

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 120015-EI

In the Matter of:

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

VOLUME 28

Pages 4188 through 4299

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COMMISSION
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PROCEEDINGS: HEARING

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

DATE: Thursday, August 30, 2012

TIME: Commenced at 9:04 a.m.
Concluded at 10:51 a.m.

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

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

APPEARANCES: (As heretofore noted.)

I N D E X

WITNESSES

NAME: PAGE NO.

RENE SILVA

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EXHIBITS

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P R O C E E D I N G S

1
2 (Transcript continues in sequence from Volume
3 27.)

4 **CHAIRMAN BRISÉ:** Good morning, everyone. All
5 right. We're going to proceed.

6 **MR. GUYTON:** Florida Power & Light Company
7 calls Rene Silva to the stand. He has previously been
8 sworn.

9 **CHAIRMAN BRISÉ:** Okay. Mr. Silva.

10 **THE WITNESS:** Good morning.

11 **MR. GUYTON:** No. But he, he was here to take
12 the oath yesterday.

13 **CHAIRMAN BRISÉ:** He was sworn yesterday
14 evening.

15 **MR. GUYTON:** Did you miss his earlier
16 testimony, Jon?

17 (Laughter.)

18 Whereupon,

RENE SILVA

19
20 was called as a witness on behalf of Florida Power &
21 Light Company and, having been duly sworn, testified as
22 follows:

DIRECT EXAMINATION

23
24 **BY MR. GUYTON:**

25 **Q** Would you please state your name and business

1 address.

2 **A** My name is Rene Silva. My address is 9250
3 West Flagler Street, Miami, Florida, 33174.

4 **Q** And, Mr. Silva, have you prepared and caused
5 to be filed 31 pages of rebuttal testimony in this
6 proceeding?

7 **A** Yes.

8 **Q** And do you have any changes or corrections to
9 that prefiled rebuttal testimony, other than the errata
10 sheet that's been filed with the Commission?

11 **A** No.

12 **Q** If I were to ask you the same questions today
13 as are contained in your prefiled testimony as modified
14 by your errata sheet, would your answers be the same?

15 **A** Yes.

16 **MR. GUYTON:** Mr. Chairman, we ask that
17 Mr. Silva's rebuttal testimony be inserted into the
18 record as though read.

19 **CHAIRMAN BRISÉ:** Okay. At this time we'll
20 enter Mr. Silva's rebuttal testimony into the record as
21 though read, seeing no objections.

22 **MR. MOYLE:** Mr. Chairman, just, I, I have an
23 issue with respect to this witness testifying possibly
24 as an expert in real estate matters. I brought it up
25 with the Prehearing Officer. So at the right time I'd

1 like the opportunity to voir dire the witness with
2 respect to -- or even find out whether he's being
3 tendered as an expert in real estate matters. If he's
4 not, I'm good. If he is, I'd like to voir dire him, and
5 I think I've done everything in accordance with the
6 Prehearing Order on that regard.

7 I'm bringing it up now because I don't want
8 him to then give his summary and, you know, put a bunch
9 of stuff in about real estate, if, you know, if he's not
10 a real estate expert.

11 **CHAIRMAN BRISÉ:** Okay. Thank you.

12 **BY MR. GUYTON:**

13 **Q** Mr. Silva, are you sponsoring Exhibit RS-1,
14 which has been identified as Exhibit 410?

15 **A** Yes.

16 **Q** And is the information in that exhibit true
17 and correct to the best of your knowledge and belief?

18 **A** Yes.

19 **Q** And is that a copy of that exhibit behind you
20 on the poster there?

21 **A** Yes.

22

23

24

25

ERRATA SHEET

WITNESS: RENE SILVA - REBUTTAL

<u>PAGE #</u>	<u>LINE #</u>	<u>CHANGE</u>
25	13	Should read, "canal reconnection project that would be capable of storing \$135, <u>000</u> acre-feet of..."
25	23	Should read, "canal reconnection project that would be capable of storing 135, <u>000</u> acre-feet of..."
11	13	Change "alternative" to "alternatives"
19	6	Remove the word "also"
20	22	Change "from" to "for"

1

I. INTRODUCTION

2

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

4 A. My name is Rene Silva. My business address is 9250 West Flagler Street,
5 Miami, Florida 33174.

6 **Q. By whom are you employed and what is your position?**

7 A. I am employed by Florida Power & Light Company ("FPL") as Senior
8 Director, Resource Assessment and Planning ("RAP").

9 **Q. Please describe your duties and responsibilities in that position.**

10 A. I manage the RAP group, the department that is responsible for developing
11 FPL's integrated resource plan ("IRP") and other related activities, such as
12 quantifying the need for future resource additions, and analyzing the
13 economic and other impacts to the FPL system from the addition of resource
14 options.

15 **Q. Please describe your educational background business experience.**

16 A. I graduated from the University of Michigan with a Bachelor of Science
17 Degree in Engineering Science in 1974. From 1974 until 1978, I was
18 employed by the Nuclear Energy Division of the General Electric Company in
19 the area of nuclear fuel design. While employed by General Electric, I earned
20 a Masters Degree in Mechanical Engineering from San Jose State University
21 in 1978.

22

1 I joined the Fuel Resources Department of FPL in 1978, as a fuel engineer,
2 responsible for purchasing nuclear fuel. While employed by FPL, I earned a
3 Masters Degree in Business Administration from the University of Miami in
4 1986. In 1987, I became Manager of Fossil Fuel, responsible for FPL's
5 purchases of fuel oil, natural gas, and coal. In 1990, I assumed the position of
6 Director, Fuel Resources Department, and in 1991 became Manager of Fuel
7 Services, responsible for coordinating the development and implementation of
8 FPL's fossil fuel procurement strategy. In 1998, I was named Manager of
9 Business Services in the Power Generation Division ("PGD"). In that
10 capacity, I managed the group that is responsible for coordinating (a) the
11 development of PGD's long-term plan for the effective and efficient
12 construction, operation and maintenance of FPL's fossil generating plants, (b)
13 the preparation of PGD annual budgets and tracking of expenditures, and (c)
14 the preparation of reports related to fossil generating plant performance. On
15 May 1, 2002, I was appointed to my current position.

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

17 A. Yes. I am sponsoring Exhibit RS-1 – Location of McDaniel and Fort Drum
18 Sites.

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

20 A. My rebuttal testimony demonstrates that Office of Public Counsel ("OPC")
21 witness Ramas' recommendation to remove \$108,951,000 from FPL's rate
22 base, representing investment in the Fort Drum site and the McDaniel/Hendry
23 County plant site (the "McDaniel site"), which comprise the entire investment

1 in FPL's Plant Held for Future Use - Other Production Future Use (the "OPFU
2 sites"), (a) would jeopardize FPL's ability to provide reliable service in the
3 future at a reasonable cost and (b) would not be in the interest of FPL's
4 customers.

5

6 **II. PLANT HELD FOR FUTURE USE – OTHER PRODUCTION**

7

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

9 A. My testimony presents and discusses the following points:

- 10 1. FPL has a clear plan for the plant sites reflected in FPL's OPFU
11 regardless of whether the sites currently are scheduled in FPL's Ten Year
12 Site Plan.
- 13 2. FPL likely would need to have control of plant sites as early as 2014 and
14 not later than 2016, and then again as early as 2017.
- 15 3. It would not be good utility practice or in the best interest of our
16 customers, consistent with the long-term planning process that is
17 necessary to ensure continued reliable service at a reasonable cost, if FPL
18 were only to acquire property for power plant sites once a specific in-
19 service date, construction date or a need determination filing date for
20 generating units had been selected; yet, witness Ramas' recommendation
21 would be to disallow any such property that does not meet these criteria.

- 1 4. Ms. Ramas' position fails to take into account the time needed to locate,
2 evaluate, select and acquire sites as well as the dynamic nature of the
3 planning process. These sites by definition are "held for future use."
- 4 5. It is essential that FPL hold and maintain both a primary and an alternate
5 site for future firm generating capacity additions because there is never
6 complete certainty regarding FPL's ability to construct and operate new
7 generation needed to meet customers' demand at the primary site until all
8 required approvals and permits are obtained.
- 9 6. Between 2001 and 2016, all but one of the sites used by FPL to add new
10 generation capacity required to meet the growing needs of its customers
11 were existing sites; however, in the future all new generation except for
12 Turkey Point 6 and 7 will likely be built on new plant sites.
- 13 7. These OPFU sites, the locations of which are marked by star symbols on
14 Exhibit RS-1, were selected after an extensive search and detailed
15 evaluation concluded that the sites meet all the very demanding criteria.
16 As shown on Exhibit RS-1, these OPFU sites are located very close to
17 existing transmission lines and near FPL's area of greatest load
18 concentration in Southeast Florida. Therefore, these OPFU sites are the
19 best sites that FPL could find and acquire.
- 20 8. Disallowing these plant sites in Property Held For Future Use would be a
21 clear indication not only that these sites are deemed not needed for future
22 use and not prudent to retain, but in fact that they should be sold, thus

1 putting the future availability of these properties at risk to the detriment
2 of customers.

3 9. If these OPFU sites are disallowed from FPL's 2013 rate base, when FPL
4 re-enters the market to urgently search, evaluate, select and acquire viable
5 sites for future generation, available sites likely will be fewer, more
6 costly and less desirable.

7 10. Neither the immediate effect of adopting witness Ramas'
8 recommendation – placing FPL in a position where it must urgently
9 acquire more costly, less favorable sites for the next needed generating
10 units - nor the ongoing longer-term effect of such a decision on the utility
11 planning process – clearly implying that FPL should not take advantage
12 of opportunities to acquire sites on beneficial terms when those
13 opportunities present themselves - would be in the best interest of FPL's
14 customers.

15 **Q. Does FPL have a clear plan for the use of the OPFU sites?**

16 A. Yes. These are the sites where FPL plans to build its next non-nuclear
17 generating units. FPL plans to build three combined cycle units at the
18 McDaniel site and another two combined cycle units at the Fort Drum site, for
19 a total generating capacity of up to 6,385 MW.

1 **Q. Does the fact that FPL's planning process has not yet identified specific**
2 **in-service, construction, or need determination filing dates for generating**
3 **units at these sites mean that FPL's plans are uncertain or that the sites**
4 **do not provide value in FPL's planning process?**

5 A. No. The in-service dates of these additions are uncertain at present, but such
6 dates would be consistent with the timing of FPL's next need for new capacity
7 to meet demand growth in FPL's system. Building the plants would be
8 subject to their being deemed the most cost-effective choice, and subject also
9 to the Commission's approval. These sites represent an important and
10 valuable component of FPL's planning process.

11 **Q. What is the purpose of having the OPFU sites as Plant Held for Future**
12 **Use?**

13 A. Simply stated, the purpose of the OPFU sites is to serve FPL's customers.
14 FPL has a responsibility to serve not only the load and energy of existing
15 customers, but also the load and energy requirements of its customers in the
16 future. To meet those future needs, FPL will have to build additional power
17 plants, and some of those power plants will be Other Production plants – gas
18 fired combined cycle and combustion turbine plants - like FPL has added and
19 is scheduled to add from 2001-2016.

20

21 It is important to recognize that the process of identifying, evaluating and
22 acquiring suitable properties to build and operate future power plants
23 necessarily must occur well in advance of any specific anticipated need to

1 build generating units at the site. FPL and its customers cannot afford to wait
2 until FPL has an identified need for new resources to begin procuring sites.
3 FPL has to have some site specific information to make informed decisions
4 about the proper selection of resources. So, FPL cannot wait until there is
5 imminent need determination, construction and in-service dates to go out and
6 identify and procure generating sites. Such sites are limited; they must meet a
7 host of criteria; and they must be analyzed before purchase.

8 **Q. When does FPL expect it will build a new generating unit at one of the**
9 **OPFU sites?**

10 A. After its addition of the new Port Everglades modernized unit in 2016, FPL
11 could require additional new generation resources as early as 2019, and FPL
12 expects that the needed new generation would be built at one of the OPFU
13 sites.

14 **Q. When will FPL need to have control of a plant site to meet such**
15 **generation capacity need?**

16 A. FPL would need to have control of a viable site as early as 2014. Based on a
17 resource need between 2019 and 2021, FPL will have to make a decision
18 regarding how to best meet that resource need as early as 2014, and not later
19 than 2016. This would, in turn, require FPL to have control of one or more
20 plant sites as early as 2014, and not later than 2016.

21 **Q. Why would FPL need site control so early?**

22 A. It takes FPL not less than five years, from the time the best FPL self-build
23 alternative is identified, to obtain all required approvals, build the generating

1 unit and place it in service. The process first requires that FPL evaluate self-
2 build alternatives and identify the one that is the most cost-effective. Then,
3 well in advance of filing a petition for a determination of need, FPL must
4 issue a request for proposals (“RFP”), in compliance with the Commission’s
5 bid rule, to request third-party bids that would compete with FPL’s self-build
6 choice. The Commission’s bid rule requires that FPL provide a detailed
7 technical description of the proposed generating unit on which the RFP is
8 based, the financial assumptions associated with the unit, its location, a
9 description and costs required for associated facilities such as gas laterals and
10 transmission facilities and FPL actions necessary to comply with
11 environmental requirements. In order to comply with these bid rule
12 provisions, it is necessary that FPL have control of the proposed plant site at
13 the time it issues the RFP.

14
15 After FPL evaluates the submitted bids and selects the best alternative, it
16 must, either jointly with the winning bidder or on its own, file a petition for a
17 determination of need. If the determination of need is granted, either FPL and
18 the contract supplier or FPL alone, must obtain a site certification under the
19 Power Plant Siting Act (“PPSA”). Only after the site certification is granted
20 can construction begin. Construction takes at least two years. Recent
21 experience shows that the entire process requires a minimum of five years.

1 **Q. Would it then be necessary for FPL to have completed a thorough review**
2 **of viable plant sites and selected the best available sites by the end of**
3 **2013?**

4 A. Yes. In order for FPL to effectively compare self-build generation
5 alternatives and select the best self-build alternative, it must know with
6 certainty where the various self-build generating unit alternatives would be
7 located, so that a high confidence cost estimate could be developed for all
8 aspects of the construction and operation of each self-build alternative to use
9 in economic analyses. In order for FPL to evaluate its self build alternatives,
10 compare the best of these to third party bids and select in 2014 the best option
11 to be placed in service by 2019, FPL would need to know by late 2013 where
12 those self build alternatives would be sited. And in order to be able to select
13 the best alternative by late 2013, it would have been necessary for FPL to
14 have already begun the process of searching for potentially viable sites, so that
15 there would be adequate time to find and evaluate such candidate sites.

16 **Q. If FPL would need to select a site by late 2013, why did FPL purchase the**
17 **McDaniel and Fort Drum sites in 2011?**

18 A. FPL made those purchases for several reasons:

- 19 • FPL projected that it would have to add new generating capacity to its
20 system in the near future, and it knew that these new resources would
21 have to be built at new sites;
- 22 • these OPFU sites were determined to meet all of the criteria required
23 to build and operate a generating plant;

- 1 ● these OPFU sites were relatively close to the area of FPL’s load
- 2 concentration and very close to FPL’s 500 kV transmission lines;
- 3 ● these OPFU sites were reasonably cost-competitive with the best
- 4 alternative selected by FPL to meet its need in 2016;
- 5 ● the challenges FPL faced in the process of searching, identifying,
- 6 evaluating and selecting these OPFU sites indicated to FPL how
- 7 lengthy and uncertain the process would be in the future and how
- 8 difficult, if not impossible, it would be for FPL to find sites as
- 9 favorable as the OPFU sites; and
- 10 ● the owners of these sites were willing to sell them to FPL at a time
- 11 when real estate prices were depressed, and it was FPL’s judgment that
- 12 prices for any viable plant sites would be higher in the future.

13

14 In short, FPL determined that sites would be needed, and that acquiring the

15 OPFU sites at that time was the most appropriate course of action in meeting

16 its obligation to serve its customers. Conversely, not acquiring the very

17 beneficial OPFU sites would have been inconsistent with the process of long-

18 term planning that is necessary to ensure continued reliable service at a

19 reasonable cost.

20 **Q. Do the OPFU sites meet all the criteria required to build and operate**

21 **generating units in Florida?**

22 A. Yes. FPL initiated, in 2010, a search for candidate plant sites to build new

23 generating capacity required to meet FPL’s 2016 resource need. This search

1 and the subsequent evaluation resulted in the determination that the OPFU
2 sites met all the required criteria, and that the McDaniel and Fort Drum sites
3 were the best sites available for new FPL generation from among many
4 properties that were initially considered possible sites. The criteria that
5 potential sites must meet to be deemed viable are described later in my
6 testimony.

7 **Q. Did FPL consider the OPFU sites as alternatives with its evaluation of the**
8 **best alternative selected to meet FPL's 2016 need?**

9 A. Yes. As part of its normal planning process FPL compared adding a new
10 generating unit in 2016 at each of these sites to modernizing the existing Port
11 Everglades steam units to build the Port Everglades Next Generation Clean
12 Energy Center ("PEEC"). Although PEEC was ultimately chosen as the best
13 choice for 2016 due to the significant advantages specific to the Port
14 Everglades site, the evaluation that led to that conclusion also indicated that
15 building new generation at the OPFU sites were viable and cost-effective
16 alternatives, second only to PEEC.

17 **Q. If FPL's need for new generating capacity were to be in 2021 rather than**
18 **2019, by what time would FPL have to select the best sites available?**

19 A. FPL would have to select the best sites before the end of 2015 and have
20 control of such sites not later than early 2016. But as discussed in my
21 testimony, because the OPFU sites have such advantages, FPL believes that it
22 would not be possible to obtain equally beneficial sites at comparable prices at
23 any time in the foreseeable future.

1 **Q. In FPL's Ten Year Site Plan filed on April 2 of 2012, when did FPL**
2 **project its next generation capacity need?**

3 A. FPL's recently filed Ten Year Site Plan indicated that if all factors that drive
4 the need for new generating capacity in the future were to behave consistent
5 with assumptions developed by early 2012, FPL would have a need for new
6 capacity in 2021, and that the need in 2021 could be met by means of an
7 unspecified power purchase. However, many of the factors that FPL relied on
8 in projecting future resource needs and how those needs could be met in the
9 future can change significantly between now and the time when FPL must
10 make definitive decisions to add new resources.

11

12 For those reasons, FPL's plan reflected in its Ten Year Site Plan typically
13 changes significantly from year to year, especially after the first five years.
14 That is also the reason why, in order to ensure that it will be able to meet its
15 customers' future needs, FPL cannot limit its resource planning process and
16 the timing of site acquisitions to consideration of only one static set of
17 assumptions of future conditions.

18 **Q. What are the factors that would define the timing and magnitude of need**
19 **for new generation after 2016 and for subsequent generation additions?**

20 A. These factors include, but are not necessarily limited to:

- 21 ● the growth in peak demand for electricity in the future;
- 22 ● the growth in megawatts of DSM that FPL's customers subscribe to;
- 23 ● the criteria that FPL uses in the future to ensure reliability of service;

- 1 • environmental regulations that could limit the use of FPL's older units
2 in the future, or could contribute to reductions in
3 Commercial/Industrial Load Control or Commercial/Industrial
4 Demand Reduction by limiting the use of backup generators on which
5 participating Commercial/Industrial customers rely;
- 6 • the actual in service dates of future unit additions already reflected in
7 FPL's plan, including Turkey Point units 6 and 7; and
- 8 • the size (MW) of each future resource addition to FPL's system.

9 **Q. How would changes in these factors from the assumptions reflected in**
10 **FPL's recent Ten Year Site Plan affect the timing of need for new**
11 **resources in FPL's system and the type of resource that FPL would select**
12 **to meet that need?**

13 A. Many possible combinations of changes in the above factors could accelerate
14 the timing of resource need. For example, any combination of a reduction in
15 the rate of growth in DSM megawatts, a delay in the in service date of Turkey
16 Point 6 and 7, and a moderate increase in the rate of peak load growth after
17 2016 would result in a need for resources in 2019, and again in 2022. Also, a
18 decision that FPL maintain a minimum generation-only reserve of, for
19 example, nine percent to ensure system reliability in the future would result in
20 a need for resources in 2019, even if all other factors were to occur as
21 currently projected. Changes in the other factors listed above would also affect
22 the timing and magnitude of future resource needs.

23

1 Changes in the above factors, as well as in projections of future fuel prices,
2 environmental requirements, emission costs and a number of other resource-
3 specific characteristics such as the capital costs and fuel efficiencies of the
4 various resource alternatives would affect the analysis FPL will perform to
5 make a definitive decision regarding the type of new resources to be added
6 after 2016 that would be most beneficial for its customers.

7 **Q. How does uncertainty regarding these factors relate to keeping the OPFU**
8 **sites in rate base?**

9 A. Holding the OPFU sites is a legitimate, necessary part of FPL's long-term
10 resource planning process. Effective long-term resource planning must
11 anticipate future needs under various scenarios of the future, and it also must
12 implement measures that would enable a utility to meet the needs of its
13 customers even if future conditions are markedly different from what is
14 deemed the most likely forecast. Having control of the OPFU sites enables
15 FPL to eliminate one significant area of uncertainty regarding its ability to
16 reliably meet its customers' needs at a reasonable cost. Therefore, the OPFU
17 sites are properly included in rate base as property held for future use.

18

19 Some of the factors that affect the timing of future resource needs, such as the
20 growth in peak load and operating constraints due to changes in
21 environmental regulations are beyond the control or influence of FPL. There
22 are other factors that FPL can influence to some extent, but over which FPL
23 does not have complete control, such as future growth in DSM capacity, the

1 resource reserve criteria needed to ensure that FPL can continue to provide
2 reliable service even if conditions are markedly different from what had been
3 assumed, and the timing and size of new units. All of the above factors
4 contribute significant uncertainty to FPL's planning process, so FPL must
5 contend with this inherent and unavoidable uncertainty as it has done in the
6 past.

7

8 Not having sites under its direct control and in its rate base would
9 unnecessarily add even greater uncertainty to FPL's ability to serve its
10 customers at a reasonable cost in the future and would be inconsistent with an
11 effective long-term planning process. I say unnecessarily because this is one
12 area of uncertainty that is within FPL's control and that FPL has effectively
13 minimized by selecting and securing control of the McDaniel site as a primary
14 site and the Fort Drum site as an alternate site to support base load generation
15 in the future.

16 **Q. Does FPL need to have an alternate site?**

17 **A.** Yes. Until all the required approvals and permits are granted for construction
18 and operation of the proposed generating unit(s) at the primary site there will
19 continue to be some uncertainty as to whether FPL will be able to build the
20 proposed generating unit at that site. Therefore, it is essential for FPL to hold
21 and maintain an alternate site to proceed with timely construction of the
22 required generating facility if the primary site is later determined to be

1 unsuitable or subject to unavoidable delays that extend beyond the project's
2 required timeline.

3

4 It should also be noted that securing the alternate site also provides additional
5 future security if the primary site does turn out to be viable. In that instance,
6 then FPL has control of the best site available to meet its next forecasted need.

7 **Q. What factors could cause the primary site to be deemed unsuitable or the**
8 **overall approval and construction process to be delayed?**

9 A. A number of factors could delay the process and/or ultimately result in
10 rendering the primary site unusable for the intended purpose. These factors
11 include challenges to the title of the property; challenges to local zoning or
12 land use provisions, or denial of required changes to those provisions;
13 challenges to favorable State or federal approvals and permits, or denial of
14 those required approvals and permits; the imposition of conditions as part of
15 the approvals and permits that would make use of the primary site impractical,
16 cost-prohibitive, or unacceptably delayed; encountering unexpected site
17 features or conditions such as archeological or cultural items, environmental
18 contamination; or other attributes that could adversely affect the primary site's
19 viability.

20

1 **Q. Would it be better for customers if FPL removed the OPFU sites from**
2 **rate base, sold them and then sought to acquire plant sites again when**
3 **FPL determines with certainty when it will add generating facilities?**

4 A. No. Power plant sites are not like townhouses. There is no assurance that
5 sites with similarly favorable characteristics as those of the OPFU sites, which
6 would also effectively meet all known requirements to construct and operate
7 large electric generating facilities to serve FPL's customers, could be found in
8 the future – at any cost. In addition, it is almost certain that the cost of such
9 replacement sites will be higher than what FPL paid for the OPFU sites.

10

11 The process of searching for plant sites, identifying potentially viable sites,
12 thoroughly evaluating those candidate sites, selecting the best sites and
13 acquiring the sites, as well as obtaining the water necessary to operate the
14 required generating facilities at those sites is extremely challenging and
15 unpredictable. As stated in the rebuttal testimony of FPL witness Deason, the
16 Commission noted over 40 years ago how limited power plant sites were and
17 that they are valuable assets necessary to serve customers. Their scarcity and
18 value have increased over time. The combined effect of population growth,
19 greater residential and commercial development and more restrictive
20 environmental regulations will make it more difficult for FPL to find and
21 acquire suitable sites, even as early as one or two years from now. It will be
22 even more difficult to obtain property to build the necessary transmission

1 facilities (including new transmission lines on new transmission corridors)
2 and fuel delivery facilities.

3

4 Additionally, the price of replacement sites in the future will almost certainly
5 be higher, because the OPFU sites were acquired at a time when real estate
6 prices in Florida were depressed. Also, if FPL were to wait until it has
7 determined with certainty when it must add new generation, the fact that FPL
8 is searching for plant sites that it must acquire with urgency would be known
9 to prospective sellers. This would result in FPL and its customers paying
10 higher prices. Therefore, relinquishing the OPFU sites would not be in FPL's
11 customers' best interest.

12

13 As FPL witness Deason states in his rebuttal testimony, the Commission has
14 previously concluded that failure to include Property Held For Future Use in
15 rate base is essentially a Commission signal that the property should be sold,
16 and that is certainly the conclusion FPL would draw from such a decision. If
17 these properties were sold, it is uncertain whether they would be available
18 again to FPL at a later date. Moreover, even if they were, there is no reason to
19 believe that FPL could buy them again at the prices it was able to pay in 2011
20 in a depressed real estate market. So, selling the best properties available to
21 meet known system needs and running the risk of losing them or paying more
22 from their reacquisition is not in customers' best interest.

23

1 **Q. What criteria must a potential plant site meet to be deemed viable?**

2 A. In order for a property to be deemed suitable to construct and operate a base
3 load generating plant it must have all the following attributes:

- 4 ▪ Adequate size consistent with the planned generating technology and
5 size, including fuel storage facilities and the buffer that may be
6 required;
- 7 ▪ Continuous access to very significant water resources (which are very
8 scarce), sufficient to operate the generating units continuously
9 throughout the year;
- 10 ▪ Access to reliable and economic delivery of both primary and backup
11 fuels in sufficient quantities to support continuous unit operation;
- 12 ▪ Access to FPL's electric grid via interconnection to existing FPL
13 transmission facilities, or within reasonable proximity of such
14 facilities;
- 15 ▪ Appropriate zoning and land use designations needed for construction
16 and operation of the planned generating facility, or reasonable
17 assurance that the needed zoning and land use designations can be
18 obtained within an acceptable timeframe;
- 19 ▪ Adequate access to the site from existing or new roads to
20 accommodate the types and numbers of vehicles necessary for plant
21 construction;

- 1 ▪ Site characteristics that would enable the proposed generating facilities
2 to comply with all federal, state and local requirements including, but
3 not limited to, issues related to:
- 4 i. Wetlands
 - 5 ii. Threatened or endangered species
 - 6 iii. Air quality
 - 7 iv. Water quality
 - 8 v. Solid waste;
- 9 ▪ Local community acceptance and support for the construction and
10 operation of the proposed generating unit(s), including power
11 transmission lines, gas pipelines, fuel oil delivery by truck, and
12 wastewater disposal facilities;
- 13 ▪ Appropriate physical attributes that enable the construction and
14 operation of the proposed generating unit(s), regarding site
15 topography, elevation and geology; and
- 16 ▪ A willing seller, at a reasonable price.

17 It is extremely difficult to find potential plant sites that will meet all these
18 critical requirements, especially sites like the McDaniel and Fort Drum sites
19 that are relatively close to the area of FPL's service territory with the greatest
20 load concentration. This is a major consideration for a service territory like
21 FPL's where the load concentration is very distant from low population areas
22 without "not in my back yard" opposition to generating plants. Because the

1 OPFU sites meet all the required criteria and are relatively close to FPL's area
2 of greatest load, they are irreplaceable.

3 **Q. Is it likely that FPL would find other viable potential plant sites that**
4 **would be as close to FPL's area of load concentration in Southeast**
5 **Florida, and to transmission lines as are the McDaniel and Fort Drum**
6 **sites?**

7 A. No. In fact, FPL has not been able to identify any viable generation plant sites
8 that are located nearer to the areas of high load concentration than the OPFU
9 sites. FPL anticipates that in the future most available sites would be farther
10 North and West than the OPFU sites, in more remote areas, farther away from
11 areas that will be the focus of development for residential and commercial use
12 to accommodate Florida's growing population. Use of sites in such locations
13 would, all else equal, result in higher electricity costs due to greater system
14 losses because electricity would be generated farther away from the areas of
15 high load concentration in Southeast Florida. The areas of highest load
16 concentration are highlighted in Exhibit RS-1.

17
18 In addition, it is important to note that because, as also shown on Exhibit RS-
19 1, the OPFU sites are adjacent to 500 kV transmission lines. FPL's use of the
20 OPFU sites will minimize the impact of the needed transmission facilities.
21 Conversely, it is impossible to know how long a new transmission line would
22 have to be built in the future to connect other replacement sites to FPL's
23 electric grid, or whether new transmission corridors would be required, or

1 what the increased cost to FPL's customers would be. For example, if the
2 OPFU sites are relinquished, it is possible that new lengthy transmission
3 corridors and very costly transmission lines would be required, not only to
4 connect the new generators to the grid, but also to transmit electricity over
5 long distances.

6 **Q. Would adding such transmission facilities affect the lead times required**
7 **to place new resources in service?**

8 A. Yes. Obtaining new transmission corridors and building extensive
9 transmission lines would add to the five-year minimum lead time required to
10 place new generating capacity in service, from the date of decision to the in
11 service date of the generating facility. As a result, if the OPFU sites were
12 removed from FPL's rate base and FPL's choice of future potential sites were
13 subsequently limited to sites that would require new transmission corridors
14 and transmission lines, it would take far longer for FPL to be able to add and
15 connect new generation. As a result FPL would likely have to purchase
16 power produced by existing less efficient units to defer the need for new
17 capacity so that it would have more time to acquire not only replacement plant
18 sites, but also transmission corridors. Such power purchases would increase
19 costs to FPL's customers, as would purchasing replacement plant sites and
20 transmission corridors

21
22
23

1 **Q. Is access to water resources an important consideration in selecting a**
2 **viable generating plant site?**

3 A. Yes. Power generating facilities require significant quantities of cooling
4 water to operate. For example, each generating unit currently planned for the
5 McDaniel site will require approximately seven million gallons of water per
6 day. The water must be from a reliable source, be of good quality, and must
7 be available without interruption, twenty-four hours a day. This is a critical
8 issue because there is great competition for water access since water resources
9 are scarce in Florida.

10 **Q. What actions has FPL taken to obtain water resources in conjunction**
11 **with the McDaniel and Fort Drum sites?**

12 A. Because of the importance of this scarce resource, during the last year FPL
13 has taken steps to acquire land parcels that are part of what I am calling the
14 McDaniel site and that currently have large water permits from the South
15 Florida Water Management District. FPL believes that although water rights
16 cannot be purchased in Florida, control of these parcels that already have
17 water access will increase the likelihood that FPL will be able to successfully
18 and cost-effectively obtain the necessary water resources to allow for plant
19 operation at the McDaniel site.

20

21 For the Fort Drum site, the Floridan Aquifer is currently deemed to be an
22 adequate water source, at least in the short term. In the longer term, the C-25
23 canal reconnection project that would be capable of storing 135 acre-feet of

1 water that would otherwise be lost as discharge to the ocean is currently being
2 explored and could provide an even better source of surface water.

3 **Q. Regarding access to water, what would be the impact of relinquishing the**
4 **OPFU sites?**

5 A. Relinquishing the OPFU sites would undo the results of FPL's recent efforts
6 to reduce uncertainty regarding access to water in the future. Water
7 availability has become a critical consideration for any type of development in
8 Florida, and competition for the available water resources will be even greater
9 in the future. For that reason, with every future potential plant site there will
10 be increasing uncertainty regarding FPL's ability to obtain the necessary
11 permits to operate generating units continuously to meet its customers'
12 electricity demand. Ownership of the OPFU sites will place FPL in a much
13 more favorable position to have access to water. Relinquishing those sites
14 will significantly increase uncertainty regarding FPL's ability to construct and
15 operate new generating units in the future.

16 **Q. What other adverse consequences would result if the OPFU sites were to**
17 **be removed from rate base as recommended by OPC witness Ramas?**

18 A. A decision to remove the OPFU sites from rate base would also send a
19 message to FPL and other Florida utilities that in the future they should wait
20 until they have identified and confirmed a specific resource need at a definite
21 point in the near future, and publicly announce that need before proceeding to
22 search for potentially viable sites, evaluate them, and then select and acquire
23 the best one available. This would imply that utilities should not take

1 advantage of opportunities to acquire viable sites that such utilities know they
2 will need at some time in the near future, but not at a definite point in time,
3 even on beneficial terms, when those opportunities present themselves. The
4 adverse consequences to utility customers include those described above
5 regarding replacement of the OPFU sites, as well as the added costs resulting
6 from utilities not taking advantages of advantageous opportunities in the
7 future.

8 **Q. Will the range of possible properties from which FPL will be able to**
9 **select viable plant sites for new generating units be diminished in the**
10 **future?**

11 A. Yes. There are two reasons for this. First, as explained above, the growth in
12 Florida's population and increased residential and commercial development
13 have contributed to reduce the area of the State that remains viable for siting
14 large electric generating plants and associated fuel delivery systems and
15 transmission facilities, and have resulted in increased competition for limited
16 water resources. This increase in population, development and competition
17 for water will reduce the number of new properties that can be candidate sites
18 for power generation.

19
20 Second, FPL will no longer have existing plant sites that could be used to
21 economically add new generating capacity, other than those that have already
22 been approved by the Commission and are in development. As a result,
23 unlike the present and recent past, when most of FPL's capacity additions

1 have been built on existing sites, in the future FPL will need to build most of
2 its new generation at new plant sites.

3 **Q. How much new generation capacity will FPL have built in the period**
4 **2001 through 2016?**

5 A. During the sixteen-year period ending in 2016 FPL will have placed in service
6 about 15,100 MW of new generation capacity. The construction of some of
7 this capacity has required or will require the removal of old generators with
8 about 3,850 MW of capacity to make room for the new construction, so the
9 resulting net capacity addition by 2016 from this new construction will be
10 about 11,250 MW.

11 **Q. What portion of the 11,250 MW of newly constructed generation was**
12 **built at new plant sites?**

13 A. Less than one third. The three West County Energy Center units, with a
14 combined capacity of about 3,660 MW, or 32 percent of the 11,250 MW total,
15 were built at a new plant site. The other 7,590 MW, or 68 percent, were
16 added or will be added at existing FPL sites – Ft. Myers, Sanford, Manatee,
17 Martin, Turkey Point, Cape Canaveral, Riviera, Port Everglades and St. Lucie.

18 **Q. How much of FPL's future generating capacity is projected to be built at**
19 **existing sites?**

20 A. In the future, only the proposed new nuclear units at FPL's Turkey Point,
21 which will add 2,200 MW, are planned to be built at an existing plant site.
22 Therefore, if FPL were to construct the same quantity of new generation
23 capacity in the sixteen-year period, beginning in 2017 as in the previous

1 sixteen-year period, FPL would have to build 9,050 MW of firm capacity at
2 new sites. This is almost 2.5 times more than the generating capacity FPL
3 built at a new site between 2001 and 2016. This much greater need for new
4 sites makes it essential that FPL keep control of the OPFU sites.

5 **Q. Why don't any of FPL's operating plant sites provide viable alternatives**
6 **for building new, cost-effective, firm, base load fossil generation?**

7 A. The Ft. Myers and Sanford sites were repowered only ten years ago and will
8 have their CTs upgraded before 2016. In addition, it is anticipated that
9 increasing gas deliverability to the Fort Myers site to support additional
10 generation would be very costly. The Riviera, Cape Canaveral and Port
11 Everglades sites will be modernized between 2013 and 2016. The Cutler,
12 Turkey Point and Lauderdale sites are not viable candidates for added gas-
13 fired capacity because it is estimated that the cost of the necessary
14 enhancements in gas deliverability to those sites would exceed \$1 billion.

15
16 The Martin and Manatee sites have the only generating units in FPL's system
17 that can use either residual fuel oil or natural gas and thus contribute much
18 desired fuel diversity to the FPL system. Therefore, these units are not
19 candidates for replacement.

20
21 Also, some of FPL's existing plant sites, such as Martin and West County
22 already have significant concentrations of generating capacity, and adding yet
23 more generation at those sites could make the reliability of the FPL system

1 more susceptible to a single adverse event. In summary, the operating FPL
2 sites are not candidates for large new generation additions in the foreseeable
3 future. Only by maintaining control of the OPFU properties would FPL have
4 readily available sites to economically add new non-nuclear firm generation in
5 the future.

6 **Q. Are the OPFU sites also being considered for generation other than firm
7 capacity, base loaded generating units?**

8 A. Yes. In addition to the approximately 6,385 MW of firm, highly efficient
9 combined cycle generating capacity planned in the aggregate for the
10 McDaniel and Fort Drum sites, these sites could also enable FPL to add
11 significant solar photovoltaic ("PV") generation capability after the DeSoto
12 site has been used for this purpose. One of the key considerations in siting
13 solar PV facilities is to place these facilities in geographically separate
14 locations so that they are not all affected simultaneously by the same weather
15 conditions. Building solar PV generation at DeSoto, McDaniel and Fort Drum
16 would help FPL achieve this objective of effectively separating its solar PV
17 generation.

18
19 These OPFU sites would be needed for solar PV generation expansion when
20 the cost of such generation becomes a competitive alternative in FPL's
21 system, or earlier, if State or federal legislation is enacted that enables or
22 requires FPL to add it to its system. Solar PV generation requires very large
23 tracts of land. Thus, removing these sites from FPL's rate base would also

1 adversely affect FPL's ability to add renewable generation in the most cost-
2 effective manner and thereby reduce the fuel diversity benefits that such
3 generation would contribute to FPL's system.

4 **Q. How should OPC witness Ramas' Other Production adjustment be**
5 **treated?**

6 A. It should be rejected in its entirety. When one examines the many adverse,
7 short-term and long-term consequences to FPL's customers of removing the
8 OPFU sites from FPL's rate base, it is very clear that FPL customers' interest
9 would be best served if these sites remain in FPL's control and in the rate
10 base. Therefore, the adjustment recommended by OPC witness Ramas to
11 reduce FPL's rate base by \$108,951,000 should be rejected.

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

13 A. Yes.

1 BY MR. GUYTON:

2 Q Would you please summarize your rebuttal
3 testimony for the Commission.

4 A Yes.

5 Good morning, Mr. Chairman, Commissioners.
6 Thank you for giving me this opportunity to summarize my
7 testimony.

8 My testimony demonstrates that OPC Witness
9 Ramas' proposal to remove from rate base the entire
10 amount other production property held for future use
11 would jeopardize FPL's ability to provide reliable
12 service to FPL's customers at a reasonable cost in the
13 future. Therefore, it would not be in the interest of
14 FPL's customers to remove these necessary sites from the
15 rate base.

16 FPL has clear plans for these sites.
17 Specifically, FPL anticipates that it will build five
18 combined cycle units between these two sites beginning
19 as early as 2019, which would in turn require FPL to
20 have control of these or other plant sites beginning as
21 early as 2014.

22 Between 2001 and 2016, FPL will have added
23 over two-thirds of all its new generating capacity at
24 its existing operating sites. However, those additions
25 have effectively used up FPL's inventory of operating

1 sites on which FPL can add multiple combined cycle units
2 after 2016. As a result, in the next 16 years FPL will
3 likely build all its new nonnuclear generation at new
4 sites, including up to perhaps 9,000 megawatts of firm
5 combined cycle generating capacity. Therefore, it is
6 essential that FPL hold and maintain the Fort Drum and
7 McDaniel/Hendry sites on which it can build at least
8 part of such future generation.

9 Forty years ago the Commission observed that
10 power plant sites in Florida were limited and valuable.
11 Indeed, since that time sites have become and will
12 continue to become more scarce.

13 The factors that affect the timing of need are
14 very uncertain and can change very quickly. Therefore,
15 FPL cannot base its resource planning process and the
16 timing of site acquisitions on one static set of
17 assumptions of future conditions. Instead, FPL's
18 resource plan must be sufficiently flexible to ensure
19 that it can provide reliable service despite
20 unforeseeable changes in those factors.

21 For its plan to be flexible, FPL must have
22 control of viable plant sites well in advance of the
23 projected need for resources. Having control of those
24 sites in advance increases our ability to reliably meet
25 our customers' future needs at a reasonable cost,

1 because it eliminates one significant area of
2 uncertainty that we can mitigate, the location and costs
3 associated with the site.

4 Conversely, not knowing well ahead of time
5 where FPL will add new generation would exponentially
6 add to the risk of higher plant costs and of delays in
7 in-service dates.

8 The Ft. Drum and McDaniel/Hendry sites shown
9 by the stars on this map are the best sites available to
10 FPL. FPL has searched and has not identified any other
11 viable sites as close to FPL's area of load
12 concentration in southeast Florida shown by the shaded
13 area, and to large transmission lines shown by the red
14 lines, by the red lines as these sites. It is clear
15 these specific sites are very beneficial to FPL
16 customers, and that is why FPL has prudently purchased
17 the sites.

18 The need to maintain control of these sites is
19 made much more critical because of a number of
20 converging trends. One, Florida's population growth and
21 development will continue to reduce areas available for
22 siting plants and transmission lines. Growing
23 competition for water will increase the costs and
24 further reduce the number of viable sites in the future.
25 And, third, a recovered real estate market will likely

1 demand higher prices for future plant sites.

2 Therefore, if FPL loses these sites and later
3 undertakes to replace them on what will necessarily be
4 an expedited schedule, the purchase price will likely be
5 higher and the sites will not be as advantageous as we
6 now have in rate base.

7 We must maintain control of both sites because
8 this would enable FPL to proceed with construction at
9 the alternate site with minimal schedule and cost impact
10 if permits are not timely received for the primary site.

11 In summary, the purpose of the Ft. Drum and
12 Hendry sites is to serve FPL's customers reliably and
13 cost-effectively. We have selected these sites as the
14 best sites available and we plan to use them. It is
15 very clear that our customers' interests would be best
16 served if these sites remain in FPL's control and in the
17 rate base. Therefore, the adjustment recommended by OPC
18 Witness Ramas to reduce FPL's rate base by \$108,951,000
19 should be rejected. Thank you.

20 **MR. GUYTON:** We tender Mr. Silva.

21 **CHAIRMAN BRISÉ:** Mr. Moyle.

22 **MR. MOYLE:** Thank you, Mr. Chairman.

23 **VOIR DIRE EXAMINATION**

24 **BY MR. MOYLE:**

25 **Q** Mr. Silva, are you testifying today as an

1 expert?

2 A Yes.

3 **MR. REHWINKEL:** Mr. Chairman, this is
4 Mr. Rehwinkel. Before we get into this, are we doing
5 voir dire right now or -- the reason I ask is that I had
6 discussed with staff counsel about Mr. Silva's
7 deposition and certain exhibits that I think there may
8 be some issues about, but they would have some bearing
9 on the cross-examination, and I thought we might take
10 that up before we got into cross-examination. But I
11 don't know if that's what staff still had in mind.

12 **CHAIRMAN BRISÉ:** Mr. Harris?

13 **MR. HARRIS:** Mr. Chairman, staff had intended
14 to introduce the deposition of Mr. Silva in lieu of any
15 cross questions. That would include his errata sheet.
16 It was brought to our attention that there were also
17 four -- well, three late-filed deposition exhibits and a
18 fourth exhibit that's included in the actual deposition.
19 It was provided at the deposition.

20 We certainly, of course, not only have no
21 objection to including those late-filed exhibits, but
22 would like to see those moved into the record also. I
23 understand Mr. Moyle has objections to that.

24 According to your pleasure, we could go first
25 and we could try to lay the foundation for moving it all

1 in. It might be more appropriate for the parties to go
2 through and do their cross-examination. That might
3 provide the Commissioners with, you know, the
4 foundation, and it might save time on the back end.

5 So however you would like to proceed, we're
6 prepared to proceed. But we do intend to move the
7 deposition, the late-filed exhibits in as, as support of
8 the record in lieu of our cross.

9 **MR. REHWINKEL:** I'm okay either way, Mr.
10 Chairman. I just wanted to make sure the way we were
11 going.

12 **MR. MOYLE:** Since it's teed up, why don't we
13 just maybe deal with it now and I can make the arguments
14 as to why I think it should not come in. We can have a
15 ruling if it comes in. Maybe it makes more sense to do
16 it now.

17 So FIPUG in this case has allowed depositions to
18 come in, late-filed exhibits. You know, historically we
19 have a concern with that, because we don't think it's
20 the right way to put on evidence.

21 **MR. YOUNG:** Mr. Chairman, I hate to interrupt
22 Mr. Moyle. But I think the -- I think it might serve a
23 better process if we do voir dire first in terms of the
24 qualifications, since Mr. Moyle has some questions as to
25 the qualifications of the witness, and then after that

1 we can move forward with the exhibits, the arguments
2 about the exhibits.

3 **MR. MOYLE:** That's, that's fine. If you want
4 to do voir dire, then do the exhibits, that's -- if you
5 prefer that we do it that way.

6 **BY MR. MOYLE:**

7 **Q** So, Mr. Silva, are you testifying today as an
8 expert?

9 **A** Could you repeat the question, please?

10 **Q** Are you testifying today as an expert?

11 **A** Yes, I am.

12 **Q** Okay. And in what areas do you profess to
13 have expertise?

14 **A** In resource planning, in the resource planning
15 process and in the management of the resource planning
16 process at Florida Power & Light.

17 **Q** Any other areas?

18 **A** No.

19 **Q** Okay. So you don't have any -- you're not
20 holding yourself out today as a real estate in -- I'm
21 sorry -- as an expert in real estate; correct?

22 **A** No, I'm not holding myself out as an expert in
23 real estate, but I am familiar with the aspects of real
24 estate that are reflected in FPL's resource planning
25 process.

1 **MR. MOYLE:** Okay. I just want the record to
2 be clear with that respect.

3 I thought he might be tendered as an expert in
4 real estate and that was what I was wanting to contest.
5 If he's not testifying on, as an expert in real estate
6 matters, I'm good. I think now if we want to move to
7 the exhibits and the depo, I'm, I'm fine with that. If
8 they want to move it, I can object, or I can object now,
9 whatever your pleasure is.

10 **CHAIRMAN BRISÉ:** I think we'll move through
11 the cross-examination and come back to staff with the
12 depo and late-filed exhibits later.

13 **MR. YOUNG:** I think Mr., Mr. Guyton has, has a
14 right to try to --

15 **CHAIRMAN BRISÉ:** Sure.

16 **MR. YOUNG:** -- rebut to see whether the
17 witness is testifying as an, as an expert.

18 **MR. GUYTON:** If I might ask a supplemental
19 question or two on, on the voir dire.

20 **VOIR DIRE EXAMINATION**

21 **BY MR. GUYTON:**

22 **Q** Would you elaborate to the Commission as, as
23 to your answer to Mr. Moyle as to your familiarity with
24 real estate as, in regards to the resource planning
25 process at FPL?

1 **A** Yes. In the process of resource planning at
2 Florida Power & Light, my role is to manage the planning
3 process from the perspective from the starting point of
4 identifying a need for new generating resources or new
5 resources in the company, quantifying it and identifying
6 the date, to managing the team, a cross-functional team,
7 multi-expert team, that brings in their departments,
8 their expert information into team discussions, reviews,
9 reanalysis, in the effort to prepare a recommendation to
10 management as to where we would add generating capacity,
11 what type of generating capacity, what size, how far
12 into the future, the challenges, the choices we had and
13 how we selected that.

14 In so doing, there's a lot of discussion about
15 all aspects, from engineering and construction, to
16 operating the plants, to real estate, and related to the
17 prices of real estate, what we are at present, what they
18 are expected to be in the future, the prices for added
19 value of the, of the services of the plant and so forth.

20 So from that perspective I am familiar in
21 particular with the sites that we are talking about as
22 to the real estate issues that were considered during
23 the decision leading to the purchase of the sites at
24 Hendry County/McDaniel, and Ft. Drum.

25 **Q** And in your role as this cross-functional

1 team, have you had occasion to review statements made by
2 your real estate department about the sites and their
3 values?

4 **A** Yes. I myself --

5 **MR. MOYLE:** I'm going to object to, to that
6 question. I mean, it's a general voir dire as to
7 whether he had expertise in, in real estate. He said he
8 didn't.

9 And let me just preface it. I think the
10 objection that you're going to hear from me, right now,
11 just like the value of the FPL name, the record doesn't
12 have a lot in it with respect to these two sites. And
13 any effort to try to shovel in more information to
14 bolster the record --

15 **MR. YOUNG:** Mr. Chairman.

16 **MR. MOYLE:** -- about these sites is going to
17 be objected to by FIPUG.

18 **MR. YOUNG:** Mr. Chairman.

19 **MR. MOYLE:** We're going to be very diligent in
20 that, because it's not, it's not proper. That's the
21 basis for the objections to the depositions. That'll be the
22 basis for the objection to the exhibits.

23 **MR. YOUNG:** Mr. Chairman.

24 **MR. MOYLE:** And that'll be --

25 **MR. YOUNG:** I have to interrupt Mr. Moyle.

1 I'm sorry. We're dealing with the voir dire. We'll
2 deal, we'll take up the objections at the appropriate
3 time, and then I think we can move forward. I hate to
4 be contentious on this, but I think we need to stick to
5 the voir dire, and then he can move into the objections
6 on the deposition and the exhibits.

7 **CHAIRMAN BRISÉ:** Understood. But I think his
8 objection was going to the question that was being posed
9 by Mr. Guyton. I understand that he went a little bit
10 beyond that. Understood. Okay. But we --

11 **MR. MOYLE:** I'm ready to start my cross if --

12 **CHAIRMAN BRISÉ:** No, but I think Mr. Guyton
13 wasn't finished.

14 **MR. GUYTON:** If I just might respond as to the
15 purpose of the question.

16 **CHAIRMAN BRISÉ:** Sure.

17 **MR. GUYTON:** The qualification of a witness as
18 an expert witness is, is set forth in the evidence code,
19 and it includes knowledge, skill, and experience. That
20 question goes to Mr. Silva's experience in the siting
21 process, and I'm simply trying to elicit if he has
22 experience which reflects on the remarks that Mr. Moyle
23 may move to try to strike.

24 **MR. REHWINKEL:** Mr. Chairman, the Public
25 Counsel would like for the witness to finish his answer.

1 **MR. MOYLE:** But, Mr. Chairman, I would object
2 on the grounds of relevancy. You know, the purpose of
3 voir dire is to see whether somebody is an expert. I
4 asked him if he was being, if he had considered that he
5 had expertise in real estate. He said no.

6 And so now, unless he's going to change his
7 testimony from five minutes ago and say, oh, yes, now
8 I'm an expert in real estate, there's no need to have
9 these questions.

10 **MR. GUYTON:** I would just simply reflect that
11 we are qualifying him as an expert in resource planning,
12 and this is a subset within that expertise. If he's, if
13 his testimony is going to be challenged, we're just
14 trying to make sure that the predicate is adequately
15 laid that he's an expert able to address the opinion.

16 **CHAIRMAN BRISÉ:** Sure. If you could re-pose
17 your question, I will allow him to answer the question.

18 **BY MR. GUYTON:**

19 **Q** Mr. Silva, as a, in this cross-functional team
20 that you mentioned, have you had occasion to study other
21 experts within the company and their representations
22 about plan value of these sites?

23 **A** Yes. As part of my role in leading this
24 cross-functional team, I am responsible for reviewing
25 and evaluating and giving feedback on all the inputs

1 from the various expert groups, including the real
2 estate experts. So when they provide information in the
3 team setting, it is part of my role to review and ask
4 questions, understand, give additional assignments for
5 additional analyses for clarifications, for
6 explanations. And from that perspective I become aware
7 of, in detail of the subject matter that is being
8 discussed, including real estate issues associated with
9 the sites that are being considered.

10 **MR. GUYTON:** Thank you. That's all I have.

11 **CHAIRMAN BRISÉ:** Thank you.

12 Commissioner Graham.

13 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.
14 I want to go to staff. If staff can give us a brief
15 explanation in their opinion what constitutes an expert.

16 **MS. HELTON:** Twenty years ago I could have
17 told you the exact statute. I'm looking that up now.
18 But I do agree with what Mr. Guyton has said, that you
19 can determine someone as an expert not just by what they
20 studied in school. You can determine whether someone is
21 an expert based on their practical experience, based on
22 home study, and we have certainly done that here at the
23 Commission. We have deemed individuals experts,
24 notwithstanding what they may have studied in school.

25 So, and the reason why whether someone is an

1 expert or not is important is if someone is testifying
2 as an expert, then you may consider and it's considered
3 to be competent, substantial evidence for them to give
4 an opinion based on their expert knowledge.

5 **COMMISSIONER GRAHAM:** Well, the reason why I
6 ask, not -- well, I guess I'll paraphrase the witness.
7 He's ran a team where he had experts on his team, and
8 basically what he said was he sat in the room and
9 listened to what they had to say. Does that constitute
10 someone being an expert?

11 **MS. HELTON:** That's a tough question to
12 answer.

13 **COMMISSIONER GRAHAM:** That's why I'm asking.
14 (Laughter.)

15 **MS. HELTON:** Listening to someone who's an
16 expert, my son might tell you that would make him an
17 expert, but I'm not sure that that makes you an expert.

18 **CHAIRMAN BRISÉ:** Let me ask a question. Sorry
19 to skip you, Commissioner Brown.

20 **MS. HELTON:** And, and let me throw out one
21 more thing that Mr. Harris is reminding me. Another
22 reason why it's important whether you designate someone
23 an expert or not is that you can rely on facts -- let
24 him say it because I can't read his writing.

25 **MR. HARRIS:** Commissioners, you know, in the

1 time I've been here at the Commission, one of the
2 reasons that expert witnesses testify before you is
3 because it is very complicated, as Mr. Silva said. And
4 experts under the evidence code are allowed to rely on
5 facts of the type commonly relied upon by experts in
6 that field.

7 So if you determine that Mr. Silva, as a
8 resource planning expert, if that expertise commonly
9 relies on sets of inputs, then you can listen to the
10 facts that he brings out relating to those facts or
11 inputs. That's why an expert witness is so important.

12 A fact witness, a nonexpert, can only rely on
13 facts they personally know. Experts can rely on facts
14 that are commonly known and commonly relied upon by
15 experts in that field, which is why I'm a little
16 confused by Mr. Moyle.

17 I'm hearing him object to Mr. Silva as an
18 expert in the field of real estate. That might be true.
19 But if Mr. Silva is an expert in resource planning and
20 he is able to demonstrate that experts in resource
21 planning rely on real estate values or real estate
22 inputs of some type, I'm not quite sure where
23 Mr. Moyle's objections are coming from. That's my
24 confusion this morning.

25 **CHAIRMAN BRISÉ:** And that's what my, that's

1 what I was going to pose, whether if you are responsible
2 for a team and you have a team that brings information
3 to you, your responsibility is the decision point. So
4 therefore you're relying on the information that's
5 coming to you as a team.

6 So, therefore, you have a certain level of
7 expertise based upon what people within that realm do
8 as, as resource managers and so forth, planning resource
9 managers. So, therefore, there is a certain level of
10 expertise at that level that requires a certain level of
11 understanding of all the information that -- or the
12 underpinnings that rise to that level.

13 **MR. HARRIS:** Yes, Commissioner. Exactly. And
14 if I might add, when I prepared my case, when we asked
15 this deposition, we were very careful to make sure that
16 we were asking Mr. Silva is this the type of information
17 you use in your resource planning process, and he said
18 yes. That's why we feel we can introduce this
19 deposition in lieu of his questions.

20 I can ask him those questions today and we can
21 get those answers. I can ask him about the late-filed
22 exhibits, is this something you rely on in the
23 preparation of your testimony as a planning, you know,
24 the manager of planning? And I think he will say yes.
25 If Mr. Moyle wants me to go through and do that and you

1 Commissioners find that that's appropriate, we can do
2 that.

3 But the deposition transcript itself, when I
4 prepared my case, we were very careful to make sure we
5 stuck to Mr., what I believed was Mr. Silva's area of
6 expertise, which is Issues 30 and 32, the resource
7 planning managing process.

8 And Ms. Helton is your advisor and she can
9 advise you more than I can, but I can represent to you
10 that we intended to use him as a resource planning
11 expert, not an expert in real estate.

12 **CHAIRMAN BRISÉ:** Okay. Thank you.

13 Commissioner Brown.

14 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

15 And I have just two follow-up questions for the voir
16 dire that Mr. Guyton performed on Mr. Silva, if it would
17 be appropriate now.

18 **CHAIRMAN BRISÉ:** Sure.

19 **COMMISSIONER BROWN:** Okay. And this is just a
20 derivation of what Mr. Guyton asked you, but I just want
21 to confirm. So you utilize then real estate
22 professionals in identifying and developing your
23 resource plan?

24 **THE WITNESS:** Yes, Commissioner.

25 **COMMISSIONER BROWN:** Okay. Who actually picks

1 the site locations, though, that are the, that are in
2 your resource plan?

3 **THE WITNESS:** It is a comprehensive process
4 that starts out by the real estate department and
5 project development, and often consultants from outside
6 the company, looking at many sites throughout the state,
7 and then gradually evaluating, culling out those sites
8 that don't meet necessary criteria.

9 During that process, those experts in real
10 estate, project development, and environmental services
11 bring that information to the team, and we discuss why
12 sites are being selected to go forward and why others
13 are culled out, eventually narrowing the list of sites
14 to those that meet all the criteria, and eventually
15 those where we've identified a willing seller.
16 Typically that narrows it down to very, very few. And
17 then we perform, among those, economic analyses, not
18 just for the site itself and the price of the site --

19 **COMMISSIONER BROWN:** Pardon me for
20 interrupting. I just want really to know who actually
21 ultimately picks. Is it this team that you referred to?

22 **THE WITNESS:** The team that I lead makes a
23 recommendation to FPL management. FPL management will
24 then ask its own questions, and they make the decision
25 as to what site to acquire.

1 **COMMISSIONER BROWN:** So what is your role
2 then?

3 **THE WITNESS:** My role is to, is to manage the
4 team that develops the recommendation to management
5 saying this is our recommended site, our recommended
6 technology on that site, et cetera. And that's
7 presented to management with all the support
8 documentation for them to agree or disagree or ask for
9 additional information, which then we provide.

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

11 **CHAIRMAN BRISÉ:** All right. So we can move on
12 with the cross-examination at this point.

13 **MR. MOYLE:** The statutory section is 90.702
14 that defines experts, just for informational purposes.

15 **CHAIRMAN BRISÉ:** Thank you.

16 **CROSS EXAMINATION**

17 **BY MR. MOYLE:**

18 **Q** So, Mr. Silva, good morning.

19 **A** Good morning.

20 **Q** And if I understand the role you play relative
21 to real estate, it's you have a team of experts that
22 work for you or under your direction; is that right?

23 **A** Yes.

24 **Q** And then you don't make the decision as to
25 we're going to go with this site or we're going to go

1 with that site. That's done by senior management; is
2 that correct?

3 A Yes.

4 Q And so with respect to anything that you say
5 here today or that is in your testimony that relates to
6 the value of real estate, anything like that, you would
7 be relying on the expert opinions of others, correct, of
8 your team, of your team of real estate experts?

9 A As it pertains to the specific sites, yes. I
10 do have general knowledge of what the real estate market
11 has been.

12 Q And a lot of us may because we own homes and
13 we keep up with it, and I'm just trying to -- I mean,
14 that's the general knowledge you're talking about?

15 A Yes.

16 Q Okay. And in your opening statement you
17 talked about all of the reasons why, if I understood it,
18 you need -- you used the term site control, that you
19 need site control of these sites now; is that right?

20 A Yes.

21 Q Okay. What is site control?

22 A That means that we have the ability to build a
23 plant at the location. In other words, we either own it
24 or have an option to own it by a time certain.

25 Q And you recognize that there is the

1 possibility of options. Do you ever enter into options
2 with landowners to buy sites?

3 **A** We have.

4 **Q** Okay. And that, you would agree, is more
5 economically advantageous in that the monies you pay for
6 an option to buy a piece of property are great order of
7 magnitudes less than the actual fee simple value for the
8 property; correct?

9 **A** In general, yes. But in this particular
10 instance, it was deemed that it was more advantageous to
11 purchase the properties.

12 **Q** And that was both properties?

13 **A** Yes.

14 **Q** And you have a master's in business and have
15 been with the company for a long time; correct?

16 **A** Yes. I've been with the company a long time.

17 **Q** And I know you said in your testimony that
18 this, you believe this is a good thing for the
19 ratepayers to have these two properties in, in the, in
20 the kitty for future, future power plants; correct?

21 **A** Yes, I think it's a good thing and necessary.

22 **Q** It's also a good thing for shareholders, isn't
23 it?

24 **A** In what regard?

25 **Q** Well, if, if you get the plants in service,

1 it's over \$100 million and it's something that the
2 company is able to earn a return on; isn't that right?

3 **A** Getting the plants in service is some steps
4 away, and of course requires the approval by the Public
5 Service Commission to build a plant. And at this stage,
6 all I'm talking about is the, the need for the sites
7 themselves.

8 **Q** And my question was not very good. But with
9 respect to if this Commission says, yes, you can put
10 these plants in plant held for future use, as an
11 accounting mechanism, are you aware that the company
12 would then be able to earn a return on the capital
13 that's invested in the two sites?

14 **A** Yes. Assets that the company builds for the
15 service of the, of our customers is entitled to a chance
16 to earn a return.

17 **Q** Okay. Even if you don't have a need for a
18 power plant, these locations until -- what's the
19 earliest year, 2021?

20 **A** My estimation, as indicated in my testimony,
21 is that it could be as early as 2019. And that's my
22 planning perspective, that it could be, a new unit could
23 be needed by 2019, and that's why it makes it so urgent
24 that we have these sites in control.

25 **Q** And typically for a combined cycle it takes

1 you five years to, to get all the permits from your
2 decision to go?

3 **A** A minimum of five years from a decision to in
4 service, yes.

5 I might add, Mr. Moyle, that in some cases the
6 period is longer because, as, for example, in the Port
7 Everglades modernization, there is an appeal pending,
8 which could very well lengthen the time from the
9 decision time to the in-service date.

10 **Q** I'm familiar with that. Thank you.

11 And, and I also understand your testimony to
12 be that you need two sites because you believe that,
13 that that's a prudent way of, of conducting business,
14 that even though, even though you may only need one
15 power plant, you buy two sites in case one of them
16 doesn't work out; is that right?

17 **A** Yes. In, in this environment, with the
18 perceived, at least our perception of increasing
19 scarcity of sites, we think it's a prudent approach, and
20 especially because, unlike the recent past, as I said,
21 we really don't have existing operating sites to fall
22 back on and build generation if, say, the McDaniel site
23 turns out to be not approved. So it's appropriate and
24 prudent to have two sites available to us.

25 **Q** Has that always been a business practice of

1 Florida Power & Light, to have two, two sites every time
2 they would build a power plant?

3 A No, it hasn't. But as I said, conditions have
4 changed very significantly in two regards. One of them
5 is greater scarcity of sites, based on our experience in
6 searching for these. And second, the fact that we don't
7 have existing operating sites on which to build these
8 large units available in our system anymore.

9 Q So if I were to, I guess -- I think your
10 testimony, you, with respect to like your Port
11 Everglades and the Riviera units, you didn't have
12 alternative sites for those; correct?

13 A Not under, not under control. The only one
14 that we actually had under control were two: We had the
15 Glades site and we had the West County site. We built
16 on the, on the West County site. We did not build on
17 the Glades site.

18 Q Do you still have the Glades site?

19 A No, we do not.

20 Q Was that a good site for a power plant?

21 A Yes, it was. But it was, it was -- at that
22 time we took that site as an option. It was a proposed
23 site for coal generation. And when that was not
24 approved, we allowed that option to, to expire. And,
25 and the McDaniel site is far better for power generation

1 than, than the Glades site.

2 Q You, you argue that sites are becoming more
3 scarce, correct, that power plant sites are becoming
4 more scarce?

5 A Yes.

6 Q Okay. Is the Glades site that we just
7 testified, is that still available?

8 A I'm not sure whether that particular site is.
9 But we did evaluate, among others, a Glades site. But
10 the reason that the Hendry site was selected over, for
11 example, that one, is that the Glades site, remember, it
12 was aimed at coal generation, which had to be placed
13 farther away from civilization, so to speak. But by the
14 same token, it had longer transmission facilities,
15 lines, losses, et cetera. Since what we are planning
16 for at the Hendry site is combined cycle units that do
17 not require to be so remotely sited, it's far better to
18 have it close to the load concentration and closer to
19 transmission lines.

20 Q The -- did your team do any studies to support
21 your contention that power plant sites are more scarce
22 today than they have been previously?

23 A I am not aware of a comparison of the now
24 versus earlier, but I am aware that we started, for
25 example, in the selection of the two sites in question.

1 For the Ft. Drum we started with 143 possibilities, of
2 which only 13 were deemed viable based on the criteria.
3 And out of those 13, only four of the sellers were
4 willing to even entertain selling their property.

5 In the case of the McDaniel site, we started
6 with a list of 52 possible sites. Again, 13 were deemed
7 viable from a criterion perspective. And when we went
8 to the market looking for those, only two of the sellers
9 were willing to sell. So we, we went very wide,
10 narrowed it to, to 13, and there were very few sites
11 that were truly available to us.

12 Q Okay. So based on that, I guess the answer to
13 that is no, that there's no study that was done with
14 respect to the contention about a scarcity of sites; is
15 that correct?

16 MR. GUYTON: Objection. I don't think that's
17 a proper characterization of his testimony. I think he
18 just explained that they were a scarce resource. What,
19 what he agreed with was that he hadn't done a comparison
20 of now versus earlier.

21 If that's your question, Jon, I don't have an
22 objection, but that's not the way the question was
23 framed.

24 CHAIRMAN BRISÉ: I would agree.

25 BY MR. MOYLE:

1 Q Okay. Just so, just so we're clear, you
2 haven't done a study, but your testimony is based on an
3 experience that you just went through when you were
4 looking for alternatives as it related to the Port
5 Everglades project; is that right?

6 **MR. GUYTON:** Objection. The, the premise --
7 I'm just not clear. If the witness understands, just
8 let him answer.

9 (Laughter.)

10 **BY MR. MOYLE:**

11 Q You know what, I mean --

12 **CHAIRMAN BRISÉ:** If you want to, if you want
13 to restate it again so that the witness can show whether
14 he understands the question or not, I will allow that.

15 **BY MR. MOYLE:**

16 Q You didn't charge anybody on your staff to
17 say, listen, I'm making a contention in front of the
18 Florida Public Service Commission that there are fewer
19 power plant sites available today as there have been
20 previously, could you go out and study that and confirm
21 that fact? You didn't ask anybody to do that, did you?

22 A No, I did not ask anybody to confirm that
23 through an analysis. I asked the experts whether that
24 was their view, their experience, and they indicated
25 that, yes, it was what, what their research for sites

1 reflected.

2 Q Okay. And then, just based on that lengthy
3 answer that you gave to my previous question, if I
4 understood your answer correctly, that you identified 26
5 sites that potentially could work for power plant sites;
6 correct?

7 A Yes.

8 Q Okay. And you do have the power of eminent
9 domain to condemn property for use as a power plant
10 site; correct?

11 A I believe so.

12 Q And FPL has used eminent domain power before
13 to condemn property for either power plant sites or
14 transmission facilities or something to, uses to serve
15 customers; correct?

16 A I am not familiar to what extent we have used
17 eminent domain, but I'm sure we have. But the
18 information that I have is that it's a very lengthy
19 process, far longer than what it would normally take to
20 purchase a property from a willing seller.

21 Q And do you have any information about a
22 statutory provision called a quick-take eminent domain
23 provision?

24 A No.

25 Q Okay. And just a few more questions on the

1 notion that there are fewer power plant sites. You say
2 that population growth is continuing in Florida; is that
3 right?

4 **A** Yes.

5 **Q** But you would also agree that in certain
6 counties population growth is declining; correct?

7 **A** Yes.

8 **Q** So to the extent that, that there was a county
9 that had population, population growth declining, your
10 testimony about the need to acquire it probably wouldn't
11 apply; correct?

12 **A** That particular criterion, yes, I would agree.
13 But there's other factors that limit the, or that
14 increase the scarcity of viable sites beyond population
15 and development.

16 **Q** I understand. All right. And just a few more
17 questions.

18 Isn't it true that rather than companies like
19 yours looking to build power plants now, one combined
20 cycle in location A, another combined cycle in location
21 B, a third in location C, which would be three power
22 plant sites, that there is sort of a trend to
23 consolidating generating units at one site?

24 **A** If, if you're asking which is our aim, our aim
25 is to concentrate the first, at least the first two

1 units at the McDaniel site before we build anyplace
2 else.

3 Q And I'm really not. I'm just asking you if
4 you're aware of a trend to consolidate power, power
5 generation blocks at one site rather than to spread them
6 out at a number of sites. I mean, West County 3,
7 doesn't West County 3 have a number of power generation
8 blocks there?

9 A Yes. There is no trend per se. What we have
10 done in the past is look at what is the most
11 cost-effective strategy. To the extent that building
12 three units at West County was the most cost-effective
13 strategy, that's what we did. To the extent that
14 building one new unit at each of three sites, like
15 Riviera, Canaveral, and Port Everglades, is the most
16 cost-effective alternative, then that's what we did.

17 So we just envision that the next step is some
18 concentration at, at the McDaniel site.

19 Q You're aware that while you are contending
20 that, that the purchase of these sites are good for
21 customers and good for ratepayers, that ratepayers
22 disagree with you in this case; correct?

23 A I don't know that for a fact.

24 Q Can you, can you infer that based on my
25 question maybe?

1 **A** I can understand that you --

2 **MR. GUYTON:** I'm sorry. Are you a ratepayer
3 of FPL? That's all right. I withdraw.

4 **MR. MOYLE:** I, I'm sorry. I'm getting tired,
5 but --

6 **MR. GUYTON:** I withdraw the remark.

7 **CHAIRMAN BRISÉ:** Understood.

8 Mr. Moyle, if you could re-pose your question.

9 **MR. MOYLE:** All right.

10 **BY MR. MOYLE:**

11 **Q** Did you read the prehearing statement where
12 parties took positions on issues in this case?

13 **A** Yes. As --

14 **Q** And you're aware that parties are opposing
15 your request to put these two sites into rate base;
16 correct?

17 **A** Yes. My answer about customers is that I
18 thought that this proceeding is to, among other things,
19 inform the customers --

20 **MR. MOYLE:** Mr. Chairman, that's all I needed
21 was a yes, no on that, just whether he was aware that
22 customers were opposing it, I mean.

23 **CHAIRMAN BRISÉ:** Okay. I'm trying to go back
24 to your question. What was your question again?

25 **MR. MOYLE:** The original question was, he's

1 contending that this is good for ratepayers, and then I
2 just wanted him to affirm that he was aware that
3 ratepayers don't believe it's going to be good for them
4 because they've taken a position adverse to it in this
5 case. And I think he acknowledged that when he said he
6 read the prehearing statement.

7 **CHAIRMAN BRISÉ:** Yeah. I think that that
8 question could have been answered with a yes or no.

9 **BY MR. MOYLE:**

10 **Q** All right. Just a couple more things I want
11 to ask you about.

12 You, you -- part of this acquisition is also,
13 if I understand it, designed to try to secure water for
14 these power plants, yes or no?

15 **A** Yes.

16 **Q** Okay. And you're aware that in Florida water
17 rights are not something that are traded. There's not a
18 market for water rights; correct?

19 **A** Yes. And I haven't said that we would buy the
20 water rights. I have said that the purchase of the
21 parcels would significantly increase our chances of
22 obtaining the water in the most cost-effective manner.

23 **Q** Do you have to pay for water now when the
24 water management district gives you a consumptive use
25 permit?

1 A No.

2 Q And doesn't the water management district make
3 a decision based on water as to, as to whether the use
4 of the water is, in effect, has a public purpose?

5 A They make a decision -- yes, they make a
6 decision. But there are costs associated with different
7 sources of water, and, and the one that we've selected
8 is the one that we believe is the most cost-effective.

9 Q Has FPL, since you've been involved in
10 resource planning, have they ever been denied a
11 consumptive use permit for a power plant?

12 A I don't know.

13 Q And then finally, you, on page 30, line 19,
14 you state, these OPFU sites would be needed for solar PV
15 generation expansion when the cost of such generation
16 becomes a competitive alternative in FPL's system, or
17 earlier, if state or federal legislation is enacted that
18 enables or requires FPL to add to its system. I take it
19 from that answer that, as we sit here today, solar PV
20 is, is not cost-effective.

21 A That's correct.

22 Q And so, so you don't have any -- well, strike
23 that.

24 That's all I have. Thank you.

25 **CHAIRMAN BRISÉ:** Thank you, Mr. Moyle.

1 South Florida Hospital Association -- Hospital
2 and Healthcare Association.

3 **CROSS EXAMINATION**

4 **BY MR. RAPPOLT:**

5 Q Good morning, Mr. Silva.

6 A Good morning.

7 Q I'm Bill Rappolt representing SFHHA here.

8 A Good morning.

9 Q Mr. Moyle asked you, or you gave an answer
10 saying that there's a team of people that assist you.
11 Is there anyone from the rate department of FPL that is
12 involved in that team?

13 A No.

14 Q He also asked you, or you responded about
15 certain questions about options to buy land. What's the
16 typical duration of an option to purchase land that
17 you've seen that FPL has been able to acquire?

18 A At present I'm familiar with an option that
19 expires on July of 2013.

20 Q And when did FPL originally purchase the
21 rights to that option?

22 A When?

23 Q Yes.

24 A I believe in June of 2011.

25 Q Okay. And how much did it cost to purchase

1 the option?

2 A I don't know.

3 Q You mentioned in your testimony about the
4 Glades site, and you said that it's far better to be
5 closer in to the transmission lines. And when you say
6 far better, you're talking about on a cost basis;
7 correct?

8 A Yes, exactly. The, the Glades site would have
9 been much farther away from our load center, which would
10 have required additional transmission facilities, which
11 as a rule of thumb we estimate would cost 100 million
12 per mile, with the associated problems related to, to
13 the corridors and opposition to transmission lines, et
14 cetera. So it's, it's a significant impact.

15 Q Instead of -- and the Glades site was, or the
16 Glades coal plant was denied by the Commission; correct?

17 A Yes.

18 Q And instead of using that site, FPL pursued
19 natural gas projects; is that correct?

20 A Yes. Subsequent to that rejection, we built a
21 combined cycle unit.

22 Q And what was, what site did you use for that?

23 A It was at the West County site. We already
24 had, I believe, two units at that site and we added a
25 third.

1 Q And how many miles closer was that site to
2 transmission?

3 A Much closer. If I may show. (Indicating on
4 demonstrative document.) Here.

5 Q Can you give me an estimate of the number of
6 miles?

7 A No, I'm sorry. I don't know, I don't know the
8 mileage.

9 Q Can you turn to page 5, lines 15 to 17 of your
10 testimony. And when you consider the reasonable costs,
11 it's necessary to take into account all costs incurred
12 by ratepayers associated with property held for future
13 use; correct?

14 A Yes. Not just now, but in the long-term.

15 Q Okay. And your testimony provides a complete
16 analysis of whether the costs to ratepayers of FPL
17 holding the property held for future use identified in
18 your testimony were reasonable; correct?

19 A I'm sorry. Could you repeat the --

20 Q Your testimony, it provides a complete
21 analysis of whether the costs to ratepayers of FPL
22 holding the property held for future use that you've
23 identified in your testimony were reasonable; correct?

24 A My testimony doesn't provide an analysis of
25 the reasonableness of the cost.

1 Q Okay. Let's turn to page 7, lines 7 through
2 14 of your testimony, and specifically let's look at
3 lines 11 to 13. Would you agree that the Commission's
4 decisions regarding how and when property held for
5 future use can be included in rate base will provide
6 incentives to Florida utilities regarding their
7 purchases of property?

8 A That their decisions would provide incentives?

9 Q That's correct.

10 A Yes, I believe so.

11 Q Okay. And you'd agree that the Commission's
12 treatment of property held for future use should provide
13 an incentive for Florida utilities such that utilities
14 only purchase property and hold it for future use when
15 such purchases are in the interest of a utility's
16 customers.

17 A Yes, I would agree.

18 Q And one of the customers' interests that
19 should be considered is the revenue requirement impact
20 of holding property held for future use; correct?

21 A Yes. Now and in the future.

22 Q Okay. You already testified that there wasn't
23 anyone in the rate department in your team. Are you an
24 accountant? Are you an accountant?

25 A No, I'm not.

1 Q Have you ever worked in a rate department of a
2 utility?

3 A No.

4 Q Have you had any formal training on ratemaking
5 practices for utilities?

6 A No.

7 Q If the Commission does not disallow FPL's
8 requested other production property held for future use,
9 then that amount will be included in rate base; correct?

10 A Yes, I would expect so.

11 Q Okay. And then FPL earns a return based on
12 its weighted cost of capital; correct?

13 A FPL would be allowed an opportunity to earn a
14 return, yes.

15 Q Okay. And what's your understanding of FPL's
16 requested weighted cost of capital in this proceeding?

17 A The weighted average cost of capital?

18 **MR. GUYTON:** Objection. It goes beyond the
19 scope of this witness's testimony.

20 **CHAIRMAN BRISÉ:** Mr. Rappolt?

21 **MR. RAPPOLT:** The witness is testifying
22 whether the cost involved with this property held for
23 future use is reasonable, and one of those costs is, as
24 he testified, the revenue requirement associated with
25 holding the property. If he, I mean, if he doesn't

1 know, that's a perfectly acceptable answer.

2 But to believe that an expert testifying
3 whether that cost is reasonable doesn't understand how
4 those costs are passed on to ratepayers is, you know, is
5 kind of outlandish.

6 **CHAIRMAN BRISÉ:** I'll allow the question.

7 **BY MR. RAPPOLT:**

8 **Q** What is your understanding of FPL's requested
9 weighted cost of capital in this proceeding?

10 **A** I don't have the, the weighted average cost of
11 capital in this proceeding, but I asked for a
12 calculation of the impact of the \$108,951,000 based on
13 the cost of capital, and the information that I received
14 from the rate department is that it would amount to
15 about one-third of a cent per day per customer.

16 **Q** And what's the annual revenue requirement
17 associated with that?

18 **A** I don't have that number.

19 **Q** Okay. And did you ask for that calculation
20 before you wrote -- did you ask for that calculation
21 when you recommended to management -- before you
22 recommended to management that they purchase the
23 property?

24 **A** No, I did not ask for that calculation at that
25 time.

1 Q Okay. But you did ask for it to prepare for
2 this cross-examination?

3 A Yes. What was done at the time of the
4 recommendation was to express to management the revenue
5 requirement of the properties, of that one and the
6 alternatives that were being considered at the time in,
7 in terms of, you know, cumulative present value of
8 revenue requirements for comparison purposes. In
9 preparation for my testimony, I asked what the
10 \$108,951,000 became when turned into a cost to the
11 customer, and that's the information that I have.

12 Q And besides the weighted cost of capital,
13 there's expenses associated with holding the property
14 held for future use; correct?

15 A I believe so.

16 Q And some of those expenses would be property
17 taxes?

18 A Yes.

19 Q And liability insurance?

20 A Yes, I expect so.

21 Q And there's also expenses with maintaining and
22 upkeeping the property; correct?

23 A Yes.

24 Q You said that the -- it's a dynamic process
25 where certain property may be needed in the future and

1 it might be pushed back or it might move forward when
2 it's needed. There are times when property is deemed to
3 no longer be needed by the company; correct?

4 **A** Yes, it has happened.

5 **Q** And then FPL would sell the property; correct?

6 **A** Yes.

7 **Q** How many times has FPL purchased and then
8 reserved property for future use, and then sold that
9 property to an affiliate?

10 **A** To my knowledge, never.

11 **Q** Okay. Would you agree that it would be an
12 issue if FPL held the property for years as funded by
13 ratepayers and then took it out of inventory to transfer
14 it to an affiliate?

15 **A** I'm sorry. Could you repeat the question?

16 **Q** Would you agree that it would be an issue if
17 FPL held property for future use, the carrying costs
18 were then paid for by ratepayers, and then FPL sold that
19 property to an affiliate?

20 **MR. GUYTON:** I think I'm going to pose an
21 objection here, simply because that's not a matter
22 that's at issue in this case.

23 **CHAIRMAN BRISÉ:** Is that part of the rebuttal
24 testimony?

25 **MR. RAPPOLT:** His rebuttal testimony talks

1 about how he, FPL would sell this property if it was
2 disallowed, so he specifically talks about selling
3 property held for future use, and I want to
4 understand --

5 **CHAIRMAN BRISÉ:** But does he talk about
6 going -- dealing with affiliates?

7 **MR. RAPPOLT:** No.

8 **CHAIRMAN BRISÉ:** Okay. Move on.

9 **MR. RAPPOLT:** We have no further questions.

10 **CHAIRMAN BRISÉ:** Thank you.

11 FEA, Captain Miller.

12 **CAPTAIN MILLER:** Very briefly.

13 **CROSS EXAMINATION**

14 **BY CAPTAIN MILLER:**

15 **Q** Good morning.

16 **A** Good morning.

17 **Q** Both Mr. Rappolt and Mr. Moyle referred to the
18 team of assistants you work with. Does any member of
19 that, has any member of that team provided testimony in
20 this hearing?

21 **A** In the, in the management team, Mr. Barrett
22 has, has provided testimony and Mr. Silagy. Those are
23 the people that we make recommendations to. I'm trying
24 to see if any, any of the other witnesses sit on that,
25 on that team. I don't believe so.

1 Q Okay. Now, the property sites that you have
2 that are vacant, do you pay any expenses on these other
3 than taxes and insurance?

4 A I am not familiar with the detailed expenses
5 that are involved in the, in the property. At, at
6 present they're going through the zoning process, and
7 that's not a separate cost to us. But I'm not, I'm not
8 familiar with the detail expenses associated with it.

9 Q So just to clarify, you said that zoning
10 expense was not a separate cost to you?

11 A For the, for the McDaniel site, the zoning
12 effort is not part of, is not an added cost to us.

13 Q Do you lease these properties out, the vacant
14 properties?

15 A Not at present that I know of. The properties
16 were purchased in 2011, and I'm not sure what exact use
17 they're being put to right now.

18 Q Is it foreseeable that these properties could
19 be leased?

20 A I suppose it's possible. I'm not sure there's
21 a plan to do that.

22 Q Would you agree with the general statement
23 that a property that you hold that's vacant carries less
24 risk, less risk than a property that's occupied?

25 A That seems reasonable, yes.

1 **CAPTAIN MILLER:** Okay. Thank you.

2 **CHAIRMAN BRISÉ:** Mr. Rehwinkel, OPC.

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

4 Mr. Chairman, before we get started, there are
5 several housekeeping matters that I need to bring to
6 your attention and see if we can get addressed.

7 **CHAIRMAN BRISÉ:** Okay.

8 **MR. REHWINKEL:** First of all, I intend to do
9 what I've been doing and pass out a batch of exhibits
10 for numbering, and these will be nonconfidential
11 exhibits that I'll pass out in the batch. I, I think it
12 would be preferable to address the deposition, because
13 some of my exhibits are late-filed deposition exhibits
14 to that deposition, so we may kind of get there anyway.

15 And the third thing is, I have a few, a few
16 confidential exhibits that I intend to use. I just need
17 to make sure that for the record and that so everyone is
18 clear, these will be distributed only to signatories to
19 whatever arrangements that the company has or to the
20 governmental agencies that have, are covered by orders
21 of the Commission.

22 Because of the sensitivity that I understand
23 these documents carry, I'm going to pass them out one at
24 a time as they come up in cross-examination. And I have
25 talked with Mr. Guyton extensively yesterday about my

1 intent to proceed very carefully because of the
2 sensitivity of this information.

3 When I ask a question to the witness, I will
4 ask the, I will ask the witness now to pause to give his
5 attorney an opportunity to listen to my question and to
6 interpose any object, any objection or caution to the
7 witness. If an answer cannot be verbalized, I will
8 attempt to have the witness answer it by reference to
9 information in a nonverbal way on the document. And if
10 he can verbalize it, yes.

11 So with that, if, I don't know if anyone else
12 has anything to add to it, but that would be just
13 something I would like to address with you. And I think
14 it might be useful just to go ahead and get the
15 deposition and the deposition exhibits addressed, if we
16 can.

17 **CHAIRMAN BRISÉ:** All right. So at this time
18 we'll move to staff -- Mr. Guyton, before we go, before
19 we go on.

20 **MR. GUYTON:** I just, just want to reiterate
21 the importance of the, of the confidential nature here.
22 The documents are commercial in nature. They go to very
23 valuable rights, the disclosure of which could damage
24 FPL's ability to negotiate for future sites and things
25 of that nature, and I just want all the parties to be

1 aware of that. Mr. Rehwinkel and I have discussed that
2 at length and he is clearly sensitive to it. I just
3 want to make sure for the record that it's understood
4 why it's sensitive.

5 Thank you, Mr. Chair.

6 **CHAIRMAN BRISÉ:** Sure. Thank you.

7 Staff, if we could move to you now to deal
8 with the depositions and the late-filed exhibits.

9 **MR. HARRIS:** Thank you, Chairman.

10 **CROSS EXAMINATION**

11 **BY MR. HARRIS:**

12 Q Good morning, Mr. Silva.

13 A Good morning.

14 Q Mr. Silva, do you recall that I took your
15 deposition on August 7th, 2012?

16 A Yes.

17 Q And were you under oath when you took that
18 deposition?

19 A Yes.

20 Q Okay. Were you provided a copy of the
21 deposition after -- from the court reporter?

22 A Yes.

23 Q And did you have an opportunity to review that
24 deposition?

25 A Yes.

1 Q And did you in fact have an opportunity to
2 fill out an errata sheet?

3 A Yes, I did.

4 Q And did you do so?

5 A Yes.

6 Q And did you sign the deposition?

7 A Yes.

8 Q Okay. Mr. Silva, if I asked you the same
9 questions I asked you when I took your deposition, with
10 the exclusion of your errata sheet, would the answers be
11 the same?

12 A Yes.

13 Q It's my understanding, Mr. Silva, that you
14 have been identified by Florida Power & Light as its
15 witness for Issues 30 and 32 in this proceeding; is that
16 correct?

17 A Yes.

18 Q Okay. And as I understand it, these issues
19 relate to plant held for future use; is that correct?

20 A Yes.

21 Q And have you been designated by Florida Power
22 & Light Company to provide the company's position on
23 those issues?

24 A Yes.

25 Q You should have a copy of the deposition in

1 front of you. I think we handed it out yesterday. It's
2 a fairly thick packet. If you don't, we have another
3 one. And there's a large oversized sheet attached to
4 the packet.

5 **A** I, I don't have it here.

6 **MR. HARRIS:** Mr. Chairman, we passed out
7 copies, we passed out copies of a packet yesterday.
8 There's a deposition and errata sheet and then four
9 exhibits. One of the exhibits is oversized, and so
10 you'll see it fairly easily.

11 **BY MR. HARRIS:**

12 **Q** Mr. Silva, one of the items in the packet will
13 have a cover sheet that's, the description is deposition
14 transcript of FPL witness Rene Silva.

15 **A** I have it.

16 **Q** Okay. I'd ask you to take a look at the first
17 page, and then also -- the first page and then glance
18 through it and let me know if this is, appears to be a
19 copy of the deposition I took of you on August 7th.

20 **A** Yes.

21 **Q** There should be another item with a cover page
22 that says, errata sheet to the deposition of Rene Silva.

23 **A** I see that.

24 **Q** Okay. And could you take a look at that and
25 see if that in fact is the errata sheet you provided for

1 this deposition?

2 A It is.

3 Q Okay. The next item in the packet, there
4 should be a cover sheet that says, Late-Filed Exhibit 1
5 to Deposition of Rene Silva.

6 A I see several. I don't see a number --

7 Q Okay.

8 A -- associated with each.

9 Q Okay. There should be, in fact, three cover
10 sheets and one separate document. And according to the
11 package I have, the cover sheets are labeled Late-Filed
12 Exhibit 1 to Deposition of Rene Silva, Late-Filed
13 Exhibit 3 to Deposition of Rene Silva, Late-Filed
14 Exhibit 4 to Deposition of Rene Silva.

15 Then the individual document by itself without
16 a cover sheet, down in the bottom right has a marked tab
17 that says Exhibit, and then number 1, Depo of R. Silva,
18 with a date.

19 A I agree. That's correct.

20 Q Okay. Backing up a second, I guess, since we
21 have the document with the tab in my hand, do you
22 recognize this, Mr. Silva, the document titled -- in the
23 lower right corner it's got a tab that says Exhibit 1?

24 A The one that says Schedule 7.3 at the top?

25 Q Yes, sir.

1 A Yes.

2 Q Can you tell me what this is?

3 A This is a page from Florida Power & Light's
4 Ten-Year Site Plan filed on April 2nd of this year.

5 Q When I took your deposition, did I ask you
6 some questions about this?

7 A Yes, you did.

8 Q Okay. And do you know if this was attached to
9 your deposition transcript as a deposition exhibit?

10 A Yes, I believe it was.

11 Q Okay. And, Mr. Silva, did you, did you
12 prepare or have a part in preparing Florida Power &
13 Light's Ten-Year Site Plan?

14 A I have -- I -- excuse me. The group that I
15 manage coordinates the preparation of the Ten-Year Site
16 Plan and is responsible for filing it.

17 Q And with respect to Schedule 7.3, did you have
18 any part of preparing or supervising the preparation of
19 this schedule?

20 A I supervised the preparation of the schedule.

21 Q Then the next sheet we'd like to turn to is,
22 and if you have, it's, the description is Late-Filed
23 Exhibit 1 to Deposition of Rene Silva. I suppose I
24 should -- it is Rene; right?

25 A It is.

1 Q I'm glad I got that right. I would hate to be
2 mispronouncing your name time after time.

3 A Yes, I have that.

4 Q And could you look at the document that's
5 attached to this cover page.

6 A Yes, I see it.

7 Q Do you know what this document is?

8 A It's a copy of an e-mail transmitted to me by
9 a member of the real estate department.

10 Q And was this document brought up during your
11 deposition?

12 A Yes, it was.

13 Q And did you provide this as a late-filed
14 exhibit to that deposition?

15 A Yes.

16 Q Okay. I'd like to move on to the next sheet,
17 which should be marked Late-Filed Exhibit 3 to
18 Deposition of Rene Silva.

19 A I see that.

20 Q Okay. Can you tell me what this document is?

21 A It's a response to a request made at the
22 deposition for the names of the sellers of the
23 properties that are in other production plant, property
24 held for future use.

25 Q And was this document prepared by you or under

1 your supervision?

2 A It was prepared under my supervision.

3 Q Okay. And it was provided as a deposition
4 exhibit?

5 A Yes.

6 Q Thank you. I suppose I should back up a
7 second and ask you about the e-mail you received. That
8 e-mail was sent to you; correct?

9 A Yes.

10 Q Okay. And then the last document with the
11 large sheets attached is titled description, Late-Filed
12 Exhibit 4 to Deposition of Rene Silva. Do you have
13 that?

14 A Yes, I do.

15 Q And can you tell me what this is?

16 A It's a document that was requested at the
17 deposition. The request was for any documents that
18 demonstrated that properties were expected to appreciate
19 in value, and these were the documents that were
20 available to submit in response to the deposition
21 request.

22 Q And how did you obtain these documents?

23 A They were provided by the real estate
24 department.

25 Q In the course of your employment as the

1 resource planning manager for Florida Power & Light, are
2 these the type of documents you get on a routine basis?

3 A Not on a routine basis, but we do obtain them
4 periodically when decisions are being contemplated that
5 relate to issues of, of real estate and value of real
6 estate.

7 Q Okay. In the course of your profession as the
8 manager of planning for Florida Power & Light, is it
9 usual for you to rely on documents provided by other
10 elements of Florida Power & Light Company?

11 A Yes, it is.

12 Q Okay. And do you use those to prepare your
13 plans or whatever your work product is you're
14 responsible for?

15 A Yes. We, we use that information, vetted by
16 the members of the team and by management, in making
17 decisions related to resource plans.

18 Q And you rely on that in making your decision?

19 A Yes.

20 Q Thank you.

21 **MR. HARRIS:** Mr. Chairman, I believe that I've
22 laid a foundation for the introduction into the
23 evidentiary record of the deposition of Mr. Silva, his
24 errata sheet to that deposition, and then four exhibits,
25 three of which are identified as late-filed, and one

1 which was made a copy of the deposition transcript.

2 At the appropriate time staff will move these
3 in -- would seek to move these into the record, and that
4 would be in lieu of any further cross-examination on
5 behalf of staff.

6 **CHAIRMAN BRISÉ:** All right. Thank you. We
7 will deal with these exhibits at that time, if we can --

8 **MR. HARRIS:** And, Mr. Chairman, I suppose I
9 should have gone through and asked for this. Can we
10 have these identified in the Comprehensive Exhibit List
11 while we're at it?

12 **CHAIRMAN BRISÉ:** Sure.

13 **MR. HARRIS:** The deposition transcript has
14 previously been identified as, I believe, Exhibit 122.

15 **CHAIRMAN BRISÉ:** Okay.

16 **MR. HARRIS:** And I believe our practice has
17 been to attach the errata sheet to that and give it the
18 same exhibit number.

19 **CHAIRMAN BRISÉ:** That is correct. So the
20 late-filed exhibit -- what order do you want them in,
21 the Exhibits 1 --

22 **MR. HARRIS:** The simplest thing, 1 -- well, I
23 would suggest 1, Late-Filed Exhibit 1 be the first to be
24 marked.

25 **CHAIRMAN BRISÉ:** Okay. So Late-Filed Exhibit

1 1 will be 599.

2 (Exhibit 599 marked for identification.)

3 **MR. HARRIS:** And then the single sheet I've
4 handed out that says exhibit, my understanding is that
5 is actually a part of the official transcript of this
6 proceeding. The copies that most of the parties have
7 that we've provided are .pdfs that don't contain this
8 exhibit. So I think for sake of simplicity we should
9 assign it an exhibit number also.

10 **CHAIRMAN BRISÉ:** Okay. So that would be 600.

11 (Exhibit 600 marked for identification.)

12 **MR. HARRIS:** Then if we could have Late-Filed
13 Exhibit 3 to the deposition of Mr. Silva identified.

14 **CHAIRMAN BRISÉ:** 601.

15 (Exhibit 601 marked for identification.)

16 **MR. HARRIS:** And finally, Late-Filed Exhibit 4
17 to the deposition of Mr. Silva.

18 **CHAIRMAN BRISÉ:** 602.

19 (Exhibit 602 marked for identification.)

20 **MR. HARRIS:** And as I've stated, the reason
21 there is no Late-Filed Exhibit 2 is because this
22 document was actually part of the deposition, not
23 late-filed.

24 **CHAIRMAN BRISÉ:** Okay. Thank you.

25 **MR. HARRIS:** And it may be appropriate, Mr.

1 Chairman, given Mr. Rehwinkel's remarks, to see if there
2 are going to be any objections to admission of this now.

3 **CHAIRMAN BRISÉ:** Are there any objections?

4 **MR. MOYLE:** Yes. FIPUG would, would object to
5 the admission of the deposition and the late-filed
6 exhibits on, on a number of grounds.

7 You know, it's an improper use of a
8 deposition, we believe, under Rule 1.330, *Florida Rules*
9 *of Procedure*. I mean, the witness is here. But really,
10 this, this objection is not interposed for the purposes
11 of, you know, anything other than to try and keep out of
12 the record additional information about this property.
13 So I just want the Commission to be clear on that.

14 FIPUG thinks the record as it exists is not
15 robust, and this makes it more robust. And we're trying
16 to keep these out so that -- we believe that there will
17 not be competent substantial evidence to make a finding
18 of fact. So that's the reason that we're, we're
19 objecting, and we would object to the depo coming,
20 coming in and we believe it's an improper use of the
21 depo. And we would object to the exhibits coming in,
22 because FPL, if it, if it wanted to provide sufficient
23 information with respect to these particular sites to
24 try to convince you that they should go into the rate
25 base, they should have put this in their, in their

1 direct case, or it should have been in their rebuttal
2 case, and we object to it coming in now.

3 And just by, by illustration, I don't want to
4 spend a ton of time on it, but, you know, the very first
5 exhibit, you know, if you look at it, it's from a Dean
6 Gerard written to a bunch of people and has a bunch of
7 information about increase in property values. And, you
8 know, it kind of illustrates the point I think made
9 earlier with respect to this witness not being an expert
10 but being a conduit for information, and this
11 information coming in through, through this witness as a
12 conduit.

13 So for all of those reasons, FIPUG would
14 object to the admission of the deposition and the
15 exhibits.

16 **CHAIRMAN BRISÉ:** Okay. Any other objections?
17 Any responses? Any other responses?

18 **MR. REHWINKEL:** Mr. Chairman, the Public
19 Counsel has no objection, and supports the introduction
20 of all these items into the record.

21 **CHAIRMAN BRISÉ:** Okay. FPL.

22 **MR. GUYTON:** FPL has no objection.

23 **CHAIRMAN BRISÉ:** Okay.

24 **MR. HARRIS:** Mr. Chairman, I'm sorry. I don't
25 mean to interrupt you, but one last thing I should point

1 out, that I believe under the *Rules of Civil Procedure*,
2 which do govern this, the depositions of expert
3 witnesses are admissible, whether the expert is ready to
4 testify or not.

5 But also, Mr. Silva has testified he's the
6 representative of Florida Power & Light Company, and I
7 believe it's 1.330 says that the company may designate
8 an agent to testify on its behalf and that those
9 depositions are admissible over objections.

10 So that would be the basis for our request
11 that these be admitted.

12 **CHAIRMAN BRISÉ:** Okay. I think that this
13 information will be useful, so therefore we will admit
14 it. Okay.

15 **MR. HARRIS:** Thank you, Chairman.

16 **CHAIRMAN BRISÉ:** Mr. Rehwinkel.

17 **MR. REHWINKEL:** Thank you, Mr. Chairman. At
18 this time, Mr. Chairman, I would ask that the exhibits,
19 the nonconfidential exhibits that the Public Counsel has
20 passed out be distributed to the, to parties and the
21 Commissioners, and the witness.

22 **MR. SAPORITO:** Mr. Chairman, can I inquire?
23 Staff's exhibit, with respect to, I think it was -- let
24 me check. 120 -- no, I mean, 122, that was the
25 deposition transcript of Mr. Silva?

1 **CHAIRMAN BRISÉ:** Yes. The deposition
2 transcript with the errata.

3 **MR. SAPORITO:** And that's in, true?

4 **CHAIRMAN BRISÉ:** Well, we haven't moved
5 anything in yet, but that's, that's part of the set.

6 **MR. REHWINKEL:** Okay. Mr. Chairman, I believe
7 you have the document. So the first document should be
8 FPL response to staff's 7th interrogatories, number 243.

9 **CHAIRMAN BRISÉ:** Yes. That would be, for
10 identification purposes, 603.

11 (Exhibit 603 marked for identification.)

12 **MR. REHWINKEL:** Okay. And the next one would
13 be FPL response to interrogatory number 249.

14 **CHAIRMAN BRISÉ:** Okay. 604.

15 (Exhibit 604 marked for identification.)

16 **MR. REHWINKEL:** And then after that, *Earth*
17 *First News*, November 21, 2011.

18 **CHAIRMAN BRISÉ:** Okay. That's 605.

19 (Exhibit 605 marked for identification.)

20 **MR. REHWINKEL:** Okay. And then Hendry County
21 Planning and Zoning Staff Report.

22 **CHAIRMAN BRISÉ:** All right. 606.

23 (Exhibit 606 marked for identification.)

24 **MR. REHWINKEL:** And then FPL response to staff
25 POD 50.

1 **CHAIRMAN BRISÉ:** All right. 607.

2 (Exhibit 607 marked for identification.)

3 **MR. REHWINKEL:** Okay.

4 **CHAIRMAN BRISÉ:** Mr. Rehwinkel.

5 **MR. HARRIS:** Mr. Chairman, I'm sorry.

6 Mr. Rehwinkel, I had a FPL response to staff
7 interrogatory number 248.

8 **MR. REHWINKEL:** Okay. That was not in the
9 stack that I had. I apologize. So we can, response to
10 248 would be 608?

11 **MR. HARRIS:** Well, I'm sorry. Let me read
12 what I have. I might be misnumbered. For two -- for
13 interrogatory 243, I have that as 603. For 248 I have
14 it as 604.

15 **CHAIRMAN BRISÉ:** Right.

16 **MR. HARRIS:** 249 doesn't have a number on it.

17 **CHAIRMAN BRISÉ:** Right.

18 **MR. HARRIS:** Then I go on to *Earth First News*
19 is 605, Hendry County, 606, and FPL POD 50 is 607.

20 **MR. REHWINKEL:** So we should make 249 to be
21 608.

22 **CHAIRMAN BRISÉ:** All right. So let me go
23 through it the way I have it.

24 603 is 7th interrogatory 243. Okay? 604 is
25 7th, 248. 605 is *Earth First News*. 606 is Hendry

1 County planning. 607 is staff POD 50. And then 608
2 would be 7th, 249.

3 (Exhibit 608 marked for identification.)

4 **MR. REHWINKEL:** Thank you. I apologize for
5 the oversight.

6 **CHAIRMAN BRISÉ:** Okay.

7 **MR. REHWINKEL:** Okay. Now we can start asking
8 questions.

9 **CHAIRMAN BRISÉ:** Yes, please.

10 **CROSS EXAMINATION**

11 **BY MR. REHWINKEL:**

12 **Q** Good morning, Mr. Silva.

13 **A** Good morning.

14 **Q** It seems like afternoon already.

15 **CHAIRMAN BRISÉ:** It sure does.

16 (Laughter.)

17 **MR. HARRIS:** That is not staff's fault.

18 **BY MR. REHWINKEL:**

19 **Q** Mr. Silva, you and Terry Deason are the only
20 witnesses offered by FPL to testify on Issue 30;
21 correct?

22 **A** Yes.

23 **Q** And Mr. Deason did not testify in order to
24 justify the \$109 million in the other production future
25 use account; correct?

1 A Yes.

2 Q You were the only company witness testifying
3 in this case and whom, and whom the Commission can ask
4 any questions of with respect to this land; correct?

5 A Yes.

6 Q If the Commission is to approve the land, it
7 will be based at least in part on your testimony and
8 whether you have demonstrated that the \$109 million is
9 reasonable and prudent; correct?

10 A Yes.

11 Q Can you tell me who Matt Belger is?

12 A I don't know him personally.

13 Q Do you have the deposition exhibits? And if I
14 could ask you to look at 599, which is Late-Filed
15 Exhibit 1.

16 A Oh, Late-Filed Exhibit 1?

17 Q Yeah. It's the e-mail, the July 9th, 2012,
18 e-mail. It's a lot of paper.

19 A I have it.

20 Q This is an email from Dean Gerard; is that
21 right? Who is Dean Gerard?

22 A He's a member of our real estate department.

23 Q Okay. And so you see in the "To" line it says
24 Rene Silva, and then right after you is Matt Belger?

25 A Yes.

1 Q B-E-L-G-E-R. You don't know who he is?

2 A I have not met him personally, no.

3 Q Okay. But do you know what he does?

4 A No.

5 Q Okay. Do you know who Mike Lannon is,

6 L-A-N-N-O-N?

7 A Mike Lannon?

8 Q Yes.

9 A Yes.

10 Q What does he do?

11 A I believe he's in the transmission group.

12 Q Okay. Is he part of the team that does the
13 analysis that you present to management with respect to
14 purchase of sites and --

15 A He has not participated to date, although that
16 department is represented on the team.

17 Q Okay. Do you have in front of you the
18 response to late-filed deposition exhibit -- I'm
19 sorry -- the response to 249, which is Exhibit 608?

20 A Yes, I do.

21 Q Okay. Could you turn to Attachment 1, which
22 is the, the legal size spreadsheet?

23 A Yes, I see that.

24 Q Okay. You're familiar with this document, are
25 you not?

1 A I have seen it.

2 Q Okay. All right. In the other production
3 future use line, do you see where that is? It's about a
4 third of the way down.

5 A Yes, I see that.

6 Q Okay. The Ft. Drum site, which is one of the
7 sites that's at issue in this case; right?

8 A Yes.

9 Q In the cost column, do you see right after the
10 assessed value of 913,000 is 17,754,918. That's the
11 purchase price; is that right?

12 A Yes.

13 Q Okay. And if we look in the description
14 column all the way to the right, it says approximately
15 2,832 acres of land in Okeechobee County.

16 A Yes.

17 Q Now, would you agree, subject to check, that
18 17,754,918 divided by 2,832 is \$6,269 per acre?

19 A Yes, subject to check, I believe that is
20 right.

21 Q Okay. Now, this also shows in the purchase
22 date column that the land was acquired in June of 2011;
23 right?

24 A Yes.

25 Q Okay. And does FPL own this land outright?

1 **A** Yes.

2 **Q** Okay. Now, you also testified that there are
3 plans at some point in the future to put two combined
4 cycle units at this site; right?

5 **A** Yes. It's capable of three units, but the
6 current plan is for two.

7 **Q** Okay. And there are also plans to put a, to
8 put solar generating or photovoltaic facilities on this
9 site; right?

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

11 **Q** To the best of your knowledge, has FPL had any
12 discussions with any firms that manufacture solar panels
13 and solar plant assets with respect to providing solar
14 panels or equipment at the Ft. Drum site in any future
15 point in time?

16 **A** I don't believe that there have been
17 discussions with respect to the Ft. Drum site
18 specifically, but there are discussions about the
19 provision of solar panels for FPL ongoing, on a, on a,
20 on an ongoing basis.

21 **Q** Now, the site that we just talked about, Ft.
22 Drum, you identify that as being an alternative site,
23 with the McDaniel site or the Hendry County location as
24 being the primary site; is that right?

25 **A** Yes. And I was talking about like the first

1 unit or two, Ft. Drum would be the alternate site,
2 although eventually it becomes the primary site.

3 Q Okay. But at this point in time it is the
4 alternative, or it's second in line?

5 A Yes.

6 Q You also testified that that Ft. Drum site,
7 which is the upper of the two stars in your, in your map
8 behind you; right?

9 A Yes.

10 Q You say it has an adequate water supply on
11 site; is that right?

12 A Yes.

13 Q And that would be the Floridan Aquifer?

14 A That's correct.

15 Q And maybe in the future a canal reconnection
16 with one of the canals in the area?

17 A Yes, that's correct. With the reservoir.

18 Q Okay. So that would be a surface water water
19 source versus the, the well for the, from the aquifer;
20 correct?

21 A Yes. It would be water that otherwise would
22 go to the ocean, but it requires the canal to be worked
23 on.

24 Q Okay. Let's look at the next line down on
25 249. The McDaniel site is below that, and we see, after

1 the assessed value of 464,660, a cost of 41,975,443. Do
2 you see that?

3 A Yes.

4 Q And the only reason the number in the next
5 column is different is because of the timing of the
6 purchase and the amount of dollars that are in a
7 13-month average basis; is that right?

8 A That's my understanding. Yes.

9 Q Okay. And if we looked over further in this
10 column, we see 3,126 acres as the, the size of that
11 site; correct?

12 A Yes.

13 Q Now, does FPL own this -- okay. And it shows
14 June 2011 as the purchase date also?

15 A Yes.

16 Q Does FPL own this site outright?

17 A That's my understanding.

18 Q Now, if we did the same kind of math we did
19 for Ft. Drum, would you agree that that, subject to
20 check, that yields a per acre cost of \$13,428 --

21 A That sounds --

22 Q -- for the McDaniel site?

23 A That sounds about right. I had understood a
24 little over 12,800, but I had not done the calculation
25 with this table.

1 Q Okay. So maybe we ought to, maybe -- do
2 you -- you don't have a calculator with you, do you?

3 A I can.

4 Q Okay. Would you, would you mind doing that,
5 since lawyer math is not necessarily the best math.

6 A I agree with you, 13,420 -- 13 million --
7 \$13,428 per acre.

8 Q Okay. Thank you. Now, would you agree with
9 me that in the last FPL rate case that the appropriate,
10 the level of property held for future use was 210,000 --
11 in 2010 was \$70,302,000?

12 A I don't know. I --

13 Q Okay. Do you know the amount, the total
14 amount of property held for future use that's being
15 requested in, in this case?

16 A Not off the top of my head, but --

17 Q Okay. Would you accept, subject to check,
18 that it is approximately 236 million?

19 A Yes.

20 Q Okay. Let's now -- and the other star, the
21 McDaniel/Hendry, is the lower star on the map right
22 there; correct?

23 A That's correct.

24 Q Okay. And it is comprised of two pieces of
25 property, that site together; is that right?

1 **A** There are three pieces of property.

2 **Q** Okay.

3 **A** In that, in that site. There's the McDaniel
4 site and then there's two parcels that are -- one due
5 for purchase this year, and one that reflects an option
6 for purchase next year.

7 **Q** Okay. The two that you just described are not
8 part of the 3,126 acres; right?

9 **A** That's correct.

10 **Q** Okay. All right. So let's look at the next
11 line down on 249, or Exhibit 608.

12 **A** Yes.

13 **Q** Okay. And then where it says Hendry County
14 land.

15 **A** Yes.

16 **Q** If we look in the assessed value column, it
17 says zero. And in the cost column it says \$70 million;
18 right?

19 **A** Yes.

20 **Q** And then of course the 13-month average number
21 is because of the, the time it was recorded in, on the
22 books.

23 **A** Yes. The fact that one of them will not be in
24 the books until, I believe, July of 2013.

25 **Q** Okay. And then the -- well, so the, the prior

1 year amount of 32,000,342 shows -- well, why, why is
2 that in there, because there is a purchase plan this
3 year?

4 **A** Yes. As I indicated, there is a plan to
5 purchase one parcel in 2012.

6 **Q** Okay.

7 **A** And there is a plan to exercise an option to
8 purchase another parcel in mid 2013.

9 **Q** Okay. So the two parcels combined and the
10 timing of the planned purchases yields the 13-month
11 average test year amount of 51,214,773; correct?

12 **A** That's correct.

13 **Q** All right. And then if we look over here in
14 the description column, it says 9,426 acres, which I
15 believe you corrected in your deposition to be 9,409;
16 correct?

17 **A** That's correct.

18 **Q** Okay. Now, would you agree, and I'm going to
19 ask you this math not based on the amounts that are in
20 that 13-month average basis, but the costs, if you take
21 the cost amount of 70 million and you divide that by
22 9,426 acres, you get a cost per acre of \$7,440?

23 **A** \$7,440.

24 **Q** Okay. All right. I want to turn from this
25 exhibit to ask you some questions about the McDaniel --

1 is it McDaniels with an S? Yes. McDaniels land. And
2 what I mean there is the, the 3,126 acres. Is that the
3 right acreage for the McDaniels site?

4 A Yes. And, by the way, I believe the spelling
5 is incorrect. It is without the S.

6 Q Okay. All right. Isn't it true that FPL
7 purchased this property from an entity called McDaniel
8 Reserve Realty Holdings, LLC?

9 A Yes.

10 Q Okay. Now, do you have a copy of the, what I
11 previously had marked as Exhibit 605?

12 A Is that a response to --

13 Q No. It is the *Earth First News* article.

14 A All right. I have it.

15 Q And if I could get you to turn to the very
16 first page and ask you to read aloud -- you see in the
17 middle underneath the picture of the West County Energy
18 site --

19 A Yes.

20 Q -- the paragraph, it starts with the lines, in
21 spite of, or the words in spite of?

22 A Yes.

23 Q If you wouldn't mind going and reading,
24 starting in the second line where it, with the word FPL
25 and read that all the way through the end.

1 **MR. GUYTON:** Objection. This document has not
2 been authenticated, nor has its reliability been
3 established. It appears on its face to be something off
4 the Internet. I have great reluctance for the
5 Commission simply to take notice of something that may
6 be off the Internet without some sort of foundation
7 being laid for the document. It may be perfectly
8 legitimate. I just think we're entitled to have a
9 foundation.

10 **CHAIRMAN BRISÉ:** Mr. Rehwinkel?

11 **MR. REHWINKEL:** Well, Mr. Chairman, I am not
12 offering this document for the truth of whatever is in
13 it. I want to ask Mr. Silva if he agrees with any part
14 of the statement that is in here without asking him to
15 accept that it is true or not.

16 This is a newspaper article off of the
17 Internet, and, you know, I'm -- there's nothing in here
18 that I'm asking the Commission to, to make an
19 evidentiary finding based on.

20 **MR. GUYTON:** Yet it's been identified as a
21 potential exhibit. I mean, if -- I think the question
22 could be posed without reference to the article, if the
23 article is not going to be authenticated or
24 foundationally.

25 **MR. REHWINKEL:** Well, it -- I most likely

1 won't even ask that this be entered into evidence. I
2 just want to ask him if he agrees with this statement.
3 That's really my, my question.

4 **CHAIRMAN BRISÉ:** Okay. I'll allow it.

5 **BY MR. REHWINKEL:**

6 **Q** If I could just get you to read aloud from
7 "FPL" ultimately through the end of that, where it ends,
8 "projects in the county."

9 **A** FPL ultimately decided to spend \$40 million to
10 purchase this property, while giving the previous owner,
11 Eddie Garcia, a \$25 million profit on the \$15 million he
12 invested in 2005. Vacant land prices in a state with
13 some of the highest foreclosure rates in the country
14 have hardly moved upward since 2005. We have to assume
15 that the enormous price FPL was willing to pay for this
16 property reflected the rezoning Mr. Garcia successfully
17 accomplished through the Hendry County commission,
18 converting so far only on paper a completely rural piece
19 of south Florida into one of the largest industrial
20 projects in the country.

21 **Q** Okay. Mr. Silva, can you tell me whether the
22 \$40 million to purchase the property amount is accurate,
23 as reflected in this document?

24 **A** It is approximately accurate.

25 **Q** Okay. What about the name of the previous

1 owner, Eddie Garcia? Do you know whether that's the
2 name of the owner of the property?

3 **A** I did not associate a person's name with that
4 property. I had seen the realty company name as being
5 the seller, so I'm not familiar with Mr. Eddie Garcia.

6 **Q** Okay. So you don't know if Mr. Garcia is the
7 true owner of McDaniel --

8 **A** No.

9 **Q** Okay. And when I say McDaniel, I mean
10 McDaniel Realty Reserve, LLC, or whatever that name was.

11 **A** Right.

12 **Q** Okay. Have you -- are you familiar with
13 whether the prior owner, whether it was Mr. Garcia or --
14 I should, I should have this name memorized, McDaniel
15 Realty Reserve, LLC, do you know whether they purchased
16 the property for \$25 million in 2005?

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

18 **Q** Okay. Do you know whether the previous owner
19 had the property rezoned to accommodate a combined cycle
20 solar energy, clean energy project prior to FPL buying
21 it?

22 **A** No, I'm not aware that that happened at the
23 time. My understanding was that part of the transaction
24 was an obligation on the part of the seller to
25 accomplish the necessary rezoning.

1 **Q** Did that occur prior to the purchase, that
2 meaning the rezoning?

3 **A** I believe that that's still in process. And
4 for that reason, some of the price of the site has been
5 placed in escrow pending resolution of zoning, among
6 other obligations that the seller also took on itself.

7 **MR. REHWINKEL:** Okay. Mr. Chairman, at this
8 time I would like to identify a confidential document
9 for distribution.

10 **MR. GUYTON:** Mr. Chair, we're close to two
11 hours. I wonder if this wouldn't be a good time to have
12 a break and let Mr. Rehwinkel and I have a brief chat
13 about confidential documents before we start circulating
14 them.

15 **CHAIRMAN BRISÉ:** Okay.

16 **MR. REHWINKEL:** In that case, in that case we
17 will wait to distribute until after Mr. Guyton and I
18 have a conversation.

19 **CHAIRMAN BRISÉ:** Sure. So we will go 'til
20 11:00. That's ten minutes.

21 (Recess taken.)

22 (Transcript continues in sequence with Volume
23 29.)

