

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION
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In the Matter of:

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

VOLUME 29

Pages 4300 through 4384



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 10:55 a.m.
Concluded at 2:30 p.m.

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

REPORTED BY: DEBRA R. KRICK
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APPEARANCES: (As heretofore noted.)

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I N D E X

WITNESSES

NAME :	PAGE NO .
RENE SILVA	
Cross Examination by Mr. Rehwinkel	4306
Cross Examination by Mr. Saporito	4350

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EXHIBITS

NUMBER :	ID	ADMTD.
609	4306	
610	4314	
611	4316	
612	4337	
613	4349	
614	4358	
615	4360	
616	4360	

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P R O C E E D I N G S

(Transcript follows in sequence from
Volume 28.)

CHAIRMAN BRISÉ: All right. I know that we took an extended break to deal with some confidential issues, give our court reporters an opportunity to swap out and get all of the equipment set up.

Mr. Guyton?

MR. GUYTON: Thank you, Commissioner, for the break and that opportunity and the sensitivity to the documents. We will be handing out -- both Office of Public Counsel and I am going to help in handing them to staff -- documents that are in numbered sets. If we could just, before we start, know how many numbered sets have actually been handed out so we know how many to collect, that would be very helpful.

CHAIRMAN BRISÉ: Okay. So we are collecting these after the use?

MR. GUYTON: Yes.

CHAIRMAN BRISÉ: Or after the -- we are done with the witness?

MR. GUYTON: If they are not introduced, then, yes, we would like to collect them. If they are

1 introduced, then I think the parties need to be
2 able to keep their copies, those that have signed
3 our disclosures agreements.

4 CHAIRMAN BRISÉ: Right. And who signed the
5 disclosure -- disclosure agreements? I think it
6 would be helpful, who has not?

7 MR. GUYTON: I think Mr. Saparito is the only
8 party who has indicated that he will not take the
9 document, but he does want to be present in the
10 hearing room during the inquiry. And if I have
11 misstated that, Mr. Saparito, please -- please
12 correct me.

13 MR. SAPARITO: Counsel is correct.

14 CHAIRMAN BRISÉ: Okay.

15 MR. REHWINKEL: Mr. Chairman, also, I -- I
16 think we are going to distribute only to the
17 parties who are present at the hearing.

18 CHAIRMAN BRISÉ: Right.

19 MR. REHWINKEL: So I know that there is a
20 pending motion with respect to Larson. Algenol is
21 not here. Pinecrest is not here, so we are not
22 make any provision to distribute to them.

23 And also, when -- if these are moved into the
24 record, an official copy will stay with the court
25 reporter and will be treated pursuant to your

1 confidentiality procedures and under the Notice of
2 Intent that the company has filed.

3 All other copies with the Commissioners and
4 the staff will be collected, and they will be
5 returned to the Public Counsel who will -- will
6 ultimately return them to the company. But we will
7 work that out. If they are not moved at all, all
8 copies will be recollected and returned to the --
9 to the company as appropriate.

10 Public Counsel is subject to a -- I forget the
11 exact -- a claim of confidentiality that covers us
12 under the statute. Everyone else, except Mr.
13 Saporito, I assume the company has a -- a
14 nondisclosure agreement with.

15 Is that correct, Mr. Guyton?

16 MR. GUYTON: That is correct.

17 CHAIRMAN BRISÉ: Okay. Thank you. I just
18 wanted to make sure that all of that was clear and
19 on the record.

20 MR. GUYTON: And -- and we will do our best to
21 follow the procedure in the Florida Department of
22 Education procedure order for handling confidential
23 material. Thank you.

24 CHAIRMAN BRISÉ: Thank you.

25 Mr. Rehwinkel?

1 MR. REHWINKEL: Okay. Mr. Chairman, being
2 distributed now is a confidential exhibit that I
3 would ask be given a number.

4 CHAIRMAN BRISÉ: 609.

5 MR. REHWINKEL: Okay. So Exhibit 609 is FPL
6 Response to Staff POD Number 50, Exhibit 30, Bates
7 number 4680 through 4764.

8 (Whereupon, Exhibit No. 609 was marked for
9 identification.)

10 MR. REHWINKEL: If -- I could ask, Andrew, how
11 many copies did you distribute? Okay. So it seems
12 like 20 copies were distributed. Thank you.

13 CHAIRMAN BRISÉ: Okay.

14 MR. REHWINKEL: Okay. I think one more was
15 given to the Public Counsel in the back, so 21 have
16 been distributed.

17 CHAIRMAN BRISÉ: Seems like there may be a
18 22nd copy. Okay.

19 MR. REHWINKEL: To -- to Mr. Wiseman.

20 CHAIRMAN BRISÉ: Thank you.

21 CROSS EXAMINATION

22 BY MR. REHWINKEL:

23 Q Okay. Do you have a copy of 609 -- Exhibit
24 609 with you, Mr. Silva?

25 A Yes, I do.

1 Q Okay. Now, you had testified earlier, I
2 think, under voir dire, and -- and maybe to some degree
3 in your -- in your testimony about your familiarity with
4 the valuation of the properties at issue; is that
5 correct?

6 A I think I indicated that I was a -- present
7 during discussion of some of the valuation as it was
8 presented to the team and subsequently to management.

9 Q Okay. I -- I think you said you were aware in
10 detail of the matters, including values of the real
11 estate at issue or something along that line?

12 A Yes.

13 Q Okay. Now, I know we have gone over this, but
14 I am asking -- going to ask you to look at this
15 confidential document. And I want you to, before you
16 answer a question, to pause so that if there is any
17 concern by your attorney, he has an opportunity to take
18 whatever action he needs to take.

19 Now, the first page of this document is not
20 the subject matter that I want to talk about. I don't
21 know why that's there, but these documents were provided
22 in this manner to us.

23 If you could turn, please, to Bates 4701. Do
24 you see that?

25 A Yes.

1 Q Now, can you tell me -- can you verbalize
2 what -- the document that runs from Bates 4701 to 4764,
3 or the end of this exhibit, can you tell me what this
4 document is?

5 A Yes. My understanding is that this is an
6 appraisal of the value of the McDaniel Site based on its
7 use as a power generating site.

8 Q Can you tell me whether this document was
9 utilized or relied upon by FPL in the negotiations for
10 the purchase price for the McDaniel Site?

11 A I believe it was used during the negotiation
12 phase. It was used in presentations within FPL.

13 Q Okay. Now, can you tell me, on line 4702, at
14 the bottom, can you tell me what that number says, or is
15 that confidential, to your knowledge? And if you don't
16 know, I would prefer you to not speculate about whether
17 something is confidential. I would ask that you err on
18 the side of not verbalizing information unless you're
19 absolutely certain.

20 A I -- I believe that -- that the number is not
21 confidential.

22 Q Okay. And so what is that number?

23 A It is \$53 million.

24 Q Okay. Do you know who -- well, the name of
25 the person who is in the addressing section of the

1 letter, known as 4702, do you know who that person is?

2 A At the top of the page?

3 Q Yes.

4 A No, I don't.

5 Q Okay. Can you tell me -- can you read aloud
6 what that says, the first three lines there, starting
7 with "Miss?"

8 A Ms. Andrea M. Kilmer, CPA, CFF, CFO, comma,
9 Vice President, McDaniel Reserve Reality Holdings, LLC.

10 Q Okay. Thank you.

11 And in the -- under "Dear Ms. Kilmer," can you
12 read the sentence that starts with the word "McDaniel?"

13 A "McDaniel Reserve Reality Holdings, LLC and
14 you as their representative are the clients."

15 Q Okay.

16 A "McDaniel Reserve Reality Holdings and Florida
17 Power & Light, the potential purchaser of the property,
18 are the intended users."

19 Q Okay.

20 A "The intended use of this report is for
21 possible sale and acquisition purposes."

22 Q Okay. Can I now get you to turn to Bates 4718
23 and direct to you the top of that page, which is page 11
24 of the appraisal; is that right?

25 A Yes.

1 Q Okay. Under the heading "Scope of Work
2 Continued," is it -- can you verbalize to the Commission
3 the first bullet point there?

4 A You want me to read it?

5 Q If -- if it's -- and again, just --

6 CHAIRMAN BRISÉ: Mr. Guyton?

7 MR. GUYTON: No. No problems.

8 CHAIRMAN BRISÉ: Okay.

9 MR. GUYTON: I'm sorry. That was less than
10 clear.

11 THE WITNESS: The bullet reads, "performed an
12 on-site inspection of the subject property on
13 March 30th, 2011 on which we were accompanied by
14 Eddie Garcia, the property owner, and Joshua
15 Kellum.."

16 BY MR. REHWINKEL:

17 Q Do you know either of those individuals?

18 A No.

19 Q Can I get you to turn to 4724, please?

20 A I am there.

21 Q Okay. To your knowledge -- and this is page
22 16 of the same appraisal, correct?

23 A Yes.

24 Q Under owner and history of the subject, to
25 your knowledge, is the information that is in that

1 section, above the words "location access and frontage,"
2 is any of that information confidential, seeing as how
3 it looks to be part of the public record?

4 A I do not believe that any of it is
5 confidential.

6 Q Okay. Now, it shows that the owner as
7 McDaniel Reserve Reality Holdings, correct?

8 A Yes.

9 Q Okay. And in the first paragraph, we see a
10 transaction date and an -- and an amount, correct?

11 A You're referring to the May 16th?

12 Q Yes.

13 A Yes.

14 Q Okay. And then the -- the total transaction
15 price was \$15.5 million; is that right?

16 A Yes, that's what it says.

17 Q Okay.

18 MR. REHWINKEL: And, Mr. Chairman, just for
19 clarification, the Public Counsel due to the
20 sensitivity of the documents that we have been
21 provided and the staff was provided in this POD
22 response, we are not contend -- contending that
23 each and every word is confidential.

24 We know that by nature that these documents
25 are sensitive and that they do contain confidential

1 information. We do not believe that it is worth
2 trying to go out and kind of tease out what is and
3 isn't because they overwhelmingly are. We
4 concur -- we agree. So I am not trying to contend
5 that FPL is overclassified information as
6 confidential as a result of my questions just for
7 the record.

8 CHAIRMAN BRISÉ: Understood.

9 BY MR. REHWINKEL:

10 Q Would you agree that \$15.5 million as a
11 purchase price 3,126 acres yields a -- an average cost
12 per acre of \$5,015, subject to check?

13 MR. GUYTON: I'm sorry, Charles. Where are
14 you picking up the 3,000?

15 MR. REHWINKEL: 3,126, the -- the size of the
16 McDaniel Property.

17 MR. GUYTON: Well, there were three -- okay.

18 THE WITNESS: What number did you say?

19 BY MR. REHWINKEL:

20 Q Well --

21 A The -- the per acre number you asked me
22 about --

23 Q Yes.

24 A -- what was it?

25 Q Does -- does 3,126 divided by -- does

1 15,507,500 divided by 3,126, can you tell me what that
2 per acre cost is?

3 A My calculation yields 4,961.

4 Q Okay. Now, is the 138 acres that is
5 referenced in the November 2005 transaction, is that
6 part of what FPL purchased?

7 A I am not sure.

8 Q Okay. Would you agree that what is in the
9 appraisal here is consistent with the information that
10 is shown in the Earth First! news article that I asked
11 you to read from earlier with respect to Mr. Garcia and
12 the \$15 million purchase price in 2005?

13 A Yes, that part is consistent. The 53 million
14 is not consistent with the 40 million.

15 Q Okay.

16 MR. REHWINKEL: In that regard, Mr. Chairman,
17 I would like to -- I would like to ask -- actually,
18 I would like to ask a housekeeping matter.

19 CHAIRMAN BRISÉ: Sure.

20 MR. REHWINKEL: Is it the preference of the
21 Chair and Florida Power & Light that we recollect
22 each document each time, or will it be possible for
23 us to have several confidential documents together
24 because I think some of these may require us to go
25 back and forth? That's something we had not talked

1 about.

2 CHAIRMAN BRISÉ: I will tell you what my
3 preference is.

4 MR. REHWINKEL: Yes.

5 CHAIRMAN BRISÉ: My preference is since we all
6 have agreed to deal with these documents
7 appropriately, that we can collect all of them at
8 the end.

9 MR. REHWINKEL: Okay.

10 MR. GUYTON: And if that is your preference,
11 that is our preference.

12 CHAIRMAN BRISÉ: All right. Thank you.

13 MR. REHWINKEL: Okay. Thank you.

14 Mr. Chairman, at this time, I have an exhibit
15 to -- to offer. FP&L has possession of the
16 exhibit, and they have offered to -- they have made
17 the copies. And they have offered to provide it to
18 staff for dissemination.

19 CHAIRMAN BRISÉ: Okay. That would be 610.

20 MR. REHWINKEL: And title of this exhibit is
21 Hendry County Power Plant Site Acquisition,
22 July 15, 2011. And it is Bates 3272-3296.

23 (Whereupon, Exhibit No. 610 was marked for
24 identification.)

25

1 BY MR. REHWINKEL:

2 Q Mr. Silva, are you familiar with this
3 document?

4 A Yes, I am.

5 Q And when I asked you if you are familiar with
6 a document, just so the record is clear on this, I
7 provided documents to your counsel -- some of these
8 confidential documents to your counsel yesterday, and I
9 understood and agreed that he should share them with you
10 for purposes of dealing with confidential information.
11 Do you -- do you understand that?

12 A Yes.

13 Q When I ask you if you are familiar with a
14 document, I am not trying to get you to say you're
15 familiar with it only because you saw it only because of
16 that. Do you understand that?

17 A Yes.

18 Q Okay. That, meaning me sharing these
19 documents with Mr. Guyton yesterday?

20 A I understand.

21 Q Okay. Is it true that this document --

22 MR. REHWINKEL: Well, Mr. Chairman, I need to
23 pass out another exhibit at this time.

24 CHAIRMAN BRISÉ: Okay. That would be Exhibit
25 No. 611.

1 MR. REHWINKEL: Yes. This is the Confidential
2 Response to Staff Interrogatory No. 242.

3 (Whereupon, Exhibit No. 611 was marked for
4 identification.)

5 CHAIRMAN BRISÉ: Thank you.

6 BY MR. REHWINKEL:

7 Q Mr. Silva, do you have a copy of Exhibit 611?

8 A Yes, I do.

9 Q And are you familiar with Interrogatory 242
10 answer?

11 A Yes.

12 Q Okay. You discuss this interrogatory in your
13 deposition, correct?

14 A Yes.

15 Q Okay. Now, I understand that the
16 information -- some of the information in this
17 interrogatory is at the heart of what's sensitive
18 about --

19 A Yes.

20 Q -- this confidential documentation, correct?

21 A Yes.

22 Q Okay. So we should be very careful about
23 questions and -- related to this. But I do want to ask
24 you in the last paragraph if the reference that has the
25 number seven and 15 and 11 in there is -- do you see

1 that in the third line from the bottom?

2 A Yes.

3 Q Is that a reference to Exhibit 610, the
4 document that I just passed out previously?

5 A Yes, that's my understanding.

6 Q Okay. So these two documents sort of go
7 together in terms of what they are describing to the
8 Commission about the McDaniel Hardee County land
9 transaction?

10 A Yes.

11 Q Okay. Again, I don't think I have asked you
12 anything confidential, but please don't answer quickly
13 to my questions.

14 All right. So let's to go Exhibit 610. Can
15 you tell me generally your understanding of the purpose
16 of Exhibit 610 without verbalizing any confidential
17 information? What is the general purpose of this
18 presentation?

19 A This was one of a series of progress reports
20 prepared by, I understand, project development in our
21 company who was tasked with the acquisition of the site
22 reporting back to FPL management and to the -- the
23 resource planning team as to progress in terms of the
24 alternatives and factors associated with the site and
25 with acquisition of the site.

1 Q Okay. Now, you reference a series of
2 presentations. Are there others that were done in maybe
3 June and July that are similar in presentation format?

4 A My recollection is that there might have been
5 one right at the end of May, then one in June and
6 another one in August.

7 Q Okay. Now, the date of this is July 15th,
8 2011, and it's been about a year since this was -- was
9 done, a little over a year, correct?

10 A Yes.

11 Q Okay. If I could get you, please, to turn to
12 Bates No. 3277 and ask you, without verbalizing
13 anything if --

14 Well, first of all, the -- the first bullet
15 point there, that is -- that just describes the
16 financial part of the transaction, correct?

17 A Yes.

18 Q Okay. And then, the next two items under the
19 next bullet point, are those -- is that information, to
20 your knowledge, confidential?

21 A I believe the second bullet.

22 MR. GUYTON: Just -- okay. Yes, both those
23 bullets are confidential.

24 BY MR. REHWINKEL:

25 Q Okay. So we should not verbalize information

1 under that bullet.

2 Can you tell me whether the -- there has been
3 any change in what is described in these items without
4 verbalizing confidential information?

5 MR. GUYTON: We -- we can discuss these
6 conceptually. We just don't want to discuss the
7 specifics of them.

8 MR. REHWINKEL: Okay.

9 THE WITNESS: My understanding is that, as
10 stated here, there has been no change.

11 BY MR. REHWINKEL:

12 Q Okay. So a year later, these are still
13 unresolved?

14 A Yes.

15 Q Okay. And just to be clear for the record,
16 these are the items that are un-- that are in the bullet
17 that starts with the word "capable" and ends with the
18 word "units." Is that right?

19 A Yes, that's one of them. Right.

20 Q Okay. Okay.

21 All right. The last bullet on this page, can
22 you tell me if any of the information on here is, first
23 of all, confidential, to your knowledge, and if you are
24 not sure, you should say that it is confidential?

25 MR. GUYTON: FPL would suggest that this last

1 bullet point is confidential.

2 BY MR. REHWINKEL:

3 Q Okay. So my question to you is, do you know
4 whether there has been any change in what is shown on
5 the, one, two, three -- the fourth bullet on 3277? Just
6 a yes or no first.

7 A Yes.

8 Q Okay. Can you tell me if the thing that is
9 described in the dash underneath that bullet, did that
10 happen?

11 A No.

12 Q So the middle -- the word between the word and
13 the -- and the date did not occur?

14 A Oh, I am sorry. The -- the word between the
15 first word and the date did occur.

16 Q Okay. All right. So let me see how to ask
17 this. If you look in the bullet and the last word in
18 that line, the -- the top line of the bullet, did FPL do
19 that?

20 A They did not.

21 Q Okay. Okay. Can I get you to turn to 3279?

22 A Yes.

23 Q The first bullet on this page, do you know
24 whether that information is confidential?

25 A I believe it is.

1 Q Okay. The second bullet, there are three
2 dashes under that bullet. Do you see that?

3 A Yes.

4 Q Do you know whether the first item or first
5 dash item occurred?

6 A I believe, in part, at least there is
7 confidential information in the parenthetical.

8 Q Okay.

9 A I am not -- I am not sure.

10 Q Does this relate to the Hendry Land that we
11 talked about on Exhibit 608, the 9,000 acres -- the
12 9,409 acres?

13 A Yes, the first two sub-bullets.

14 Q Okay. Has there been any change --

15 Well, what's in the second sub-bullet, has
16 that happened?

17 A Not -- not yet.

18 Q Okay. When is that supposed to happen, under
19 your current plan?

20 A The second sub-bullet?

21 Q Yes.

22 A Not later than July of next year.

23 Q Okay. Now, the third sub-bullet, if you will
24 see, it has a -- before the parenthetical, it has a --
25 three letters. Do you see those?

1 A Yes.

2 Q Okay. Has anything changed with respect to
3 that?

4 A No.

5 Q Okay. And just to be clear for the record,
6 the -- the word that is -- that is right in front of
7 those three letters, that -- those are not part of the
8 acres that we described here, either the 3,126 or the
9 9,409; is that right?

10 A That's correct.

11 Q Okay. So the third bullet on this page, this
12 possibility still exists with respect to what FPL can
13 do; is that correct?

14 A I believe it has occurred.

15 Q All right.

16 A I am sorry. I am sorry. Let me read this
17 again. Initial purchase -- it refers to the above. No,
18 to my knowledge, it has not changed.

19 Q Okay. So if I look on this third bullet and I
20 see the word that begins with a capital "S," can I say
21 that word?

22 MR. GUYTON: Yes.

23 MR. REHWINKEL: Okay.

24 BY MR. REHWINKEL:

25 Q So has the seller done that, what is described

1 here?

2 A I don't know.

3 Q Okay. But his doing this is a con-- is a --
4 something that has to happen before FPL can control this
5 property; is that correct?

6 A Yes.

7 Q This property, meaning the 9,409 acres of
8 Hendry County Land?

9 A That's correct.

10 Q Okay. And then, the fourth bullet is
11 something, has that happened yet?

12 A No.

13 Q Okay. And when I ask that, I mean that what
14 is described in the first sub-bullet there, or the dash.

15 A That has not changed. In other words, what's
16 stated there --

17 Q Okay.

18 A -- has not changed, but it has not occurred.

19 Q Okay. So you haven't achieved what is
20 described in the last word there, right?

21 A Right.

22 Q Okay. Now, the next page, 3280.

23 A Yes.

24 Q Is it true that 3280 describes what is in
25 Exhibit 603, the nonconfidential exhibit -- do you

1 have --

2 Let me say -- let me strike the word
3 "describe." Does it relate to what is described in
4 Interrogatory No. 243 response?

5 A 242?

6 Q I am sorry, 243. This is Exhibit 603. Do you
7 have that one?

8 A I have -- I have my own copy.

9 Q Okay.

10 A Yes.

11 Q Okay. So the --

12 A Yes.

13 Q -- what's under the answer there with the
14 parcels A, B and C, those -- what -- what is here
15 relates to what is shown on 3280, right?

16 A Yes.

17 Q Okay. All right. Let's turn now to page
18 3281, the next page. And can you tell me if any of the
19 items in any of these five bullets have changed or been
20 accomplished as of today?

21 A The --

22 MR. GUYTON: Excuse me. I -- I am not sure
23 that all of these points relate to something that
24 can be accomplished as opposed to something that
25 may be ongoing. I am just a little bit concerned

1 about the way the question is phrased, Charles.

2 MR. REHWINKEL: That's a fair question --
3 that's a fair -- let me -- let me rephrase the
4 question.

5 CHAIRMAN BRISÉ: Sure. Please.

6 BY MR. REHWINKEL:

7 Q Okay. The third bullet, has that been
8 accomplished?

9 A No. The next -- the next bullet, the fourth
10 bullet, I don't know whether the title would be
11 accurate, but we have received such a document.

12 Q Okay. That's described in the last three
13 words of the first line?

14 A Yes. As I said, I don't know if -- if it
15 constitutes that, but certainly the first word I have
16 seen.

17 Q Okay. All right. So -- and then the -- do
18 you know if that's confidential, whether -- whether you
19 have achieved that or --

20 A I believe the document is not confidential.

21 Q Okay. All right. And then the final bullet
22 there, that's something that would not occur for years,
23 correct?

24 A Yes.

25 Q If at all?

1 A Yes.

2 Q All right. Now, turn, please, to 3283. Okay.

3 Is -- is the information on this page confidential?

4 A Not --

5 MR. GUYTON: If we can just take a minute to
6 review and make sure there.

7 MR. REHWINKEL: Okay.

8 MR. GUYTON: The only thing that I know that I
9 would be concerned about -- I want to talk with the
10 client here, but I am a little concerned about the
11 second footnote of the first sentence.

12 MR. REHWINKEL: The double asterisks?

13 MR. GUYTON: Yes.

14 MR. REHWINKEL: Yeah.

15 MR. GUYTON: Excuse me just a minute. We need
16 to consult.

17 I think the -- the totals that are -- the
18 piece parts that are shown in the chart that -- try
19 this. The amount in the column reflected 2011 is
20 not confidential. The amounts in the Columns 12,
21 13 and 16 are confidential, go to the commercial
22 terms of the agreement and are part of what has
23 potential commercial sensitivity to FPL, as does
24 the first sentence of the double asterisks
25 footnote.

1 MR. REHWINKEL: Okay. Well, I think I can
2 work within that. Thank you.

3 MR. GUYTON: Okay.

4 BY MR. REHWINKEL:

5 Q In Column 2012, do you see the first item
6 underneath that in the second line?

7 A Yes.

8 Q Now, we discussed that earlier, and that
9 didn't happen. So is that now a moot point?

10 A That's my perception.

11 Q Okay. Do you know whether the -- that -- that
12 item and the item -- and I am not going to verbalize
13 this, and I would ask you not to, even though your
14 counsel said it's not confidential -- under 2011, do you
15 see that number?

16 A Yes.

17 Q Those two together, did those roughly relate
18 to the -- well, do they roughly relate to the basis for
19 any appraised value of the property?

20 A My understanding is that they were separate.

21 Q Okay. So if I look at the third line, and we
22 see we have three items there. Do you see that?

23 A Yes.

24 Q And then, I look in the Columns 2012 and 2013,
25 are -- is the total of the two 2012 and 2013 numbers for

1 that line, does that correspond to the Hendry County
2 number that we discussed earlier? And wait for your
3 counsel.

4 MR. GUYTON: I -- I need a better reference
5 for the Hendry County number that we discussed
6 earlier, Charles.

7 MR. REHWINKEL: Okay.

8 MR. GUYTON: I'm -- I'm sorry, but I --

9 MR. REHWINKEL: That's okay. This is the \$70
10 million cost that is shown on Exhibit 608.

11 MR. GUYTON: I believe the witness can answer
12 that as long as he doesn't reveal the individual
13 amounts.

14 THE WITNESS: Yes. My understanding is that
15 without the item that did not happen --

16 BY MR. REHWINKEL:

17 Q Right.

18 A -- that those two columns are related to the
19 Hendry County Property that we talked about.

20 Q Okay. So without the item in the middle line
21 in Column 12, all of that added together in that third
22 line is the basis for the \$70 million number that's --
23 that -- that yields the \$51.2 million number in the
24 test -- test year, correct?

25 A I understand that, yes.

1 Q Okay.

2 MR. GUYTON: And that question was for the
3 Columns 2012 and 2013?

4 MR. REHWINKEL: Yes, sir.

5 MR. GUYTON: Okay.

6 MR. REHWINKEL: Okay.

7 BY MR. REHWINKEL:

8 Q All right. So then if I look at the verbiage
9 under the number in 2012, in the third line, just so we
10 are clear, the last item after the word "and" to your
11 knowledge, that has not yet occurred?

12 A That's correct.

13 Q Okay. Okay. And if I look at the 2016
14 column, just to be clear, the -- the number there in the
15 third line, that's not part of what you're asking for
16 recovery for; you, meaning FPL, correct?

17 A That's correct.

18 Q All right. Now, let's go to the double
19 asterisk footnote, and I don't want to ask about the
20 first sentence there. Do you see that?

21 A Yes.

22 Q But the second sentence, if you look to the
23 third to the last word in that line, can you verbalize
24 what that means? And if not, tell me so.

25 A You're saying the second sentence?

1 Q No, I am in that -- if you -- if you take that
2 double asterisks there --

3 A Right.

4 Q -- and go all the way to the end of that line.

5 A Right.

6 Q You see there the three words from the end; do
7 you see that word?

8 A Three words -- yes.

9 Q Okay. It begins with an R?

10 A Right.

11 Q All right. So if you take that all the way
12 down to the end of that sentence, does that word relate
13 to the two sub-bullets in the third line of this table
14 here?

15 A Oh, this -- okay. It refers to those two.

16 Q Okay.

17 A Yes.

18 Q So can you tell me, is this -- is this
19 something that is planned?

20 A Yes. Or I should say at least contemplated.

21 Q Okay. And just so I am clear, that action in
22 the future relates to the property that is represented
23 by the two numbers in the years 2012 and 2013 that are
24 in the third line?

25 A The ones that we agreed add -- added up to the

1 70 million?

2 Q Yes.

3 A Yes.

4 Q Okay. Now, on 3284, the bullet there, the
5 first bullet has two sub-bullets and then a sub
6 sub-bullet; do you see that?

7 A Yes.

8 Q Okay. Is the first bullet, is that still
9 ongoing?

10 A I believe so.

11 Q Okay. And is the -- are you exploring or
12 proceeding with the second one, or are you waiting for
13 the outcome of the first -- of the one above it?

14 A I believe at present we are waiting for the
15 one above it and anticipating that it will be as
16 indicated in the sub-bullet.

17 Q Okay. Do you -- is there a timeframe that you
18 anticipate that being resolved, that bullet -- that
19 sub-bullet and the sub sub-bullet?

20 A I don't know that.

21 Q Okay. Now, let's look at the next sub-bullet
22 there, that begins with "FPL." Do you see that?

23 A Yes.

24 Q Is this something that is being contemplated?

25 A I have no heard anything definitive on that as

1 to a timing or whether it will actually be pursued.

2 Q Okay. Now, then, the final bullet on this
3 page, again, in the last sentence there, it discusses
4 further action with respect to this parcel. And I am
5 assuming this parcel is relating to the 3,126 acres,
6 correct?

7 A Yes.

8 Q Because of that number on the first line of
9 the first bullet?

10 A Yes.

11 Q Okay. Let's look at the next page, 3285. I
12 think this is my last question on this document.

13 Can you tell me on the second bullet there
14 that begins with the word "FPL" and ends with the word
15 "withheld," can you tell -- can --

16 MR. REHWINKEL: First of all, is that
17 confidential?

18 MR. GUYTON: That is part of the commercial
19 arrangement, yes.

20 MR. REHWINKEL: Okay.

21 BY MR. REHWINKEL:

22 Q Can you tell me -- do you see the second word
23 or the word right after "FPL" that begins with an S?

24 A Yes.

25 Q Can you tell me with whom that relates other

1 than FPL?

2 A My understanding is --

3 Q And -- and you -- well, let me ask it to you
4 this way: Does it -- if you look in the second line of
5 that bullet, is the -- the -- the next to the last word
6 there --

7 A That's what I was going to say.

8 Q -- is that -- is that the entity with whom
9 this activity would occur?

10 A That's my understanding.

11 Q Now, does that relate to -- that -- that
12 doesn't mean FPL; it's someone else, right?

13 A Right.

14 Q Okay. Is that the same individual that is --
15 let's say go back to 3277 -- oh, I am sorry. The
16 page -- this same document, page 3277.

17 A Oh, I am sorry.

18 Q All right. Do you see in the -- in this first
19 sub-bullet, do you see the word "obtaining?"

20 A Yes.

21 Q Do you see the word in front of that?

22 A Yes.

23 Q Are -- are we talking about the same person?

24 A That's my understanding.

25 Q Okay. Or the same entity? Okay.

1 MR. REHWINKEL: Mr. Chairman, I apologize for
2 the delaying in going through this. It's a little
3 bit cumbersome, and we are at noon. I am done with
4 this document.

5 CHAIRMAN BRISÉ: Okay. Now would be a good
6 time for us to take the lunch break.

7 MR. REHWINKEL: Okay. Everyone needs to
8 appropriately safeguard the confidential
9 information that they have.

10 MR. GUYTON: Would -- would it be appropriate
11 to collect them and redistribute them?

12 CHAIRMAN BRISÉ: I wouldn't have a problem
13 with that. I think that's probably the most
14 prudent thing to do.

15 MR. REHWINKEL: That's fine with me. Do --
16 do -- Charlie, are talking about with the parties,
17 too?

18 MR. GUYTON: I would prefer that way --

19 MR. REHWINKEL: Okay.

20 MR. GUYTON: -- that way we know that they
21 never left the hearing room.

22 MR. REHWINKEL: Okay.

23 CHAIRMAN BRISÉ: All right. So we will
24 reconvene at 1:05. We have one, two, three, four
25 witnesses after this witness. Okay.

1 All right. So see you at 1:05.

2 (Lunch recess.)

3 CHAIRMAN BRISÉ: All right. Now that we have
4 all the documents redistributed -- the confidential
5 documents redistributed, we are going to proceed.

6 Before we proceed, just to give you a sense of
7 certain housekeeping things, there are a couple, I
8 guess, motions that we probably have to deal with
9 this afternoon. We intend to take those up between
10 the hours -- between the hour of 5:00 and 6:00,
11 okay, before we go for our -- our continue break
12 so -- so that we can get through as many witnesses
13 as possible before then, sort of deal with those
14 issues and then take our dinner break and then move
15 forward for the rest of the evening with the other
16 witnesses that will be remaining after that point,
17 okay.

18 Mr. Rehwinkel, you may proceed.

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

20 BY MR. REHWINKEL:

21 Q Mr. Silva, do you have a copy of Exhibit 602,
22 which is your Late-Filed Deposition Exhibit 4? Do you
23 have that handy?

24 And I will -- when you get that, I -- I want
25 to refer -- refer you to the Hendry County page. They

1 are all, unfortunately, numbered page one of one, so
2 this one will be the one that is titled, Hendry County.
3 It -- it looks like this.

4 A Oh. I am there.

5 Q Okay.

6 A The graphic?

7 Q Yes, this graph. Would it be true that this
8 graph shows the average and projected values of
9 agricultural land in Hendry County for the periods of
10 2001 through 2016?

11 A Yes, my understanding is agricultural land
12 unimproved, just plain land with no other attributes.

13 Q Okay. And in 2011, that number is \$5,500?

14 A Yes.

15 Q And that's the year that you acquired the
16 McDaniel site for \$13,428 per acre, correct?

17 A Yes.

18 Q Okay. And in 2012, the per acre price is
19 about 5,539 per acre?

20 A Yes.

21 Q And 5,622 for 2013?

22 A Yes.

23 Q Okay.

24 A And --

25 Q Go ahead.

1 A And the source of that is the Office of
2 Economic and Demographic Research for the Florida
3 Legislature.

4 **Q Okay. And those are the years, 2012 and 2013**
5 **are the timeframes that the company projects to acquire**
6 **the additional \$70 million Hendry County property,**
7 **correct?**

8 A Through 2013, yes.

9 **Q Yes.**

10 MR. REHWINKEL: Mr. Chairman, at this time, I
11 would like to offer into or to have marked as an
12 exhibit a document for cross-examination purposes.

13 CHAIRMAN BRISÉ: Okay. We are on No. 612.

14 MR. REHWINKEL: And this is Response to Staff
15 POD 50, Exhibit 29, and the Bates numbers are 4645
16 through 4679.

17 CHAIRMAN BRISÉ: Okay.

18 (Whereupon, Exhibit No. 612 was marked for
19 identification.)

20 MR. GUYTON: Mr. Chairman, I apologize, that
21 number was?

22 CHAIRMAN BRISÉ: 612.

23 MR. GUYTON: Thank you.

24 BY MR. REHWINKEL:

25 **Q Do you have this document?**

1 A Yes, I do.

2 Q Okay. Is -- this is -- the first page of this
3 is Hendry County Plant Site Overview, dated June 8th,
4 2011?

5 A Yes.

6 Q Do you see that?

7 Is this document one of the earlier versions
8 of the presentation that we identified as Exhibit 610,
9 the document we just went over before lunch?

10 A Yes.

11 Q Okay. Can I get you to turn to page five of
12 that presentation, which is Bates zero -- Bates 4649?

13 A I am there.

14 Q And again, keep in mind that this is a
15 confidential document. I want to ask you if you can
16 explain to me --

17 Well, first of all, can you read aloud -- I am
18 not asking you to do it. I am asking you if you can --
19 the first -- I mean, the second bullet item there? And
20 I am waiting for your counsel to --

21 MR. GUYTON: I believe that's one of the
22 commercial terms that we probably should not
23 disclose.

24 MR. REHWINKEL: Okay.

25 MR. MOYLE: I guess a point of clarification,

1 at the bottom it says "priveledged and confidential
2 attorney-client communication, attorney work
3 product." It's all struck through, so I guess at
4 the top it's confidential. The whole thing is
5 confidential, is that --

6 MR. GUYTON: We provided pursuant to a motion
7 for temporary protective order, so we have asked
8 that the whole document be treated as confidential.

9 MR. MOYLE: Okay. Is --

10 MR. GUYTON: We are not asserting privilege.

11 MR. REHWINKEL: Mr. Chairman, okay.

12 BY MR. REHWINKEL:

13 Q Okay. And if you will look in the one, two
14 three, four, the fourth sub-bullet.

15 A Yes.

16 Q Do you see the last number in parenthesis?

17 A Yes.

18 Q Is that the -- is that what we discussed in
19 the prior document? I say, the prior document; I am
20 referring to Exhibit 610 and on 3277 is the Bates.

21 MR. GUYTON: Commissioners, I am -- I am
22 wondering about the relevance of what we have -- of
23 asking this witness about what we have already
24 talked about in another document. He has testified
25 that this is an earlier draft of a presentation

1 that we have already been through in great detail.
2 It seems to me that we are plowing over plowed
3 ground -- or replowing over plowed ground.

4 CHAIRMAN BRISÉ: Mr. Rehwinkel.

5 MR. REHWINKEL: Yes, Mr. Chairman. I just had
6 one question about whether the number that was in
7 this document and the difference that is shown
8 here, I just need to know whether it's the -- it's
9 the same number. And that's the only question I
10 have along this line.

11 CHAIRMAN BRISÉ: Sure. I will allow the
12 question.

13 THE WITNESS: Are you talking about 3283?

14 BY MR. REHWINKEL:

15 **Q Well, let's see. We can probably look at that**
16 **page, too.**

17 **Yes. Would that -- is that number that's in**
18 **the 2012 column, the top number, is that -- is that what**
19 **is referenced?**

20 A No, that's not my understanding.

21 **Q Okay. So that's different.**

22 **So just so I understand, you -- what's in the**
23 **rate case is -- is a \$40 million purchase for the**
24 **McDaniel site, correct?**

25 A Yes.

1 Q Is it still possible that the company could
2 pay additional monies for rights to use that property or
3 for anything else related to the value of that property?

4 A In terms of the ultimate use, there may be
5 some additional expenditures, and -- and it -- where I
6 am going is, on the page that you just referred to,
7 which is the 4645 -- well, 4649 --

8 Q Yes.

9 A -- the number that you just asked about -- not
10 the number per se, but that component, that there may be
11 some costs associated with that because that's not
12 included, if you will.

13 Q Okay. So if I look -- let's to go 4657. And
14 if we look on the top line, that bullet item that your
15 counsel has advised is commercially valuable and thus
16 confidential, there is a difference between that number
17 and the \$40 million purchase price, correct?

18 A And that's what we were just talking about.

19 Q Okay. Now, if I look down here under the
20 third sub-bullet, and there is a -- three further
21 bullets under that one; do you see those?

22 A Uh-huh.

23 Q Are these potential additional costs above and
24 beyond the 40 million?

25 A No. You're talking about the second main

1 bullet, the -- and there is four sub-bullets, right?

2 **Q Yes.**

3 A Okay. The only component that may add to the
4 40 million is the next to the last.

5 **Q Okay.**

6 A The others are already included in the price.

7 **Q Okay. Let me get you to turn, please, to**
8 **4677, and I want to ask you if you know whether the**
9 **information on 4677 and 4678 is confidential?**

10 MR. GUYTON: Would you give us just a minute,
11 please?

12 MR. REHWINKEL: Yes.

13 MR. GUYTON: I apologize for the delay. There
14 are some commercially sensitive terms on 4677 in
15 the last major bullet point in sub-points.

16 MR. REHWINKEL: Okay.

17 MR. GUYTON: And there is a commercially
18 sensitive term on the next page in the last major
19 bullet point.

20 MR. REHWINKEL: Okay. So in an abundance of
21 caution, Mr. Chairman, I am just going to ask as if
22 both pages are confidential.

23 BY MR. REHWINKEL:

24 **Q Well, do you know to --**

25 MR. REHWINKEL: So I can say what's in the

1 first bullet? I can verbalize questions about --
2 on 4677?

3 MR. SWITALSKI: On page 33 -- yeah, 4677?

4 MR. REHWINKEL: Yes.

5 MR. GUYTON: No.

6 I am sorry. I misspoke. The entire page on
7 4677 is commercially sensitive.

8 MR. REHWINKEL: Okay.

9 BY MR. REHWINKEL:

10 Q So if I look at the activity that is
11 described, Mr. Silva, on the first bullet of 4677; do
12 you see that?

13 A Yes.

14 Q Okay. Are you familiar with this?

15 A No.

16 Q Okay. But you have seen this document before
17 as part of your job, correct?

18 A Yes, but what I am saying is that I am not
19 familiar with the -- what's stated in terms of when that
20 happened.

21 Q Okay. Are you aware that it happened?

22 A Only when this was presented in 2011.

23 Q Okay. You have no reason to believe -- I
24 mean, this is an FPL document?

25 A Yes.

1 Q You have no reason to disbelieve what is
2 stated on here, right?

3 A No reason.

4 Q Okay. So the third bullet describes an
5 activity that FPL undertook; do you see that?

6 A Yes.

7 Q Okay. And, again, you agree that that
8 happened?

9 A Yes.

10 Q Okay. So if we turn to the next page, which
11 is 4678, it describes certain activities in the heading,
12 correct?

13 A Yes.

14 Q Okay. And then it describes activities in all
15 of the bullet points that go down -- the one, two,
16 three, four, five activities, correct?

17 A Yes.

18 Q All right. Do you know if -- first of all, do
19 you know if these things happened?

20 A I am not sure whether some of the offered
21 things happened.

22 Q Okay. That's fine. I am not interested in
23 that one.

24 A Okay. And --

25 Q The fourth bullet point, has that issue been

1 resolved?

2 A I don't remember since I saw this, but my
3 impression it has -- it has been resolved because we
4 have been able to proceed with the purchase.

5 Q Okay. So the last bullet point has a
6 sub-bullet and then sub sub-bullets. Do you see that?

7 A Yes.

8 Q And I -- and I -- can you tell me if the last
9 two sub-bullets there on 4678, are those -- has -- has
10 that changed since this document was produced?

11 A My sense is that the first has occurred. Now,
12 I am not -- not -- in other words, from FPL's part, that
13 the first sub-bullet has occurred and -- but that the
14 second one is not as represented here.

15 Q Okay. So if we took the first three words in
16 the second sub-bullet there, including that slash out,
17 that last word would be what is -- what -- what exists
18 now?

19 A That's my understanding, yes.

20 Q Okay. Let's go back to the prior page, and
21 let's look at, again, that third bullet in the second
22 line there, that begins with the word "FPL". And it
23 describes an activity; do you see that?

24 A Yes.

25 Q Now, I want you to go back to your deposition

1 exhibits, if you can locate them easily, and go to the
2 e-mail, which was Exhibit 599. This is that July 9th
3 e-mail from Mr. Gerard to yourself and others.

4 A Right.

5 Q Okay. On the first page of this e-mail --

6 A I have it.

7 Q -- if you could go down to the bottom third of
8 the page, it -- and this is all nonconfidential, so we
9 can talk fully about this one, I assume. "In addition
10 to the attached site selection detail files, below is a
11 recap of the site selection process for Okeechobee and
12 Hendry." Do you see that?

13 A Yes.

14 Q Now, under Fort Drum, which is the Okeechobee
15 site, you describe 143 sites that were looked at,
16 reduced to 21 sites, desirable 13 properties were
17 selected. A RFP was sent. Four showed an interest in
18 sale; do you see that?

19 A Yes.

20 Q Okay. And then under Hendry, 52 sites, 13 got
21 an RFP; is that what it says?

22 A Yes.

23 Q Two responses were received, and I assume in
24 one of those was the McDaniel Group, right?

25 A Yes.

1 Q Do you know who the other one was?

2 A No, I don't. I don't remember.

3 Q Okay. All right. Now, could you explain to
4 me the difference between what is described in this RFP
5 process and the -- what is on Exhibit 612 at 4677 with
6 respect to what FPL did there? Can you reconcile these
7 two?

8 A My understanding is that the -- on the Exhibit
9 612, there was ongoing discussion in support of our aim
10 to add solar generation -- solar PV generation to
11 increase fuel diversity in our system and looking for
12 alternatives. And based on our interest, we had contact
13 on that point, which on that side evolved.

14 Well, at the same time, following our normal
15 resource planning process, which looks at many
16 alternatives and evaluates them and so forth, not
17 limited to solar, we looked at many sites and narrowed
18 down -- and of course, presumably -- and I say
19 presumably because I wasn't aware of the solar inquiry
20 at the time -- it became known that that site was among
21 those available. And -- and so we knew of that site and
22 we were doing --

23 Q Before you say any more, I just want to
24 caution you, I am not trying to get you to talk about
25 what's in the details of this.

1 A I understand.

2 **Q Okay.**

3 A I understand. Before -- while -- so -- so we
4 had knowledge of -- of a given site, and we were also
5 looking for sites on a broader basis.

6 And so my sense -- my -- my recollection is
7 that the two converged at a certain point, but I
8 couldn't tell you exactly where because it would have
9 been with the people that were really dealing very
10 directly with -- with real estate and the potential
11 sellers.

12 **Q Okay. Are you aware of whether -- of what
13 business the entity that is shown by the three initials
14 on, let's say, 4678, are you aware of what business that
15 entity is in that relates to the production of energy?**

16 A Not -- not with certainty, no.

17 **Q Okay. Do you know if -- if that entity
18 produces solar or photo -- photovoltaic panels?**

19 A My sense is that they -- they do, and -- just
20 from the reports, that there was an opportunity offered
21 to us from that type of generation, but --

22 **Q Can you tell this Commission while you are
23 here testifying today whether you know if FPL has an
24 ongoing business relationship with that entity or is in
25 discussions related to any ongoing business**

1 **relationships other than buying land?**

2 A I don't know if we are in business
3 relationship with this particular entity. I know that
4 we are pursuing a number of avenues for the possible
5 development of solar PV generation, but I don't know if
6 they remain one of our contacts right now.

7 Q **Would it be fair to say that -- or can you**
8 **tell the Commission that you are not in business with**
9 **them right now, or under --**

10 A I cannot.

11 Q **Okay.**

12 MR. REHWINKEL: Mr. Chairman, I would like to
13 offer another exhibit for cross-examination
14 purposes.

15 CHAIRMAN BRISÉ: Okay. That would be 613 for
16 identification purposes.

17 MR. REHWINKEL: And this is Response to POD
18 50, Exhibit 3, and the Bates are 3556 and 3584.

19 (Whereupon, Exhibit No. 613 was marked for
20 identification.)

21 MR. REHWINKEL: Yes.

22 Mr. Chairman, for the record, when this is
23 passed out, it will say 3556-4806, but that is
24 incorrect. It should be through 3584.

25 CHAIRMAN BRISÉ: Okay. Thank you.

1 COMMISSIONER BALBIS: What's the number on
2 this one?

3 CHAIRMAN BRISÉ: 613.

4 COMMISSIONER BALBIS: 613.

5 CHAIRMAN BRISÉ: Just for clarification, this
6 is Exhibit 613.

7 MR. REHWINKEL: Okay.

8 BY MR. REHWINKEL:

9 **Q And I am going to ask the witness to turn to**
10 **3565 when he gets a chance.**

11 A I am there.

12 **Q Okay. Can you tell me, without revealing any**
13 **confidential information, generally the subject matter**
14 **of this page, if you know?**

15 A It's a description of the land -- land value
16 of -- of a parcel of land. Specifically, it refers to
17 the McDaniel Site, and it talks about different
18 components of value associated with -- with that piece
19 of land.

20 **Q So if I looked on the last bullet -- the**
21 **second to the last bullet here that starts with the**
22 **number six; do you see that line?**

23 A Yes.

24 **Q Okay. There is an estimate of land values in**
25 **that area, I guess, as of the date of this document?**

1 A Yes.

2 Q Okay. And does this document also list an
3 estimate of the land value in a -- in an -- in the
4 situation where you would not build on the McDaniel
5 Property?

6 A Yes.

7 Q And if you were to resell it?

8 A Yes, it does, and as you say, if we were not
9 going to build and without any of the attributes that
10 are referred to in -- in other documents.

11 Q Okay. Can I get you to turn to 3568?

12 A I am there.

13 Q Do you see the -- other than FPL, do you see
14 the other acronym or initials in that line?

15 A In that first line?

16 Q Yes, I am sorry.

17 A Yes.

18 Q Yes. Is that something -- can you verbalize
19 what that is?

20 A Yes.

21 Q Can you tell me what that means?

22 A Panther Habitat Units.

23 Q Okay. What is a Panther Habitat Unit?

24 A In order to mitigate the effect of development
25 of land from the perspective of using upland where

1 Florida panther is an endangered species inhabits, there
2 has got to be make up, which is measured in Panther
3 Habitat Units.

4 They are not exactly matched to acres.
5 Depending on the characteristic of an acre of lands, you
6 get certain value units, and the -- the Department of
7 Environmental Protection determines how many you need
8 for a specific development. And then you have to either
9 buy credits or set aside land with the same Panther
10 Habitat Unit value.

11 Q Okay. Now, you testified earlier, maybe in
12 your direct -- I mean, your rebuttal testimony, or at
13 least in your deposition, that the Hendry Land was
14 purchased at market value; is that correct?

15 A Yes.

16 Q Do you still have the document that contains
17 the appraisal in it?

18 A Yes.

19 Q Which I think is Exhibit 609?

20 A Yes.

21 Q Okay. Can I get you to turn to page 27 of
22 that appraisal, which is Bates 4736, please?

23 A I am there.

24 Q Okay. Do you know if the information that is
25 shown in the last paragraph on that page is

1 **confidential?**

2 MR. GUYTON: At this end of the table, we are
3 not entirely sure.

4 MR. REHWINKEL: Okay.

5 MR. GUYTON: So we would ask that we would err
6 on the side of treating it as confidential.

7 MR. REHWINKEL: We will treat it that way.

8 BY MR. REHWINKEL:

9 Q Does this paragraph relate to the valuation of
10 the McDaniel Property?

11 A Yes.

12 Q Okay. If I got you to turn over to -- to
13 4738, there is a table there. Do you see that?

14 A Yes.

15 Q And this table lists the comparable sites,
16 which I -- which I believe are all potential electric
17 utility generation sites; is that correct?

18 A I don't remember what characteristics the --
19 the other sites had.

20 Q Okay. You looked in -- okay. Anyway --

21 A But I am looking under comments, and
22 transmission corridor in one case, gas line and electric
23 transmission corridor in another. Electric and gas
24 lines -- well, nuclear plant possibility and
25 transmission switching station. So they are somewhat

1 different, but all related to electric -- electricity --
2 electric work, transmission or distribution or -- or
3 generation.

4 Q Okay. Now, would -- would it be fair to say
5 that these comparables occurred at a time when real
6 estate prices were much higher in the state of Florida
7 than they are today?

8 A I --

9 Q Well, let's take out the word "much" and just
10 say higher, and these meaning the comparable sales in
11 that chart.

12 A My understanding is that these were the -- the
13 prices earlier. Based on my understanding generally
14 about the market, that -- they generally would have been
15 higher than -- than today's prices.

16 Q Okay. And generally higher than at the time
17 the McDaniel Property was purchased by FP&L?

18 A Possibly.

19 Q Okay. If we look on back on 4736, do you see
20 the sentence that begins, "in the current," in that
21 paragraph at the bottom that I asked you about?

22 A "In the current market?"

23 Q Yes.

24 A Yes.

25 Q It describes certain things that offset the

1 difference in today's market price and 2007, 2008 market
2 prices; does it not?

3 A Yes.

4 Q Do you know whether those things materialized
5 for F -- FPL with respect to the McDaniel Site?

6 A I don't know.

7 Q Okay. Do you have with you what has been
8 marked as exhibit -- I didn't write the number down.
9 Exhibit 606, which is the Hendry County Planning and
10 Zoning Department Staff Report.

11 A Yes.

12 Q Okay.

13 MR. GUYTON: In the interest of time, would we
14 be in a position just to move it rather than just
15 inquire about it?

16 MR. REHWINKEL: We would. I will do that.

17 Thank you, Mr. Guyton.

18 BY MR. REHWINKEL:

19 Q I think I will move now to the \$70 million
20 piece of property, the Hendry County Site. Is it true
21 that the purpose of providing this land is -- is solely
22 to provide a source of water for the operation of at
23 least two combined cycle units on the McDaniel Land?

24 A That is the primary foreseen purpose of -- of
25 those properties because -- because our evaluation

1 showed that aside -- in -- in addition or -- or taking
2 into consideration the price of those parcels, we
3 would -- customer would save as much as \$60 to \$80
4 million compared to other alternatives.

5 **Q Now, this same property, the \$70 million**
6 **property, is planned to be acquired also from McDaniel**
7 **Reserve Reality Holdings, correct?**

8 A Yes.

9 **Q And just so I understand, nothing that is a**
10 **part of the \$70 million has yet been purchased by FP&L;**
11 **is that correct?**

12 A You're right.

13 **Q Has FP&L made a final determination regarding**
14 **whether or not to purchase either or both of the parcels**
15 **that have in the \$70 million Hendry County -- Hendry**
16 **Property?**

17 A My understanding is that we have a contract to
18 purchase the first parcel before the end of 2012. I am
19 not aware of the -- of there being any conditions that
20 would enable us to not purchase the property perhaps
21 related to the zoning of the McDaniel Site. I -- I am
22 just not aware of that detail.

23 The -- the other parcel is an option for us to
24 purchase, and again, my understanding is that going
25 forward with that would be contingent upon success with

1 the McDaniel Site.

2 Q Okay. To the best of your knowledge, does
3 McDaniel Reserve Reality Holding, LLC currently own and
4 hold title to the \$70 million parcel?

5 A I believe so.

6 Q Do you know for sure?

7 A No.

8 MR. REHWINKEL: Mr. Guyton, if I could ask,
9 you have a document that is Exhibit 31, Bates 4765
10 through 4806?

11 MR. GUYTON: Yes, sir.

12 MR. REHWINKEL: Mr. Chairman, if it's okay for
13 me to ask, my -- my question is, would you be
14 willing to allow this to be entered into the record
15 without cross?

16 MR. GUYTON: On a confidential basis, yes,
17 sir.

18 MR. REHWINKEL: Yes. Okay.

19 Then, Mr. Chairman, what I will do, in the
20 interest of time, is ask that a document be
21 distributed.

22 CHAIRMAN BRISÉ: 614.

23 MR. REHWINKEL: Number 9.

24 And this, Mr. Chairman, is Response to POD 50,
25 Exhibit 31. Bates is 4765 through 4806.

1 CHAIRMAN BRISÉ: Okay. Thank you.

2 (Whereupon, Exhibit No. 614 was marked for
3 identification.)

4 THE WITNESS: Thank you.

5 MR. REHWINKEL: Mr. Chairman, I believe that
6 with the agreement of the two documents on the
7 cross-examination --

8 CHAIRMAN BRISÉ: Take your time.

9 MR. REHWINKEL: -- excuse me -- that has
10 occurred so far, I believe I can conclude my
11 cross-examination. I estimated 45 minutes. I went
12 over a little bit, but I appreciate the urgency of
13 the time today.

14 And thank you, Mr. Silva.

15 CHAIRMAN BRISÉ: Thank you, Mr. Rehwinkel.
16 Mr. LaVia?

17 MR. LaVIA: Mr. Chairman, I have decided to
18 keep my questions confidential. I will -- I have
19 no further questions.

20 CHAIRMAN BRISÉ: All right. Mr. Saparito?

21 MR. SAPARITO: Yes, Mr. Chairman, I have a few
22 questions.

23 CROSS EXAMINATION

24 BY MR. SAPARITO:

25 Q Mr. Silva, would you agree with me that FPL

1 plans to build more power plants for a total generating
2 capacity of up to 6,300 megawatt -- 300 -- excuse me,
3 6,385 megawatts?

4 A Our plan is to build that much capacity at
5 these two sites at present, yes.

6 Q Would -- would you agree with me that FPL has
7 application responsibility to serve, not only the load
8 and energy of existing customers, but also the load and
9 energy requirements of its customers in the future?

10 A Yes.

11 Q And would you agree with me that FPL has a
12 responsibility to cost effectively manage its generating
13 capacity?

14 MR. GUYTON: Objection. Goes beyond the scope
15 of this witness' testimony.

16 CHAIRMAN BRISÉ: Okay. Mr. Saparito, if you
17 could substantiate your question with --

18 MR. SAPARITO: Yes.

19 CHAIRMAN BRISÉ: -- within the rebuttal.

20 MR. SAPARITO: This witness poses himself as
21 an expert witness in plan -- in FPL's Planning
22 Department for its capacity needs -- generation
23 capacity needs, and, you know, he -- he testified
24 he has a group of experts that he works with
25 that -- that do this planning.

1 And -- and this question goes to those -- to
2 that committee or that department, and to the
3 degree that they cost manage -- you know, they --
4 they are talking about managing FPL's capacity. He
5 testified 6,385 megawatts or -- or thereabouts. I
6 think this is right on point.

7 CHAIRMAN BRISÉ: Okay. Restate your question
8 for me.

9 MR. SAPARITO: Would you agree with me that
10 FPL has a responsibility to cost effectively manage
11 its generating capacity?

12 CHAIRMAN BRISÉ: Okay. I think that's a fair
13 question.

14 THE WITNESS: Yes, I would agree that we --
15 our aim -- our objective is to -- is to manage
16 effectively our generating capacity.

17 MR. SAPARITO: At this time, Mr. Chairman, I
18 would like to identify two documents in the record.

19 CHAIRMAN BRISÉ: Sure. They would be assigned
20 615 and 616 for identification purposes.

21 (Whereupon, Exhibit Nos. 615 & 616 were marked
22 for identification.)

23 MR. SAPARITO: The -- the first document would
24 be entitled, WindLogics Solar Power Forecasting,
25 and -- and the second document would be entitled,

1 Economics of Solar in the Sunshine State, a
2 Portfolio Approach.

3 CHAIRMAN BRISÉ: Okay. So Solar Power
4 Forecasting WindLogics, that would be 615, and the
5 Economics of Solar in the Sunshine State would be
6 616. Any objections to these documents?

7 MR. GUYTON: FPL would object as being
8 irrelevant and outside of scope of Mr. Silva's
9 rebuttal.

10 CHAIRMAN BRISÉ: Okay. Mr. Saparito, what do
11 you say to that?

12 MR. SAPARITO: Well, Mr. Chairman, I think I
13 should be allowed fair opportunity to explore with
14 this witness where his Planning Department took
15 into consideration their solar generation capacity
16 of their company and their intent to increase their
17 solar capacity when they -- when their Planning
18 Department met to decide whether or not to purchase
19 more -- more properties to -- to meet their
20 generating needs of up to 6,385 megawatts.

21 CHAIRMAN BRISÉ: Okay.

22 MS. HELTON: Mr. Chairman?

23 CHAIRMAN BRISÉ: Yes, ma'am.

24 MS. HELTON: It seems to me that that line of
25 examination is part of a need case, what

1 conservation measures or other measures the company
2 took, and as the prehearing officer in this case
3 ruled in the prehearing order, we are not
4 determining the need for any plant here. That's
5 already been done.

6 MR. SAPARITO: Your Honor, the response to
7 that is, I am not -- I am not probing this witness
8 with respect to a need case. I am probing this
9 witness with respect to the -- his department's
10 acquisition of properties with the intent of
11 building power plants, and solar power plants are
12 something that the company has regularly engaged in
13 in the state of Florida.

14 And I need to -- I believe I have a right to
15 explore whether his department considered solar
16 power in -- in their intent to acquire properties.

17 CHAIRMAN BRISÉ: I think I will agree with --
18 with our staff. This goes beyond the scope of the
19 rebuttal testimony.

20 Next question.

21 BY MR. SAPARITO:

22 **Q Mr. Silva, did your Planning Department take**
23 **into consideration factors such as the current and**
24 **future growth forecast of Florida's economy, population**
25 **growth, degree of recovery in the housing market and --**

1 **and employment?**

2 MR. GUYTON: Objection. Unless we can tie it
3 to the rebuttal testimony, I don't think it's
4 relevant.

5 MR. SAPARITO: Again, this goes to his -- his
6 dependency on -- on the collective wisdom of his
7 experts that comprised his committee, or his
8 department, in -- in ascertaining whether or not
9 FPL should buy property to build more power plants.
10 And it seems to me that the -- those experts would
11 take these factors into consideration.

12 Why -- why would you want to acquire more
13 property if Florida's population is going to
14 increase or if the unemployment rate is going to
15 increase?

16 CHAIRMAN BRISÉ: Restate your question for me.

17 MR. SAPARITO: Did your Planning Department
18 take into consideration factors such as the current
19 and future growth rates for Florida's economy,
20 population growth, degree of recovery in the
21 housing market and employment?

22 CHAIRMAN BRISÉ: Okay. I will allow that
23 question.

24 BY MR. SAPARITO:

25 **Q Can you answer, sir?**

1 A Yes, I can. In the forecast for peak load and
2 net energy for load, that is developed by Dr. Morley,
3 who testified earlier today, and which forecast we use,
4 in part, to develop our need -- projected need for
5 capacity in the future, she does take into consideration
6 those factors. So in our planning process, by
7 definition, we do take into consideration those factors.

8 MR. SAPARITO: Thank you for your testimony.

9 Mr. Chairman, I have no further questions.

10 CHAIRMAN BRISÉ: Thank you, Mr. Saparito.

11 Mr. Hendricks?

12 MR. HENDRICKS: Confidentially, I have no more
13 questions.

14 CHAIRMAN BRISÉ: Okay. We have dealt with the
15 staff questions already.

16 Commissioners. Commissioner Balbis?

17 COMMISSIONER BALBIS: Thank you and welcome,
18 Mr. Silva.

19 THE WITNESS: Good Afternoon, Commissioner.

20 COMMISSIONER BALBIS: I believe one of the
21 other Intervenors mentioned that only you and
22 Witness Deason were the only two that dealt with
23 the issue of plant held for future use, and Witness
24 Deason indicated that he is not testifying as to
25 the reasonableness of the properties that are

1 included.

2 So I want to ask you a few questions since you
3 have the -- you are the only one that can hopefully
4 answer these, and they are concerning the 83
5 projects totaling \$237 million that are in the
6 plant held for future use.

7 Now, you testified you lead a team that
8 gathers information to present to management before
9 they decide to move forward with purchasing
10 property; is that correct?

11 THE WITNESS: Yes, briefly stated, that's
12 true. Although, we do a lot more than just gather
13 information. Because we are driven to come up with
14 the best alternatives to meet customer, we push
15 each other in that team, and we are forced, or
16 directed by management, to come up with innovative
17 ideas. So it's more of a development of working
18 process than just gathering information.

19 COMMISSIONER BALBIS: Okay. So the
20 development of -- of that process or that
21 information, you put all that information together
22 and provide it to management for them to make the
23 ultimate decision?

24 THE WITNESS: Yes. We do that with a
25 recommendation, and sometimes caveats to those

1 recommendations based on sensitivities that we have
2 done regarding the changing prices of natural gas
3 or other features of the analysis. And we present
4 that as recommendations to management, not just for
5 what we might add as a resource the next need, but
6 also a vision of the further future for what will
7 be necessary down the line, including things like
8 field diversity, which is the reason why we are
9 driven to look for sites for solar PV generation.

10 COMMISSIONER BALBIS: Is that information very
11 detailed that you provide to management?

12 THE WITNESS: It -- it is detailed. It -- it
13 involves calculations of present value revenue
14 requirements for various alternatives at different
15 times, different culminations of -- of additions.

16 Like, for example in the Port Everglades case,
17 we -- we did analysis of what comes first, what are
18 the second and third units that might be added, and
19 which combination is the best? We test the effect
20 of sometimes higher or lower loads, net energy for
21 load, test the -- the effect of fuel prices going
22 higher or lower.

23 So those are some of the aspects that we do,
24 as well as the cost of, you know, transmission of
25 gas pipeline systems, the various locations in

1 very -- in very great detail.

2 COMMISSIONER BALBIS: Okay. Did -- did you
3 provide that same level of detailed information to
4 this commission as -- as support for inclusion of
5 these projects in the rate base?

6 THE WITNESS: For these sites that I am
7 talking about? Not in this instance, no.

8 The objective of my rebuttal testimony was
9 aimed at the -- the presentation by OPC Witness
10 Ramas said it should be taken out because there is
11 no specific dates for the addition of units and
12 nothing in the 10-year site plan that specifies
13 when these sites would be used.

14 So my focus -- the focus of my testimony was
15 to -- to show that there is an urgent need for
16 preparing for units as early as 2019 and the
17 reasons why we expect that we will have to add
18 units by 2019, and -- and the -- the fact that it's
19 not -- it's not as was portrayed in OPC Ramas'
20 testimony that we don't have any plans at all.

21 The question of -- of the -- the price of the
22 sites was not included in my rebuttal testimony.

23 COMMISSIONER BALBIS: Okay. I mean, and why I
24 am going down this line, again, you're the only
25 witness that is providing testimony as to the

1 reasonableness of the 83 projects totaling
2 \$237 million.

3 THE WITNESS: And to -- and to address that, I
4 guess, the point that -- that I would make is that
5 upon ongoing review of the purchase, I reviewed
6 the -- the appraisal of the property and -- and
7 discussed, again, as a refresher, the information
8 that we had based our decision to purchase that
9 process -- that property with the real estate
10 people, and verified that we bought the property at
11 today's market price for Hendry and at no higher
12 than today's market price at -- at Fort Drum.

13 But, again, my aim in -- in the testimony --
14 in the prefiled testimony was -- was not to -- to
15 justify the price at that time, but I am -- I am
16 convinced -- I am confident that we paid the -- the
17 market price, the right price, and that these are
18 the best properties that we could obtain.

19 I mentioned in the -- on the chart and in my
20 summary, that these plants are adjacent to
21 transmission lines. Actually, the transmission
22 lines run the -- the border of these prompts, so
23 there is no costs associated with building to a
24 transmission facility.

25 And I misspoke, by the way, earlier. I said

1 that the cost of building transmission was
2 100 million a mile. It's one million a mile, but
3 still, any distance that we build from our facility
4 would be very costly.

5 COMMISSIONER BALBIS: Okay.

6 MR. GUYTON: Commissioner, I apologize for the
7 interruption. I just want to make sure the record
8 is clear that this particular witness is addressing
9 the other production plant sites, not the entire
10 83. We had another witness that addressed the
11 transmission sites that had been put at issue. I
12 just --

13 COMMISSIONER BALBIS: No, that -- that's fine.
14 My questions for him are just on the production
15 plant sites and one other area.

16 MR. GUYTON: Okay. Thank you. I just wanted
17 to make sure.

18 COMMISSIONER BALBIS: I appreciate that.

19 So I want to focus on the decision-making
20 process for the purchasing of the Fort Drum and
21 McDaniel Sites because I am -- I am kind of
22 confused, and I want to make sure that it's -- that
23 I am clear about it because it's an important
24 issue.

25 In your testimony around page 13, you talk

1 about McDaniel and Fort Drum Sites coming up as
2 you're looking for alternatives for the Port --
3 Port Everglades Energy Center, correct?

4 THE WITNESS: Yes, we did look at them.

5 COMMISSIONER BALBIS: Okay. Let me back up a
6 little bit. You -- you testified here today that
7 for the Glades County Site, that FPL exercised an
8 option on the property, did not purchase it, and
9 then when this Commission did not approve the
10 Glades Coal Plant, that you let the option expire,
11 correct?

12 THE WITNESS: That's correct.

13 COMMISSIONER BALBIS: Okay. So again on the
14 decision for the Fort Drum and McDaniel Site, on
15 page 85 of your deposition transcript.

16 THE WITNESS: Yes, Commissioner.

17 COMMISSIONER BALBIS: Okay. Starting at line
18 7, and you're talking about the decision to
19 purchase the sites.

20 You said, "you know, the decision to purchase
21 the sites that we are talking about came as an
22 output as a result of the same analysis that
23 resulted in us selecting Port Everglades as the
24 best alternative". And then you go to line 14, it
25 says, "out of those -- out of that same analysis,

1 out of that same discussion, came the decision to,
2 A, proceed with Port Everglades, and, B, acquire
3 McDaniel and Fort Drum Sites.

4 So I want to focus on Port Everglades because
5 it seems because of your deposition, that it --
6 you're looking for alternatives to Port Everglades,
7 and the question I have for you is, one, would you
8 consider Fort Drum and McDaniel to be greenfield
9 sites?

10 THE WITNESS: The Port Everglades?

11 COMMISSIONER BALBIS: No. No. Fort Drum and
12 McDaniel Sites, are those greenfield sites?

13 THE WITNESS: Yes, they are.

14 COMMISSIONER BALBIS: And during the Port
15 Everglades need determination, which is being
16 challenged, we analyzed and FPL provided
17 justification for the Port Everglades Site as being
18 the most cost-effective because the greenfield
19 sites were going to be \$425 million up to \$838
20 million more expensive.

21 THE WITNESS: Yes.

22 COMMISSIONER BALBIS: So why did FPL proceed
23 with purchasing those two sites when it was
24 analyzed in conjunction with Port Everglades
25 knowing it was going to be either \$425 million or

1 \$838 million more expensive, and why didn't it
2 pursue an option similar to what it did with the
3 Glades Site?

4 THE WITNESS: On the first question, when we
5 were in the process of evaluating the various
6 alternatives, including Port Everglades -- which we
7 concluded Port Everglades was the best -- we looked
8 very closely at available sites for greenfield
9 units, and we found it extremely challenging to
10 find sites with willing sellers. It was kind of
11 an -- and eye opener.

12 And we also recognized that after Port
13 Everglades, we really did not think that any of the
14 other existing sites could accommodate additional
15 new generation. Now, we were looking forward to
16 next round of generation around 2020, 2021 at the
17 time -- in fact, it was earlier. It was -- I am
18 sorry. We were looking at it earlier than that,
19 because we were working with a prior long-term fuel
20 price -- long-term peak load forecast.

21 So we an at this payed that we were going to
22 have to add capacity in 2018 or 2019, and we seeing
23 a great deal of difficulty finding adequate sites
24 out there. And these were on the market. They
25 were available. They were -- met all of the

1 requirements, and they came close to our
2 transmission and to our center of our generation.
3 And that is why we chose to purchase the sites.

4 And the fact that we knew from past experience
5 that the zoning for a greenfield site was going to
6 be a challenge, and that it would be time consuming
7 and obtaining the water for those sites would also
8 be a challenge and time consuming, that rather than
9 take an option and just waiting, that we would
10 purchase the property and begin the process of
11 changing the zoning and begin the process of
12 conversations with the South Florida Water
13 Management District to try to assure water for
14 that.

15 So the -- the next round of analysis to select
16 or -- or lead to a need determination would likely
17 begin next year, and -- and so we would need sites
18 on which to base our assumptions on, our
19 calculations, our analysis, and so it was
20 appropriate and, we thought, timely to go ahead and
21 purchase the sites. And also --

22 COMMISSIONER BALBIS: Let me stop you there
23 because I think you made a -- made good point. I
24 want to make sure I understand it.

25 In your testimony, you indicate that the

1 analysis for Port Everglades is what resulted in
2 the decision to move forward with Port Everglades
3 and also purchase those two sites. And then now,
4 you reference another analysis process that has yet
5 to occur, so you purchased the property before that
6 analysis began?

7 Where did the leap come from, the Port
8 Everglades need to overall future need for FPL, and
9 when did that analysis start? Because in your
10 indicates you purchased the site based on the Port
11 Everglades analysis.

12 THE WITNESS: In the Port Everglades analysis,
13 we had two areas of focus. Area number one is we
14 have a need in 2016; what's the best addition in
15 2016?

16 The second one was, if we look further down
17 the line, what is the best combination two, three,
18 four additions forward because that may affect the
19 first choice.

20 So we not only tried to evaluate the best
21 choice for 2016, but we said, is there a better
22 way, putting something else ahead of Port
23 Everglades, include Port Everglades somewhere along
24 the line? So we did streams of analysis going
25 forward to see, over a period of, say, five years

1 beyond 2016, what would be the best combination?

2 Well, it turned out that Port Everglades first
3 was the -- in every combination was the best
4 choice. So that was easy. And we proceeded with
5 the need determination.

6 We also found that adding two units at Hendry
7 back to back in every combination after Port
8 Everglades was the best choice, so that was
9 identified as a very desirable site. And there
10 intrinsic benefits associated with it, many of
11 which are visible here by the proximity to the load
12 and -- and adjacent to the transmission lines. The
13 ability to site three units figured into that.

14 So -- so the idea was, look, here we are
15 making a decision about 2016. Well, two or three
16 years later, we are going to have to add something
17 else, and the best two alternatives, as far as
18 sites are concerned that we could see right now,
19 are in Hendry County and in Okeechobee County.

20 So it was decided that having no other
21 alternative sites in our -- in our backpack, so to
22 speak, we needed sites, and we needed sites now
23 before things became even more difficult as far as
24 siting and water rights and near transmission
25 and -- and zoning and so forth.

1 COMMISSIONER BALBIS: Okay. Well, then, back
2 to my other question -- and that explains the gap,
3 and I appreciate that -- in analysis.

4 Why didn't FPL pursue an option similar to
5 what it did to the Glades Site?

6 THE WITNESS: Certainly in the case of Hendry,
7 which is next up, the major reason is that we knew
8 that it would take time to get the site ready
9 through zoning, landuse and to acquire access to
10 water. It would take time. We would have
11 opposition, and we have had opposition and there
12 has been delays.

13 If we just had taken an option, we wouldn't
14 have been able to begin that process, and we needed
15 to begin that process because we perceive that we
16 are going to need capacity not later than 2019.
17 And rather than wait a year and chance that -- that
18 we will still have enough time, we thought it was
19 prudent to go ahead and -- and purchase the site
20 outright.

21 COMMISSIONER BALBIS: But I am confused. The
22 Glades County Site, which FPL exercised an option,
23 you came in with a formal need determination
24 process for that plant.

25 THE WITNESS: Yes.

1 COMMISSIONER BALBIS: So wouldn't the need for
2 that plant at that time where you had an option
3 been closer than the need for these two sites are,
4 where you chose not to exercise an option and just
5 simply purchase the sites?

6 THE WITNESS: No -- no, and let me explain.

7 In the case of the Glades Site, those were
8 intended to be coal facilities, and we knew that
9 the lead time for other aspects, aside from the
10 site itself, related to the permitting process
11 would be far longer and the construction far
12 longer.

13 So we had more time from the time that we
14 obtained the option until the time that the unit
15 would have to be in service. I believe the -- the
16 option was in 2006, and the -- and the in-service
17 dates were 2013 and 2014. Whereas, now, we are
18 talking about a need in 2019, when we are going to
19 really establish that analysis, that -- that
20 process as early as -- as next year, so it's a
21 shorter period of time.

22 The -- the other thing is that in the case of
23 Glades, we anticipated that there would be
24 sufficient resistance that -- to that particular
25 type of generation, that it was riskier to put out

1 a lot of money upfront until we had a determination
2 of need by the Public Service Commission. And
3 there was a lot of public outcry against -- against
4 that plant, and a rejection.

5 Whereas in the case of combined cycle units,
6 there is been kind of an established trend that
7 those are more acceptable to the public and to
8 customers, especially in Florida, and -- and
9 therefore, less of a risk. I mean, we still have
10 to demonstrate that they are needed, that they are
11 cost-effective, but there isn't this total aversion
12 to -- to combined cycle unit plants as there is to
13 coal plants. So we were trying to avoid adding to
14 the monetary risk, if you will, by doing the
15 option.

16 COMMISSIONER BALBIS: Okay. And I guess the
17 next point, both the Fort Drum and McDaniel Sites
18 include potential solar facilities, correct?

19 THE WITNESS: Yes.

20 COMMISSIONER BALBIS: Okay. And -- and in a
21 site plan that was in one of the confidential
22 documents -- I am not even sure if I can talk about
23 it or not -- but it showed a significant portion of
24 the site plan was going to be used for solar or
25 could be used for solar?

1 THE WITNESS: Our plan is -- there is land --
2 sufficient -- sufficient land available at the site
3 for up to 200 megawatts of solar generation. Now,
4 solar generation requires a great deal of land, 7.5
5 acres per megawatt, so 200 megawatts would require
6 1,500 acres.

7 COMMISSIONER BALBIS: Okay. So when FPL moved
8 forward with its existing solar facilities, I think
9 Desoto and -- and Martin, it needed enabling
10 legislation to do so, correct?

11 THE WITNESS: Yes.

12 COMMISSIONER BALBIS: Okay. And you testified
13 earlier that solar generation was not
14 cost-effective; I believe you said that?

15 THE WITNESS: Yes, that's correct. At
16 present, it's not.

17 COMMISSIONER BALBIS: Okay. So is it prudent
18 for FPL to purchase a significant portion of land
19 that they cannot develop without enabling
20 legislation because it's not cost-effective and
21 have the customers pay for it? Or should they wait
22 until enabling legislation is passed, then pur--
23 purchase that land?

24 THE WITNESS: Our perception was that the land
25 was very attractive from its -- from its location,

1 that it's not something that is likely to be
2 repeated or available in the future, that if we
3 were to have any kind of legislation requiring
4 solar or generally renewable, we would already be
5 behind, if you will, in terms of our ability to
6 neat meet that requirement because of the large
7 expansive land that would be required.

8 We thought for -- for this purpose, it was
9 timely to do so, and we believed that -- because we
10 are constantly doing analysis, that prices for
11 solar panels are coming down and that it's only a
12 matter of time before they become cost-effective
13 without enabling legislation. And when that
14 happens, and also to -- to propose greater fuel
15 diversity, that we will be ready to -- to use that
16 site. And if -- if we don't have the site, then
17 that would add time to -- and cost to do that in
18 the future.

19 COMMISSIONER BALBIS: Okay. So then just to
20 summarize, then, you feel that it is prudent for
21 customers to pay for land that cannot be developed
22 for solar PV without enabling legislation.

23 THE WITNESS: Yes, I do in the long-term.

24 COMMISSIONER BALBIS: Okay. And I don't know
25 if you are the right witness for this, but the last

1 item of -- that's held within plant -- within plant
2 held for future use --

3 And maybe Mr. Guyton can guide me. General
4 plant future use, would Mr. Silva be the proper
5 witness for that?

6 MR. GUYTON: Commissioner Balbis, I believe
7 that was Mr. Barrett that had responsibility for
8 that. We can try to entertain the question and --
9 and see, but I am -- I am -- I just simply don't
10 know if Mr. Silva is conversant there.

11 COMMISSIONER BALBIS: Okay. Are -- are you
12 familiar with the two properties that are under
13 general plant future use, the PGA Boulevard campus
14 and the Indian River Service Center?

15 THE WITNESS: I am familiar with the first one
16 you mentioned, the PGA, only insofar as it was
17 announced that the company purchased that property.

18 COMMISSIONER BALBIS: Okay. And that's all --
19 that's the limit to your familiarity with it?
20 Because I have a couple of specific questions on,
21 it. I could ask them, and you could say you don't
22 know.

23 THE WITNESS: You -- you can ask them. If I
24 can answer them, I will.

25 COMMISSIONER BALBIS: Okay. FPL lists several

1 different reasons for including that in plant held
2 for future use ranging from capture, space,
3 availability, securing additional corporate office
4 space, accommodating expected long-term growth, and
5 then, it also states that it has no plans to
6 replace their existing headquarters.

7 Are you familiar with any of those reasons for
8 including that enough to answer questions on it
9 or -- or no?

10 THE WITNESS: Well, forgive me if I don't
11 exactly answer your question. You can be the
12 judge. My understanding is that the -- the
13 property was priced at a very, very low price, that
14 it was adjacent to our main offices and in a secure
15 location, i.e., not a place where we would have to
16 evacuate in the event of -- of a hurricane. But
17 the primary reason was that the price was not
18 something that was expected to be repeated, and so
19 that was one of the reasons.

20 The others, I cannot speak to.

21 COMMISSIONER BALBIS: So it seemed like a good
22 investment?

23 THE WITNESS: Yes.

24 COMMISSIONER BALBIS: Okay. Thank you.

25 That's all I had.

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA R. KRICK, Professional Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 4303 through 4383, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 5th day of September, 2012.

Debra R. Krick

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COMMISSION #EE212307
EXPIRES JULY 13, 2016
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