we provide -- that they provide us.

24 **MR. MOYLE:** Okay. That's all I have.

25 **COMMISSIONER BROWN:** Okay. Thank you.

1 Mr. Wiseman.

2 **MR. WISEMAN:** Thank you, Madam Chairman.

3 **CROSS EXAMINATION**

4 **BY MR. WISEMAN:**

5 Q. Good evening, Mr. Barrett.

6 A. Good evening.

7 Q. Mr. Barrett, if FPL attempts to justify  
8 including a cost in base rates based upon a  
9 representation that the source of those costs is going  
10 to produce savings for ratepayers, and then the savings  
11 don't come to fruition as FPL had asserted, is it your  
12 position that FPL should not be held accountable for  
13 failing to produce the savings?

14 A. No, that's not my position. My position is  
15 that, you know, I believe you are referring specifically  
16 to the smart meter program?

17 Q. Yes.

18 A. That is a long-term program, and I think  
19 Witness Santos described in a lot of detail on why there  
20 were some delays in the implementation of some of the  
21 functionality, and why the costs have gone up, and why  
22 the savings have been pushed out, so I'm not trying to  
23 retread that ground. But I believe the Commission  
24 clearly has the purview to look at the total cost and  
25 the savings of the program in its entirety. In fact,

1 with that program we file every year a status report.

2 **MR. WISEMAN:** Objection. This is now going  
3 way beyond the question.

4 **COMMISSIONER BROWN:** I agree.

5 **BY MR. WISEMAN:**

6 **Q.** So if I heard you correctly then, it's your  
7 position that FPL should be held accountable if it fails  
8 to produce savings that it has asserted will occur. Is  
9 that a fair characterization of what you said?

10 **A.** I think it's fair that we be held accountable  
11 for the savings of the project in its entirety as they  
12 were estimated, you know, in the original business case.

13 **Q.** I assume when -- I don't recall -- yes, you  
14 were a witness in the last case, the last base rate  
15 case, correct?

16 **A.** I was.

17 **Q.** And I think it was -- and Ms. Santos was a  
18 witness also, correct?

19 **A.** I believe she was.

20 **Q.** And she told -- I believe it was her testimony  
21 that she told us in the last rate case that these  
22 savings were going to come about, right?

23 **A.** I don't recall her testimony.

24 **Q.** Well, do you recall that in the last rate case  
25 FPL represented that there would be savings from the

1 smart meter program, correct?

2 A. Yes, as we are currently saying today, as  
3 well.

4 Q. Right. And those savings didn't come about in  
5 the time frame that FPL had projected, right?

6 A. Well, as I recall -- yes, they did. And as I  
7 recall Ms. Santos addressing that very issue, the 2010  
8 test year savings that were the subject of her testimony  
9 were realized, about \$400,000 were realized in 2010. So  
10 the subject of the test year in that particular  
11 proceeding was 2010, the savings that were put forward  
12 for the test year did come about in the test year.

13 Q. And the savings that she projected beyond or  
14 that FPL projected beyond the test year did not come  
15 about in the time frame that FPL projected, correct?

16 A. That's correct as she explained.

17 Q. And is your testimony in this case about the  
18 savings and when they will come about, is it any more  
19 reliable than the testimony that FPL provided in the  
20 last rate case?

21 A. I believe that's a question for Ms. Santos  
22 that she addressed.

23 Q. So you're not addressing that?

24 A. I'm not addressing that.

25 Q. Could you refer to Page 10 of your testimony.

1 And I would like you to look at two references. You  
2 don't need to read them in the record, just review them.  
3 First, at Lines 8 to 11, if you would look at that.

4 A. Just Lines 8 through 11?

5 Q. Well, that's the first reference.

6 A. Okay.

7 Q. And then the second is Page 10, Lines 22,  
8 through Page 11, Line 4. And let me know when you're  
9 ready, please.

10 A. I'm sorry, to 11, what?

11 Q. I know it's getting late. We're all getting  
12 bleary-eyed. Page 10, Line 22, through Page 11, Line 4.

13 A. Okay.

14 Q. All right. Now, if I understand that  
15 testimony, what you're saying is that your proposal in  
16 this case is to include actual nuclear maintenance  
17 outage expenses that FPL projects it will incur in 2013  
18 plus an accrual for nuclear outage expenses that FPL  
19 projects it will incur in 2014 and 2015, is that right?

20 A. I don't know if that's exactly right. Can I  
21 take just a few minutes to explain?

22 Q. Sure. Absolutely.

23 A. Our accrual-in-advance method for nuclear  
24 outages essentially looks ahead to the next outage that  
25 will be there for each of the four units, and sets up an

1       accrual such that by the time that outage gets there we  
2       will have enough money to pay for that outage.  So at  
3       any given time we are accruing for all four units.  And  
4       in any given year there is at least one outage being  
5       accrued for, maybe more than one.  So I don't know if  
6       that clarifies things, or maybe it makes it muddier.

7           **Q.**  Well, I don't think that really went to the  
8       question I was asking.  Let's go back to the testimony.  
9       If we go to Page 20 -- I'm sorry, Page 10, Line 22.

10          **A.**  Yes.

11          **Q.**  You say there under the reserve-in-advance  
12       method, FPL estimates costs in 2014 and 2015 for outages  
13       that will take place in 2014, 2015, 2016, and in some  
14       cases, depending on outage time, 2017.  And then I think  
15       you say -- you said a couple of lines later that the  
16       information you provided in this docket does not include  
17       accruals for outages beyond the year 2015, correct?

18          **A.**  Correct.  POD 9, I believe, stopped at 2015.

19          **Q.**  Okay.  So what I'm trying to figure out is  
20       that the amount that you're asking for under your  
21       advance -- I'm sorry, I think you called it the  
22       advanced --

23          **A.**  Accrue in advance.

24          **Q.**  Accrue-in-advance method, is that you would  
25       like to collect now in base rates an amount that you are

1 estimating that you will incur in 2013 plus amounts for  
2 expenses that you believe or project that you will  
3 accrue and incur in 2014 and 2015, isn't that right?

4 A. Yes, that's correct. That's the way the  
5 methodology works.

6 Q. All right. So under that methodology, then,  
7 wouldn't it be correct that you will be collecting in  
8 base rates amounts that you won't actually spend until  
9 2014 and 2015, to some degree, correct?

10 A. To some degree. And that's the method that we  
11 have followed for a host of years.

12 Q. And so the amount that you are going to  
13 project, obviously that is an estimate, right?

14 A. It's an estimate based on the scope of work  
15 that the nuclear engineers put together for that  
16 particular refueling outage.

17 Q. And it may turn out that actual expenses --  
18 they are certainly going to differ from your projection.  
19 They may be higher, they may be lower, correct?

20 A. That's fair.

21 Q. And, again, your methodology that FPL proposes  
22 you refer to as the reserve-in-advance method, right?

23 A. Yes.

24 Q. Now, Mr. Kollen for SFHHA has proposed a  
25 methodology that he refers to as the post-pay

1 methodology, correct?

2 **A.** That is my understanding.

3 **Q.** And do you understand that under Mr. Kollen's  
4 method, the post-paid method, costs would be reserved  
5 when they are actually incurred at the amounts actually  
6 incurred, is that correct?

7 **A.** That's my understanding. I think that Witness  
8 Ousdahl actually addresses that particular issue. It's  
9 not part of my rebuttal testimony.

10 **Q.** Okay. Well, let me just ask you a couple more  
11 questions about it. Not about the accounting, I will  
12 cover that with her.

13 Are you aware of any state commission that has  
14 adopted the post-paid accrual method recommended by Mr.  
15 Kollen?

16 **A.** No.

17 **MR. WISEMAN:** I would like to have now marked  
18 for identification the next exhibit in order.

19 **COMMISSIONER BROWN:** I have 592 for  
20 identification.

21 **MR. WISEMAN:** Thank you.

22 (Exhibit Number 592 marked for  
23 identification.)

24 **COMMISSIONER BROWN:** Any objections to this?

25 **MR. BUTLER:** No objection.

1                   **COMMISSIONER BROWN:** You may proceed.

2                   **MR. WISEMAN:** Thank you.

3                   **BY MR. WISEMAN:**

4                   **Q.** Mr. Barrett, would you agree that FPL asked an  
5                   interrogatory of SFHHA specifically directed to  
6                   Mr. Kollen and asked him to identify all instances of  
7                   which he was aware where regulatory commissions other  
8                   than the Florida PSC had adopted the post paid nuclear  
9                   maintenance reserve accrual methodology, is that  
10                  correct?

11                  **A.** I would agree that is what this appears to be.

12                  **Q.** Okay. And in this response, Mr. Kollen  
13                  identifies FERC, the Louisiana PSC, the Alabama PSC, the  
14                  Georgia PSC, and the Indiana Utility Regulatory  
15                  Commission as commissions that he is personally aware of  
16                  that have adopted the post-period methodology, is that  
17                  correct?

18                  **A.** That's what it appears to say.

19                  **Q.** And do you have any reason to believe that Mr.  
20                  Kollen is incorrect?

21                  **A.** I don't know whether he is correct or  
22                  incorrect.

23                  **MR. WISEMAN:** Thank you. I have no further  
24                  questions.

25                  Thank you, Mr. Barrett.

1           **THE WITNESS:** Thank you.

2           **COMMISSIONER BROWN:** Captain?

3           **CAPTAIN MILLER:** No questions.

4           **COMMISSIONER BROWN:** Okay. Mr. Rehwinkel.

5           **MR. REHWINKEL:** Very briefly.

6                           **CROSS EXAMINATION**

7           **BY MR. REHWINKEL:**

8           **Q.** Good evening, Mr. Barrett.

9           **A.** Good evening, Mr. Rehwinkel.

10          **Q.** I believe -- well, in your summary of your  
11 rebuttal, you made a remark that Mr. Moyle referred to  
12 about the expertise or lack thereof of Mr. Kollen and  
13 Ms. Ramas. Do you recall that?

14          **A.** Specifically related to the AMI project, yes.

15          **Q.** Could you show me where in your rebuttal  
16 testimony you make that point?

17          **A.** Give me just a moment. I don't make that  
18 specific point.

19          **Q.** Okay. So that part of your summary was not  
20 part of your rebuttal, is that correct?

21          **A.** Correct.

22          **Q.** Okay. Now, let's look on Page 3 of your  
23 rebuttal, Lines 9 through 23, carrying on to Page 4,  
24 Line 2. Do you see that?

25          **A.** Yes.

1           Q.    You list five items that are part of your  
2 rebuttal testimony, do you not?  Five general subject  
3 matters of your rebuttal?

4           A.    Five enumerated sections, yes.

5           Q.    Show me where in those five is the Canaveral  
6 step adjustment addressed?

7           A.    It's not in my rebuttal testimony, but was --

8           Q.    Okay.  Thank you.

9           A.    Can I explain?

10          Q.    My question was only as far as whether it is  
11 part of your rebuttal testimony.

12                   **COMMISSIONER BROWN:**  Mr. Rehwinkel, I'll let  
13 the witness respond a little bit further; give him some  
14 latitude.

15                   **THE WITNESS:**  Right.  It came into the concept  
16 of the normalizing of expenses that Mr. Moyle was asking  
17 me about and the appropriateness of putting costs or  
18 savings into a test year, and so that is where my -- it  
19 relates directly to the issue of the appropriateness of  
20 costs or savings within a test year.

21 **BY MR. REHWINKEL:**

22          Q.    Okay.  And Mr. Moyle raised that point, right?

23          A.    Well, I raised the issue of the normalizing of  
24 expenses within my rebuttal testimony.

25          Q.    Okay.  But you didn't bring up Canaveral?

1           A.   Not specifically.

2           Q.   Okay.  And that's not part of your rebuttal?

3           A.   Not specifically, although the concept is.

4           Q.   And there is nothing in your rebuttal

5 testimony that reference GBRA's, correct?

6           A.   Correct.

7           Q.   Okay.  And there is nothing about a GBRA that  
8 has anything to do with normalizing O&M expenses, is  
9 there?

10          A.   I would say yes, in that it was another name  
11 or another characterization I was giving for the  
12 Canaveral step increase.

13          Q.   But what does that have to do with normalizing  
14 O&M expenses?

15          A.   I think I just explained it.

16               **MR. BUTLER:**  Madam Chair, I'm going to object  
17 to this line of questions.  Mr. Barrett was responding  
18 to questions that Mr. Moyle raised, which as I  
19 understood it, you know, Mr. Moyle was asking him if it  
20 was consistent to be objecting to, you know, looking  
21 outside the test year for certain types of expenses by  
22 pointing to the Canaveral step increase request, and so  
23 Mr. Barrett was responding to those questions.  That's  
24 how the subject had become --

25               **MR. REHWINKEL:**  If I may be heard?

1 I'm sorry, Mr. Butler. Were you done?

2 **MR. BUTLER:** I am now.

3 **MR. REHWINKEL:** If I may be heard, Madam  
4 Chairman.

5 I'm a little disappointed because I thought  
6 that the Chairman had really managed this August 15th  
7 stipulation process where it was not going to be part of  
8 this hearing. And I'm contending to this body that Mr.  
9 Moyle teased and teased and teased until he got  
10 Mr. Barrett to finally bring up the business about the  
11 GBRA. And, you know, we're at 7:00 o'clock, and I know  
12 you wanted to end at 7:00, but I'm going to make an  
13 objection and ask that any testimony about GBRA be  
14 stricken, because they are outside of Mr. Barrett's  
15 testimony and have nothing to do with the scope of his  
16 testimony.

17 **COMMISSIONER BROWN:** Mr. Rehwinkel, if I may,  
18 I was a little curious as to that line of questioning,  
19 as well, and why there were no objections raised when  
20 Mr. Moyle was asking those questions. So that has  
21 already occurred. There were no objections during --  
22 well, I do not think we can go back and strike the  
23 record at this point. There were no objections raised  
24 when Mr. Moyle was asking those questions, and I was a  
25 little surprised, as well.

1           **MR. REHWINKEL:** Well, Madam Chairman, if I  
2 may. Part of the protocol that we have been following  
3 is to let the answers come out and deal with these  
4 issues on an ad hoc basis. My goal was not to disrupt  
5 and keep this process -- I wanted to just ask my  
6 questions and make my objection on the record. Because  
7 this shouldn't be about gotcha, because I felt like the  
8 Chairman had ruled and everybody has been behaving about  
9 this. And then I feel like at the last minute, we are  
10 here late in the day, Mr. Moyle did this on purpose.  
11 And I really resent it, because we shouldn't have to be  
12 guarding against that while we are trying to try this  
13 case. But I understand your point about the lateness.  
14 I tried to stay out and make my point when I did.

15           **COMMISSIONER BROWN:** And if I may, I'm going  
16 to look to staff real quick for further guidance.

17           **MS. HELTON:** Perhaps everybody will heed the  
18 conversation that we have just had here and will take  
19 that in mind when conducting themselves and asking  
20 questions and objecting and giving testimony from the  
21 stand.

22           **COMMISSIONER BROWN:** Okay.

23           **MR. SAPORITO:** Madam Chairman, I would like to  
24 be heard on this issue, because this is the very  
25 specific reason why I put a motion in limine in, to

1 protect my due process rights from having to dual  
2 litigate trying --

3 **COMMISSIONER BROWN:** Thank you, Mr. Saporito.  
4 I appreciate your comments, Mr. Saporito, but I think  
5 this issue is done here.

6 Mr. Rehwinkel, this looks like a good time for  
7 a recess.

8 **MR. REHWINKEL:** I'm through with my cross.  
9 Thank you, Madam Chairman.

10 **CHAIRMAN BRISÉ:** Thank you.

11 **MR. WRIGHT:** And I'm going to help everybody  
12 out by telling you I have no questions. Thank you.

13 **COMMISSIONER BROWN:** Thank you.

14 **MR. SAPORITO:** Just very quickly, Madam  
15 Chairman.

16 **COMMISSIONER BROWN:** How quickly is quickly?

17 **MR. SAPORITO:** I just have one or two points  
18 and that's it.

19 **COMMISSIONER BROWN:** Okay.

20 **CROSS EXAMINATION**

21 **BY MR. SAPORITO:**

22 Q. With respect to your testimony on rebuttal at  
23 Page 8, Lines 8 to 13, you state in there that Ramas  
24 employs a different argument to the recommended lowering  
25 smart meter program revenues by 20 million, i.e., she

1 reports to an outdated forecast of 2013 rather than a  
2 normalized view of multiple years, and that Witness  
3 Ramas appears to be basing her adjustments on whatever  
4 approach results in the greatest decrease to revenue  
5 requirements without regard to logic or consistency.  
6 And then in the very next line, Line 15, you reference  
7 her testimony to be as cherry-picking. Do you see that?

8 A. I do.

9 MR. SAPORITO: And I have a document I want to  
10 enter. I believe it is 593.

11 COMMISSIONER BROWN: I'm going to give you  
12 about two minutes to wrap this up. And you can continue  
13 tomorrow, if you are not finished.

14 MR. SAPORITO: And I just want to identify  
15 this on the record as excerpt pages, a cover and Pages  
16 18 to 21 from the direct testimony of Donna Ramas, CPA.

17 COMMISSIONER BROWN: Okay. Any objections?

18 MR. BUTLER: No.

19 COMMISSIONER BROWN: Please proceed.

20 BY MR. SAPORITO:

21 Q. And I would just point you to Page 18 of that  
22 document and the first paragraph, Lines 1 through 8.  
23 Isn't it true Ms. Ramas in her testimony with respect to  
24 the smart meters, she was just pointing out the  
25 discrepancy in the way that FPL handled the \$115 million

1 credit associated with AMI, and she was correcting those  
2 numbers with what FPL had presented. Is that not true?

3 A. In that paragraph that's exactly what she's  
4 doing. It has nothing to do with my rebuttal.

5 Q. Well, this has nothing to do with  
6 cherry-picking, does it?

7 A. That's not what I was referring to by the  
8 phrase cherry-picking.

9 MR. SAPORITO: That's all I have, Chairman.

10 COMMISSIONER BROWN: Thank you.

11 Mr. Hendricks.

12 MR. HENDRICKS: I'm sure everyone will be glad  
13 to hear that I have no questions for this witness.

14 COMMISSIONER BROWN: Staff?

15 MR. YOUNG: No questions.

16 COMMISSIONER BROWN: Commissioners?

17 Redirect.

18 MR. BUTLER: We have no redirect for this  
19 witness.

20 COMMISSIONER BROWN: Excellent.

21 Exhibits.

22 MR. BUTLER: FPL has no exhibits for his  
23 rebuttal testimony.

24 COMMISSIONER BROWN: South Florida Hospitals?

25 MR. WISEMAN: I would move the admission of

1 Exhibit Number 592.

2 **COMMISSIONER BROWN:** Seeing no objections, I  
3 will enter Exhibit 592 into the record.

4 Mr. Saporito.

5 **MR. SAPORITO:** 593, Madam Chair.

6 **COMMISSIONER BROWN:** Seeing no objections, I  
7 will enter 593 into the record.

8 (Exhibit 592 and 593 admitted into the  
9 record.)

10 **COMMISSIONER BROWN:** And I would like to, at  
11 this point -- would you like to --

12 **MR. BUTLER:** I would like to have Mr. Barrett  
13 excused.

14 **COMMISSIONER BROWN:** Mr. Barrett, you're free  
15 to go.

16 **MR. BARRETT:** I like that, as well. Thank  
17 you.

18 **COMMISSIONER BROWN:** One point, just a little  
19 procedural thing. Tomorrow we are going to start at  
20 9:00 a.m. instead of 9:30, and we are going to go until  
21 7:00 o'clock hopefully on the dot.

22 **MR. BUTLER:** And I would remind everyone that  
23 we will be starting with Mr. Flaherty tomorrow.

24 **MR. YOUNG:** Yes, ma'am, we'll be starting with  
25 Witness Flaherty tomorrow morning, and then move back to

1 the order as scheduled.

2 **COMMISSIONER BROWN:** Any other issues?

3 **MR. YOUNG:** Not at this time.

4 **MR. LITCHFIELD:** Madam Chairman, 30 seconds of  
5 indulgence, if you might.

6 We do have for distribution, and if I could  
7 prevail upon staff to distribute this. We do have,  
8 consistent with the Commission's second order revising  
9 order establishing procedure, setting procedural  
10 schedule for Commission consideration of settlement  
11 agreement, we do have some initial discovery that we are  
12 serving tonight on Office of Public Counsel reflective  
13 of that order.

14 **MR. YOUNG:** Madam Chairman, I think -- for the  
15 record, I would recommend that we keep it separate.  
16 Florida Power and Light can serve Office of Public  
17 Counsel any discovery, any data request it chooses. It  
18 doesn't have to be placed on the record in this case.

19 **COMMISSIONER BROWN:** Okay. That's a good  
20 idea.

21 I'm going to recess this hearing at 7:05, and  
22 we will see you in the morning at 9:00 a.m.

23 (The hearing adjourned at 7:06 p.m.)  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF FLORIDA )

: CERTIFICATE OF REPORTER

COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 31st day of August, 2012.

  
-----  
JANE FAUROT, RPR  
FPSC Official Commission Reporter

(850) 413-6732