BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.

DOCKET NO. 120015-EI

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TELEPHONIC DEPOSITION OF: MICHAEL P. GORMAN

IN THE INSTANCE OF: FLORIDA PUBLIC SERVICE COMMISSION

DATE: AUGUST 6, 2012

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OTHERS PRESENT:

MARK CICCHETTI
DALE BUYS

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NO.	DESCRIPTION	MARKED

(None Marked)

*Uh-uh is a negative response
*Uh-huh is a positive response

D E P O S I T I O N

MR. YOUNG: Let's take attendance, first with folks in the room then with folks on the phone, starting with the Deponent.

Keino Young, PSC staff.

MR. CICCHETTI: Mark Cicchetti, PSC staff.

MR. BUYS: Dale Buys, PSC staff.

MR. GUYTON: Charles Guyton on behalf of Florida Power & Light and company.

MR. YOUNG: Ms. White, Captain Miller?

MS. WHITE: Captain Miller is not joining us this morning, but Lieutenant Colonel Greg Spike will be on the phone with us as well.

LT. COL. SPIKE: Yes, I am here, Lieutenant Colonel Spike.

MS. WHITE: He is the chief of our team, Keino. I don't think you have met him yet, but you will.

MR. YOUNG: Okay. Good morning.

LT. COL. SPIKE: Good morning.

MR. YOUNG: All right. And you have Mr. Gorman?

MS. WHITE: Mr. Gorman is also on the phone.

MR. YOUNG: Okay.

MS. CHRISTENSEN: Patty Christensen with the

Office of Public Counsel.

MR. MOYLE: Jon Moyle with the Florida Industrial Power Users Group.

MR. YOUNG: Okay. Anybody else?

All right. Before we start the deposition, I would like to just get a timeframe for those who have questions to see how long this deposition is going to last. Mr. Gorman, I -- I have about -- would be no more than an hour to an hour and a half worth of questions.

Jon, Mr. Moyle?

MR. MOYLE: Mine, if I have any, will be very limited. No more than five or 10 minutes.

MR. YOUNG: Okay.

MR. GUYTON: This is Charlie Guyton. I probably don't have more than an hour.

MR. YOUNG: Okay. You surprised me though.

All right. With that, let's swear the deponent in over the phone.

Whereupon,

MICHAEL P. GORMAN

was called as a witness, having been first duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. YOUNG:

Q **All right. Mr. Gorman, again, my name is Keino Young. I am going to be asking you questions about your intervening testimony you filed in this docket on July the 2nd, 2012, and when I say, this docket, I am talking about the FPL rate case, Docket Number 120015-EI, okay?**

A Okay.

Q **I think your counsel would like to reserve all objections except as to form.**

MR. YOUNG: If I am wrong, please let me know. Counsel?

MS. WHITE: That's fine.

MR. GUYTON: I may find myself objecting to other than form just to be able to preserve it for trial.

MR. YOUNG: Okay. All right.

BY MR. YOUNG:

Q **Mr. Gorman, can you please state your full name and business address for the record?**

A My name is Michael Gorman. My business address is 16690 Swingley Ridge Road, Chesterfield, Missouri.

Q **And what is your occupation?**

A Consultant in the field of public utility regulation, the firm of Brubaker & Associates.

Q Okay. On whose behalf are you appearing in this proceeding?

A The Federal Executive Agencies.

Q All right. And you did file testimony in this proceeding on July the 2nd, 2012, correct?

A Yes.

Q And what is the purpose of your testimony, sir?

A The purpose of my testimony is to estimate and propose an overall rate of return for Florida Power & Light including a return on equity and better cost of debt and appropriate capital structure for rate setting purposes and to respond to the company's proposal for an ROE incentive adjustment and to comment on the proposal for a step increase for the Cape Canaveral modernization project.

Q At this time, sir, do you have any additions, deletions or corrections to your prefiled testimony and exhibits?

A I don't have total corrections at this time. I may have others, but at page three on line two, the number 2.08 percent should be 5.08 percent.

Q In your testimony -- earlier you stated as

part your testimony was discussion of the return on equity, correct?

A Yes.

Q Okay. Can you please turn to page 16 of your prefiled direct testimony?

A I am there.

Q Lines 21.

A Okay.

Q Can you take -- actually starting on line 20, can you take a second to read the question and the answer to yourself and let me know when you're through?

A I have read it.

Q Okay. You state that FPL's proposed capital structure has an excessive amount of common equity relative to invested capital; is that correct?

A Yes.

Q Is it correct you compared the FPL's capital structure to the holding companies' capital structure in your proxy group, correct?

A It is. That is one comparison I did make, yes.

Q Have you compared FPL's capital structure to the capital structure of the electric utility operating companies associated with the holding companies in your proxy group?

A Well, I have looked at the publicly traded companies included in my proxy group and the capital structured underlying in those entities. I could not make a comparison to the actual utility companies within those holding company structures.

Q Okay. Let me ask you, do you know the percentage or number of electric utility operating companies associated with the holding companies in your proxy group that have a similar or higher equity ratio than what FPL is requesting?

A Not within the holding company -- or not within my proxy group structure. Again, I focused on the proxy group itself in terms of looking at the overall equity weight used to develop the cost of equity for this proceeding.

From the capital structure perspective, I looked at the capital structure weights the company is proposing in relationship to S&P benchmarks and to industry practices or industry awards, as reflected and authorized overall rates of return and return on equity for electric utility companies in the country.

Q Okay. Is it a more appropriate apples-to-apples comparison to compare FPL's capital structure to the capital structure of the electric utility operating companies associated with the holding

companies in your proxy group?

A If that were what I was focusing on in determining whether or not their proposed capital structure was appropriate, it would be more appropriate to focus on utility company holding company structures. Again, I focused on the two parameters I just mentioned in my review of their proposed cap structure.

Q All right. Let me ask you, how many of the companies in your comparison group are building or contemplating building one or more nuclear power plants?

A Referring to Exhibit MPG 3, page one, Southern Company was in the process of building a nuclear station.

Q Hello?

A I am looking at it.

Q Okay.

A The companies are --

Q We just heard a dead silence. I just wanted to make sure you are still there.

A Yeah. Yeah, I was silent because I am reviewing the proxy group. Southern Company is building a nuclear station, and Dominion is building some cold fired stations with some comments about possibly developing nuclear facilities -- additional nuclear facilities.

Q Do you know what the estimate cost is for building a nuclear power plant?

A That's quite extensive. I think it's in excess of $10,000 kW right now.

Q Historically, has the construction of a nuclear power plant put pressure on the utility's balance sheets?

MR. MOYLE: Object to the form.

THE WITNESS: Well, it depends on how they finance construction at the nuclear station, but historically, the development of nuclear stations, which at that time was also a significant component of the total balance sheet of a utility company, the development or the construction of the nuclear station puts significant pressure on the cash flow of the utility. Frequently, we have -- current return of construction work in progress was not allowed or was not allowed to a full extent, and that created cash flow constraints because of the nuclear station was a very large percentage of the total assets on the balance sheet.

And I anticipate that will -- you know, the percentage of balance sheet will continue in the future because of the capital investment -- the size of the capital investment related to a nuclear plant. Although typically, current returns on construction work in progress are now allowed in support of nuclear stations, or at least those are typically the conditions utilities require before they will begin the development of a nuclear facility.

BY MR. YOUNG:

Q Okay. Do you think it would be prudent for an electric utility to have a relatively thick equity ratio if it were -- if it was contemplating building a nuclear power plant?

A You need to mitigate the construction most certainly, but that can be accomplished through designing a capital structure and implementing regulatory procedures, which balance the cost of the nuclear plant with the -- the need to maintain competitive rates for customers with the need to maintain adequate cash flows in the utility during construction.

So review -- capital structure, necessary to minimize or mitigate financial risk during construction, is one component of the overall package of regulatory procedures which should be considered in supporting a nuclear plant development. The other factors would be regulatory mechanisms, such as line of current return on construction mark progress, which to maintain stronger cash flows without increasing -- without unnecessarily increasing rate to customers, which would be the effect of unnecessarily increasing the common equity ratio.

Q **Is a utility's equity ratio something rating agencies would be interested in if a utility was pursuing license -- licensees from the nuclear regulatory commission?**

MR. MOYLE: Object to the form. Calls for speculation in knowing third-party's state of mind.

THE WITNESS: Based on my understanding of credit rating agency and analyst comments, the capital structure or the balance strength of a utility is a consideration and the credit rating outlook for the utility through major construction periods, which would include developing a nuclear station.

BY MR. YOUNG:

Q **Okay. Can you please turn to page 19 of your prefiled direct testimony?**

A I am there.

Q **Starting at lines four through 10 -- through nine, at the end of nine, can you please take a second to read that to yourself?**

A I have read it.

Q Okay. On page 19, line six, you state, FPL's proposed -- FPL proposes to allocate the pro rata adjustments in proportion to its capital component weights to a capital -- to a total capital; is that correct?

A Yes.

Q Is it correct it to say that FPL's methodology applies the overall weighted average cost of capital to adjustment that reduces their rate base -- that reduces rate base, excuse me?

A I think they maintain the same weighted spread of each of the capital components as they -- they pro rata adjustments to the amount of capital to equal the amount of rate base. I think we may be in agreement, but I am -- that's my understanding. What -- my description is my understanding of what they did with the pro rata adjustments.

Q Okay. You go on to say on page 19, line seven, that this is -- in effect -- this, in effect, spreads deferred taxes on the basis of total capital. This is inappropriate because deferred taxes should be allocated on rate base, or plant and service, not total capital; is that correct?

A Yes.

Q Is your proposed methodology -- your proposed

methodology gives greater weight to deferred taxes in determination of the weighted average cost of capital, thereby lowering the weighted average cost of capital, as compared to making a true pro rata adjustment to the capital structure for amounts removed from rate base, correct?

A A true pro rata adjustment, I -- well, I take wish the true pro rata adjustment. I think deferred taxes are created by customers paying a normalized level of income taxes is that exceed the actual amount of taxes that are paid to government taxing authorities. And while -- and that eventually will turnaround over the life of assets.

While -- up until it turns around, they defer tax component at a zero cost capital to the utility, which is created through the rates charged or paid by customers. And my methodology gives customers the full benefit of all those deferred taxes retained by the company up until they are remitted to government taxing authorities. And then the investor capital components are rateably allocated across the capital in relationship to the utility rate base.

Q Okay. Are you familiar with the -- you are familiar with the IRS nominalization requirements associated with deferred taxes, correct?

A Yes, generally.

Q Okay. Does your proposed methodology violate the IRS nominalization requirements?

A I don't believe so. My methodology is more consistent with what many states do, and that is use deferred taxes as a rate base offset. So it synchronizes the amount of deferred taxes with the rate base, which is standard practice in most jurisdictions, so I believe it is consistent with the IRS normalization procedures.

Q Okay. On page 22 of your prefiled direct testimony --

A I am there.

Q -- you state that FPL incorrectly calculated the cost of cash credit because the company did not include short-term direct in the cost of investment tax credit; is that correct?

A Yes.

Q Are you aware that the IRS -- are you aware of the IRS regulations concerning the calculation of weighted-cost to capital as applied to investment tax credits?

A Yes.

Q Does your proposal to include short-term debt in the weighted -- in the weighted-cost that is applied

to investment tax credit violate the IRS regulations?

A I believe it does not. My methodology essentially sets the cost of the ITCs equal to the utility's weighted average cost to investor capital. So essentially, customers are -- receive no direct benefit of the ITC balance consistent with IRS regulations, and the utility recovers a weighted average cost on the ITCs equal to their investor capital balance. I believe that is consistent with IRS regulation.

Q Okay. If the IRS regulations state that short-term debt should not be included, would you agree with that statement?

A If the IRS says short-term debt should not be included in development of the ITC cost -- proxy cost, then I agree that short-term debt should not be included consistent with the IRS regulations.

Q Okay. Moving on to credit rating. On page three, line three --

A Okay.

Q -- you state, my recommendation -- my recommended return on equity and proposed capital structure will provide FPL with an opportunity to realize cash flow financial coverages and balance sheet strength that conservatively support FPL's current bond rating; is that correct?

A Yes.

Q Can you please explain what do you mean by conservatively support?

A Well, the earned return on -- or the opportunity to achieve the authorized return on equity and the cash flows produced through the base rate embedded cost structures produce credit metrics that I believe are consistent with S&P's benchmarks for supporting FPL's current bond rating, so in terms of the cost of service developed in this proceeding, I believe that the implied earnings from cash flow are adequate to conservatively support FP&L's current bond rating.

Q I'm still having a problem. What do you mean by conservatively?

A I mean that the balance sheet contains more -- less financial leverage than what would be available to support a single A minus bond rating, and the cash flow strengths are reasonably conservative in meeting the credit bench -- the cash flow benchmarks to support FP&L's bond ratings.

Q All right. Okay.

A The words -- you know, the balance sheet has less financial risk than necessary for the bond rating, and the cash flows are strong enough, or are adequate or more than adequate to support the metrics necessary for an investment grade bond rating.

Q Okay. I am sorry. Is someone flipping pages while they are talking -- while the witness is talking?

A That was me. I was looking for one of my schedules.

Q Oh, okay. I am sorry.

A I apologize.

Q Can you please turn to page 26 of your prefiled direct testimony? Starting on line eight and ending on line 11, can you please take a second to read that to yourself?

A I have read it.

Q On page 26, line 10, you state, as shown in Equation 2 above, the DCF model requires the current stock price, expected dividends -- expected dividend and expected growth rate in dividends; is that correct?

A Yes.

Q On page 27, line 21, you state, from my constant growth DCF analysis, I have relied on a consensus, or means, of professional security analyst earnings growth rate -- earnings growth estimates as proxy for investor consensus *dividends growth* expectations; is that correct?

A Yes.

Q Can I ask you, why do you rely on forecasts of

earning growth when you state -- when you stated DCF analysis requires expected dividend growth?

A Well, first, this is a constant growth DCF model, and in a constant growth DCF model, mathematically, earnings, dividends and book value all have to grow at the same rate. Otherwise, you can't use a constant growth DCF model; you would have to use a multi-growth stage model, so within a constant growth DCF model, it's a mathematical requirement that earnings and dividends grow at the same rate.

Now, there is no -- no data available for consensus analyst projections of forward looking dividend growth, but there is data available for consensus security analyst projections of forward looking earnings growth. So the earnings growth projections of a security analyst is the best available information of what security analysts are advising investors the earnings growth and dividend growth under the constant growth assumptions will be over the next three to five years.

So since it's the only consensus analyst data available and is consistent with the mathematical makeup of the model, it's reasonable and appropriate to use earnings growth projections as a proxy for dividend growth projections in this model.

Q Are all utility earnings paid out as dividends when they are earned?

A Well, a percentage of their earnings are paid out in dividends in the year they are earned, yes --

Q Are there any --

A -- not all.

Q Okay. I'm sorry. Did you finish?

A Not all of the earnings are paid out as dividends, but typically, a constant percentage -- within the constant growth model, it's assumed that a constant percentage of earnings are paid out as dividends. Otherwise, you don't achieve the objective of constant growth in earnings dividends and book value. The payout ratio stays the same.

Q Okay. One second, please.

Okay. If all earnings are not paid out as dividends, how does expected growth rate equal -- expected earning growth equal expected dividend growth?

A Well, if the payout ratio of dividends to earnings stayed the same, then if earnings grow four percent and the percentage of -- the amount of earnings that's paid out as dividends stays the same, then dividends will grow at four percent. And that relationship will stay constant as long as the constant growth assumptions are maintained by the companies.

And within this constant growth model that's the assumption that while there might be some variations in the short period, over the long period, the constant growth assumptions will be embraced by the companies and will support a return on equity estimate from this model.

Q **Are there any sources of expected dividends such as Value Line?**

A There is. They are not consensus dividend growth projections, but Value Line does make projections on dividends growth over the next three to five years.

Q **Okay. On page --**

A This model is based on consensus security analyst projections, and there are no available sources of consensus security analyst projections on dividend growth, that I am aware of.

Q **On page -- go ahead.**

A Value Line is a single analyst.

Q **All right. Not a problem.**

On page five, line 12 --

A I am there.

Q **-- you state that, utilities cannot indefinitely sustain a growth rate that exceeds the growth rate of the overall economy; is that correct?**

A Yes.

Q Can you please turn to page 26, and looking at Equation 2 on line one --

A I am there.

Q -- isn't it the only limit on growth in the DCF model that requires return exceed the growth rate, that is, that K is greater than G?

A Well, constant growth model, if the K does have to exceed the G, otherwise the yield component would be negative. So that's true, but that -- the limitations on G is that the growth rate outlooks to produce a rational K, a rational return on equity estimate is that the growth rate has to itself be reasonable and rational.

So my testimony on page 35, that's where we were, is that the growth rate component of the DCF model has to reflect rational expectations because the market -- the efficient market investors would only make investment decisions if using rational components of the overall return.

Q Okay. On page 36, beginning on line five.

A I am there.

Q You cite from the Brigham and Houston financial text. Is that correct?

A Yes.

Q That quote states that mature firms are often

expected to grow in the future at about the same rate as nominal GDP. Is that correct?

A Yes.

Q Did you consider FPL to be -- do you consider FPL to be a growing firm or a mature firm?

A Well, it depends on -- the period where it is built has a large capital program, and it's rate base is growing at a very fast rate. That -- over a relatively short period of time, it could grow faster than its service area economy, but over the long-term, FP&L's growth rate will proximate the growth and demand for utility services in its service territory.

So it is a mature company that over the long-term -- now, I want to underscore, over the long-term -- will grow at the rate its service area places demands for utility services from FP&L. And that will proximate the growth of the service area economy. Over short periods time, it can grow in excess of the service area economy growth if it's in a major construction period.

Utilities construction periods go through cycles. Certain periods are major construction programs. Other periods they back down the construction programs, and other periods they have more moderate construction obligations or programs.

Q All right. Are you saying that the DCF model you were using is not appropriate for FP&L's situation?

A I am saying that it's necessary to consider more than one DCF model because utilities right now are in major construction periods for environmental retrofits of existing generating facilities, for developing new generating facilities, for modernization of transmission and distribution systems. All of that is creating a large capital build-out for utilities across the country, and that is resulting in rate base growth over relatively short to intermediate term to be well above long-term growth outlooks because of those factors.

Q Okay. Would you agree that the quote does not say -- talking about the quote on page 36, line five. Would you agree that the quote does not say that it is impossible for a firm to grow at a rate above nominal GDP for an extended period of time?

A It's true it does not say that.

Q Okay. How many years does indefinitely entail?

A Well, you know, I tried to give a general example on page three 36 of my testimony of what would happen with the growth rate of a utility during an extended periods of a large capital program. And as shown on that schedule, even if a utility has a sustained level of large capital investments over time, its growth rate will eventually decline simply because it's adding to a much larger capital investment base.

So in this illustration generally supports the time periods I used on my multi-growth DCF analysis, which indicates an accelerated growth period over five years followed by a transition from years six through 10 where the growth rate eventually comes down to a level of long-term sustainable growth starting around year 11.

Q Okay. One second, please.

The good news is I am three fourths of the way finished.

A That's great news.

Q Mr. Gorman, have you considered the possibility of FPL building a nuclear power plants into the expected growth of FPL in the foreseeable future?

A I recognize that there is major construction constraints on utility companies, including the proxy group, but the specific assumption regarding building a nuclear generating unit at FPL was not a specific factor in my analysis. In order to determine whether or not that would impact my results would require a complete review of the regulatory mechanisms that would be implemented to support FPL's construction of a nuclear station and any other regulatory mechanisms that would be available to support FP&L's credit standing and sustain their cash flow at an investment rate level during that construction period.

So conclusively, I assume that the regulatory mechanisms would be in place if FPL does go forward with development of a nuclear station --

Q Okay.

A -- to accomplish those objectives.

Q On page 39.

A I am there.

Q Starting on line 14 --

A Okay.

Q -- to line 18. Can you take a second to read that to yourself?

A I have read that.

Q Okay. You state that, I estimated the risk premium on an annual basis for each year over the period 1986 to 2011. The common equity required returns were based on regulatory commission-authorized returns for electric utility companies. Authorized returns are typically based on experts -- expert witnesses' estimates of the contemporary investor required return. Did I read -- is that correct?

A Yes.

Q You cite an authoritative academic text that says that why -- can you cite to -- can you cite -- can you cite to an authoritative academic text that says the way to determine required rate of return on equity is to look at the -- look at what regulatory commissions have done in the past?

A Well, I mean, no. The academic literature supports developing an equity risk premium by comparing the contemporary investor required return on common equity less the investor required return on the debt secured. That's why, in my analysis, I believe it's a reasonable assumption to believe that the industry average authorized return on equity is an independent body's assessment of what expert witnesses say the contemporary investor required return on equity is.

So that's the general makeup of this model, is that it attempts to accomplish what the academics tell us is the proper way of developing an equity risk premium, but because the determination of required return on equity is a highly controversial factor, use of commission-authorized returns on equity is an independent body determination of what the contemporary investor required return on equity is.

Q Okay. On page 55, line five.

A Okay.

Q You state, Dr. Avera's proposed 0.15 percent -- 0.15 percent floatation cost adjustment is not based on the recovery of prudent and reasonable FPL floatation cost expenses. Is that correct?

A Yes.

Q Are you saying FPL has not incurred expenses associated with issuing stock?

A I am not saying that. I am simply commenting on Dr. Avera's method of developing a floatation cost of adjustment to the return on equity.

Q Okay. Is it true that the dollar amount that a utility receives from a new stock issuance is reduced by floatation costs?

A Yes. If it's a public stock issuance, yes.

Q If the amount utilities receives from the new stock issuance is reduced by floatation cost, how will the utility ever earn required return for floatation cost allowance is not provided?

A Well, there is a long response to that. First, if a utility is incur prudent levels of floatation cost expense, there is a regulatory treatment of those expense that needs to be identified, number one. And second, you need to show that those floatation cost expense are prudent and reasonable. The regulatory treatment of floatation cost expense could be to not amortize it in cost of service and use it to develop a return on equity adder, much like Dr. Avera has done.

A second regulatory treatment for floatation cost expense to amortize it to cost of service, in which case the company fully confers that floatation cost expense, and then a return on equity adder is not necessary or would be double recovery.

So with -- absent sent the utility demonstrating what its prudent and reasonable floatation cost expenses are, and demonstration that it has not recovered those costs from customers, a floatation cost adder to the return on equity would reflect recovery of a cost which has not been shown to be just known and measurable or just and reasonable.

I think that answers the question.

Q Yes. If the Commission expensed floatation costs, would you still recommend disallowance?

A Well, the Commission ultimately will do what it proposes to do, but I recommend that if it makes a floatation cost adjustment, it should do it based on FPL's actual floatation expenses, which have been shown to be just and reasonable. And there is knowledge of what past regulatory treatment of those expenses have been. So that would be my recommendation to the Commission.

And in absent proof of those factors, then I don't think a floatation cost adjustment has been shown to be necessary.

Q What is the difference between costs associated with issuing stock and any other utility -- any other utility expense that is allowed for ratemaking purposes?

A There is no difference. They are largely the same. Just as any cost would have to be shown to be an actual expense incurred and the expense would have to be shown to be prudent and reasonable, and if it -- if the utility is successful in proving those two points, then typically that cost is included in cost of service for rate setting purposes. Floatation expenses should be treated the same way.

Q Okay. On page 43, line three of your testimony --

A 43, line three. Okay. I am there.

Q -- you state, I recommend an equity risk premium of 9.26 percent rounded to 9.30 percent. The estimate is based on giving two-thirds weight to the high-end risk premium estimate of 9.83 percent and one-third weight to the lower end risk premium estimate of 8.11 percent. I believe this weighting is appropriate given the large yield spreads between

treasury bond and utility bond yields. Is that correct? Did I read that correctly?

A Yes.

Q **What is it about the spread between treasury bond yields and utility bond yields that make you give a two-thirds/one-third -- two-thirds/one-third ratio weighting to your results?**

A Well, academic research have typically -- have generally tried to investigate how you engage in appropriate equity risk premium based on the current market conditions. Some rate of return analysts simply use an inverse relationship between interest rates and equity risk premiums. I believe while that's one factor, it's not the only factor.

Economic studies say that the economic -- the appropriate equity risk premium is tied to the current market assessment of the risk of equity securities versus the risk of debt securities. Academic research also helps assess a method of gauging where the equity risk premium should be by comparing the risk -- that the yield spread of observable corporate bond yields in relationship to treasury bond yields. When the yield spread is high, that's an indication that the market is assigning more risk to that industry, utility industry specifically.

So now because there is a flight to quality in the market because of the current international economic circumstances, while utility securities are considered relatively low risk, they are still relatively high risk in comparison to U.S. Treasury securities. Consequently, the yield spread between the utility bond and treasury bond's are high, which is an indication that the equity risk premium for utilities should be high relative to historical averages.

So that yield spread is a means for gauging what the equity -- what the risk perception is for the market for utility securities relative to Treasury securities, and that is then used, in my analysis, to gauge where the equity risk premium should be relative to the range of equity risk premiums that I have measured over time.

Q So is it -- isn't it true -- isn't it the two-thirds/one-third ratio -- one-third weight ratio subjective?

A It is.

Q Okay. So you could have come up with any weighting to achieve any number between 8.11 percent and 9.83 percent, correct?

A Well, no, because the Treasury bond yields are above average. I think it would be incorrect to use something below the midpoint of that range. So I think the market data right now suggests that it should be closer to 9.83 percent, the high end, than it should be to the low end of 8.1 percent right now.

Q Okay.

A So there is some market data that helps support the subjective determination of where it falls in that range.

MR. YOUNG: All right. Thank you, sir. That's all the questions I have.

I think, Jon, do you have questions?

MR. MOYLE: I do.

MS. WHITE: Keino, could I propose just a real quick comfort break?

MR. YOUNG: Not a problem.

MS. WHITE: Like, five minutes, three minutes.

MR. YOUNG: Five minutes, that's fine.

MS. WHITE: Okay. Thanks.

(Brief recess.)

MR. YOUNG: We can go back on the record.

Mr. Moyle?

MR. MOYLE: I'm going to need about three more minutes.

MR. YOUNG: All right. We will take on hold for three more minutes.

(Brief recess.)

MR. YOUNG: We are back on the record.

MR. GUYTON: Jon, this is --

EXAMINATION

BY MR. MOYLE:

Q I wanted to follow up on questions related to the yield spread between Treasury bonds and utility bonds.

A All right.

Q And staff asked you about a question about your one-third/two-thirds analysis and whether it was subjective. Wouldn't you ultimately agree that all decisions related to return on equity are subjective?

A Well, I think there is a lot of judgment that goes into measuring the current market cost of equity.

Q Right. I mean, you inform yourself based on certain facts, but ultimately -- ultimately, it's not like two plus two is four and you can plug in everything into a computer and get an answer, correct?

A Correct. There are -- there is market data available that supports one's judgment on what a fair return on equity is.

Q Right. But ultimately, you say, judgment, but judgment does contain an element of subjectivity, correct?

A That's correct, but then you back that up by market evidence that shows what -- that your judgment is generally consistent with what current market capital costs are.

Q Right. And do you believe that your judgment is backed up sufficiently with current market costs?

A I do.

Q Okay. You were asked some questions about floatation expenses.

A Yes.

Q Now, what is your recommendation as to how floatation expenses should be treated and why?

MR. GUYTON: Objection. This is just asking the witness to repeat his direct testimony. It's clearly set forth there. It's just friendly cross, Jon.

MR. MOYLE: Okay. The objection is noted.

BY MR. MOYLE:

Q You can answer the question.

A The company needs to demonstrate what it's actual floatation expenses are, show that they are reasonable and show what the regulatory treatment historically has been. If they have not -- if they have incurred reasonable and prudent floatation expenses that have not already been recovered, then those floatation expenses can be used to develop a return on equity error to compensate the company for its reasonable and prudent floatation expenses.

Q Okay. **Is FPL seeking floatation expenses in this case?**

A They are seeking a return on equity adder of 15 basis points to compensate itself for flotation -- common stock floatation expenses.

Q Okay. And you disagree with that?

A I think the company has not supported the reasonableness of the return on equity adder, so I oppose it.

Q You were asked a question about academic literature or articles that would support -- past decisions of other commissions to support return on equity, and I guess my question to you is, are you aware if the Florida Commission in the past has looked at decisions issued by other jurisdictions to lend support to judgments related to return on equity?

A I am not aware of any specific statements by Florida Commissioners to support their finding of return on equity, but it's information that's generally available to the public, including the Florida Commission.

Q And if I understood your testimony, you said,

well, those decisions are informed by analysis, and the Commissions make independent judgments based on the evidence before them. So -- I mean, you would agree there is some value with respect to what other commissions are deciding related to return on equity; wouldn't you?

A I think there is a lot of value to those determinations, yes.

Q You were asked questions about capital structure and return on equity vis-a-vis nuclear projects, and as I understood it, it was whether you believed there should be adjustments for companies that may be pursuing nuclear projects. Do you believe that if a company is actively pursuing a nuclear project, that there should be an adjustment to provide additional equity in its capital structure?

A I don't think that was the line of questioning. Rather -- my understanding of the question was whether or not Florida Power & Light's capital structure reflects -- has a higher common equity because it may be pursuing a nuclear plant development.

Q Okay. And if the answer to that was yes -- just assume that the answer to that is yes, wouldn't it be necessary for there to be factually established that FPL was, indeed, pursuing a nuclear power station?

A Well, yes was not my answer to the question.

Q No, I understand, but I said assuming -- assuming that the answer is yes, and I am not -- you don't need to answer the question, but assuming that it is yes, you know, wouldn't as a condition precedent, you need to have the fact that a nuclear power plant is, in fact, being pursued?

A I would think that would be -- if the common equity ratio was -- was there to support the development of a nuclear station, then it must -- I would think a requirement would be there is a factual establishment that the company is developing a nuclear unit.

Q Okay. And to the extent that a company is maybe considering it and maybe they will do it but maybe they won't, that would argue against providing additional capital support for a nuclear plant that may or may not be pursued; wouldn't you agree?

A I would think that would suggest that the common equity ratio adder wouldn't be necessary until a final determination is made.

Q Okay. And do you know whether FPL has made a final determination as to pursue new nuclear facilities in terms of building a new nuclear plant at Turkey Point?

A I don't believe that it has made a final determination at this point. That's my understanding.

Q Yeah. You were asked questions about that you didn't compare operating companies' capital structure within larger holding companies, and why did you not do those?

A Well, the proxy group was what the market looks at in valuing the stocks of the proxy companies, and the objective of the return on equity analysis is to use those proxy companies as a reasonable proxy for FP&L in this case.

So those publicly traded companies are composed of various businesses including regulated affiliate and other affiliates within the holding company structure, so it's not the makeup of the total company that the market sees; but it's the total company itself. So I attempted to estimate the return investors require for making investments in those holding companies rather than the return required to make investments in elements of the holding company.

Q And the other experts in this case that have opined in return on equity did they likewise, if you know, look at the -- how the market views holding companies as compared to looking at the individual characteristics of operating companies contained within the holding companies?

MR. GUYTON: Object to the form of the question. Calls for the witness to testify as to what the other witnesses have done. It's certainly not the best form of the evidence in the case.

MR. MOYLE: I just want to note his understanding of how others have --

MR. GUYTON: That's fine. I just need to preserve the objection, Jon.

MR. MOYLE: That's fine.

BY MR. MOYLE:

Q **You go ahead and answer.**

A It's my understanding that the other witnesses also looked at the proxy group and what the investors see in those proxy groups in determining whether or not the companies included in the proxy group are reasonable total investment risk proxies to FP&L.

Q **And is that because what you are really trying to ascertain is sort of how the market views it, not necessarily the facts underlying the operating companies, but how the market perceives the companies that contain within them certain operating companies?**

MR. GUYTON: Jon, before I object, are you asking him from his opinion, or are you asking him about his opinion as to the others' analysis?

MR. MOYLE: No, his opinion.

BY MR. MOYLE:

Q Did you understand my question?

A I think I did. And it's my belief that the proxy group is to gauge what investors require to make investments in proxy holding company structures. While the individual elements of the companies underneath the proxy companies contributes to the overall investment risk of the proxy company, what the market sees is the holding company, not only the individual elements of that company.

Q And with respect to the models that are used -- the academic models to come up with data as it relates to return on equity, the important -- well, an important component of that is how the market views the holding companies, correct?

A Yeah, I mean, that's key to the analysis, is to understand the market -- the total investment risk of the market traded companies and see how investors value that -- the securities underlying that structure and then using the investment components of that security value to estimate what the market's required return for making an investment in that holding company is.

Q Okay. And just to make sort of the point maybe in a little bit of an absurd context, but if -- you know, if there was an operating company within a

holding company that was highly leveraged -- it had, you know, 90 percent debt, 10 percent equity -- experts in ROE, as it relates to getting market data, would be interested to see what the market is expecting from that company probably more so than the fact that there was a 90:10 debt to equity ratio; is that right?

A Well, I mean, a highly leveraged subsidiary would contribute to the overall investment risk of a holding company, so that would be publicly available information, which would be used by the market in assessing the risk of the holding company.

Q **Right. But ultimately, it's the market -- the market data that's important?**

A It's -- the market traded stock, is what investors invest in, so that is the controlling parameter, is that investment risk of the holding company structure in measuring the return on equity.

MR. MOYLE: Okay. Thank you. That's all the questions I have.

MR. GUYTON: Is there another intervenor on the phone with questions?

EXAMINATION

BY MR. GUYTON:

Q **If not, Mr. Gorman, my name is Charlie Guyton. I represent Florida Power & Light Company in this** deposition, and I have some questions for you today. How are you today, sir?

A I am very good. Thank you.

Q Let's start at page four of your testimony. At line 17 through 20, you make the following statement, if the Commission modified FPL's existing regulatory mechanisms to reduce FPL's investment risk, then any related risk reduction should be considered in determining a fair risk adjusted return on equity for FPL.

Do you mean that if there is a change in FPL risk because the Commission changes existing regulatory mechanisms, that change has the effect of reducing risk, and therefore, FPL's return on equity should be reduced?

A If there is a change in a regulatory mechanism which has an impact on the operating risk of FP&L, then that change in operating risk should be reflected in determining appropriate return on equity. A reduction in operating risk would imply a lower reduced compensation for assuming that the total investment risk of the company.

Q Does that idea work both ways? If there is a change in the regulatory mechanism that serves to increase FPL's risk, then that should be reflected in an increase in the authorized return on equity?

A Yes.

Q Okay. At page 27 of your testimony, at line 18 -- and I am fairly close to the microphone so my page turning may obstruct a little bit -- you say that assuming -- that is assuming the market generally makes rational investment decisions, analyst growth projections are more likely to influence observable stock prices than growth rates derived only from historical data. Do you agree with the general assumption in that statement that the market makes rational investment decisions?

A Yes.

Q At page 22 of your testimony, you define a utility's cost of common equity by saying, a utility's cost of common equity is the return investors require on an investment in the utility. Do the investors require that return on their entire equity investment in the utility?

MR. MOYLE: Object to the form.

BY MR. GUYTON:

Q You can go ahead and answer.

A Well, I am not sure what you mean by entire equity investment, but an investor that purchases a stock investment, he expects a return on that stock investment. So it would be -- for the amount of that stock investment invested in a utility, the investor would expect that the equity would -- authorized return would be consistent with the return requirements.

Q And just to put this in context, let's assume that the price of a stock that an investor paid was $30, bought one share of stock, and their expected return was 12 percent. Now, would they expect a 12 percent return on the entire $30?

A Well, the return expectations of investors are derived from earnings on the company and growth to those earnings and the ability of the company to pay dividends from those earnings, so it's that earnings outlook which derives what the expected return on the stock investment is. Because when you buy a share of stock, you're purchasing a share of the earnings growth of the company.

So when you say, return, it's best described as what the earnings -- existing earnings of the company is and the expected growth of that existed earnings and then the dividend paying ability of the company over time.

Q And that is on the entire investment that the equity investor makes, not some percentage of the investment that they make, correct?

A It's the earnings outlook of the company which derives their return expectations of investors.

Q That's right. And that return will be on the amount that they have totally invested, correct?

A Well, it would be the total earnings would be how they derive their stock price.

Q So their total earnings will be in the hypothetical that we used, the earnings that shareholder receives on his or her $30 investment.

A I am sorry. Can you repeat that?

Q I probably can't. Let me move on.

If investors expect to receive a return less than their required return and they are rational investors, what will they do?

A They probably --

MR. MOYLE: Object to the form.

BY MR. GUYTON:

Q You can go ahead and answer, Mr. Gorman.

A Well, if investors are not achieving their required return, they are likely going to sell the security, which would cause the market price of the security to decline.

Q Or if they are already -- if they are not already invested and they are considering investing, what will they likely do?

MR. MOYLE: Same objection.

THE WITNESS: They would set a market price that is consistent with what they think the earnings outlook and dividend strength paving the company, and ultimately, that would be reflected in the market price.

BY MR. GUYTON:

Q Let's try to address another hypothetical. Let's assume that investors in Florida Power & Light Company require a return on equity of 9.25 percent to invest in FPL. And let's further assume that the Commission is setting FPL's rates providing for a 9.25 percent return on equity, but it only does it for 84 percent of the equity that's invested in FPL, and the Commission provides a five-percent return on the remaining 16 percent of equity invested in FPL.

If such an investor were a rational investor, what would the investor do?

MR. MOYLE: Same objection. Object to the form. Calls for speculation.

MS. WHITE: I'm going to echo that.

BY MR. GUYTON:

Q You can answer, Mr. Gorman.

A I don't know the circumstances where all these numbers came from, but if the assumption that the Commission would find that the company's capital structure was too highly weighted with common equity, the investors would expect the management to restructure its capital structure to be in line with what the Commission approves.

If the common equity ratio is too high, then the utility has options to reduce the amount of common equity supporting its capital investments. That could be issue debt pay dividends, issue debt to buyback common stock or other mechanisms to bring the capital structure in line with what the Commission finds to be appropriate.

If the company management action that prudent and reasonable manner to restructure its cost to be in line with what the Commission approves to be prudent and reasonable, then you wouldn't encounter a sustained period where the company's earning less than Commission-authorized on returns of the common equity utility plant equipment.

So there could be short periods where the structure you're describe something encountered by the company, but if the company management acts prudently and restructures its costs to be inline with what the Commission approves, then ultimately its common equity would be inline with what the Commission approves, and it would have the opportunity to earn the

Commission-authorized return on equity on all of the equity invested in the utility plant and equipment.

Q **And until the company did that, would the investor hold its equity at -- it's going to earn less than 9.25 percent overall?**

A If the company investors are required to make sure management takes prudent actions to restructure its costs to be in line with what the Commission approves to be just and reasonable. If management fails to do that, then management would be held accountable to the investors for not modifying its cost structure to provide it with a reasonable opportunity to earn the Commission-authorized return on equity.

Q **Your recommended return on equity is developed through several market-based techniques, correct?**

A Yes.

Q **And your estimate of FPL's current market cost of equity is 9.25 percent?**

A Yes.

Q **And that 9.25 percent is the midpoint of your recommended range of 9.1 to 9.4 percent?**

A Yes.

Q **And the 9.1 percent in your range is based on your risk premium estimate?**

A It is, yes.

Q And 9.4 is based on your DCF estimate?

A Correct.

Q So although you use, or you set forth, a capital asset pricing model estimate in your testimony, your recommendation is not based on your CAPM estimate?

A I didn't give it any weight in this case as I was concerned that it was too low.

Q Now, I am sorry. I didn't mean to interrupt you. Were you through?

A I think. I am not sure what you heard, but I didn't give significant weight to my CAPM result in this case because I felt that the return on equity estimate was too low. I wasn't comfortable with it.

Q And bolt your risk premium and your DCF approaches are market based approaches, correct?

A They rely on servable market data for a proxy for what the contemporary market cost of equity is. In the case of risk premium study where I rely on Commission-authorized returns on equity.

Q On page six of your testimony, at line two, you test -- I am sorry. I gave you the wrong reference. Bear with me just a minute.

If you turn back to page 56 your testimony at line 25.

A Okay.

Q You say that your proposed rate of return considers the ongoing economic hardships for Florida customers and the difficult financial markets that utilities like FPL continue to operate in. I understand how a market-based analysis would consider current financial markets, but how does the risk premium of the DCF models consider what you call here, the ongoing economic hardship for Florida customers?

A Well, that's part of the judgment that I use in interpreting the results. It's part of the justification, for example, for not giving the CAPM return estimates because I felt the return estimate from that model at this time was lower than I was comfortable using to estimate FP&L's current required return on equity.

And I also recognize that market costs of capital are much lower right now than they have been historically, so I tried to be conservative to authorize return on equity, which was generally consistent with current market costs of equity, to support investments in FPL. But at the same time not make that return on equity estimate too low because I simply wasn't comfortable doing that because I thought it might impact whether or not FP&L would continue to have interest in making investments and infrastructure within the State.

The benefits to customers are with very low capital market cost today relative to the past, which reduces the claimed revenue deficiency and the need for a rate increase in this case, so while the market has detrimental impact on customers, such as jobs and economic activity in the service area, the economic conditions of all -- have also impacted the utilities' cost to capital by reducing that cost of capital, which mitigates the rate increase in this case.

Q So there aren't explicit steps in your model that considers customers' economic hardships; instead you used your judgment on the inputs to the model to give a flavor or consideration to customers' economic hardships?

A Well, not on the inputs to the model but rather the interprets of the results of the model. The models were developed in a way that's consistent with academic and practitioner practices for DCF risk premium of CAPM studies.

But at the end of the analysis, when I was interpreting the results, I considered the actual range of return on equity estimates, and I felt comfortable recommending and observed that the return on equity market required return on equity now is very low relative to the past.

Q At page six, lines four through six, you say, all of these factors necessitate a balance between a fair rate of return reflecting fair compensation in today's marketplace with the need to mitigate rate increases on FPL's customers.

When you speak of a fair rate of return reflecting fair compensation in today's marketplace, is that the same as the utility's cost of equities that you define on page 22?

A A fair rate of return should reflect the utility's current market cost of equity, yes.

Q And then you testified that that fair rate of return has to be balanced with the need to mitigate rate increases. Does that mean that you are balancing a fair rate of return against a need to mitigate rate increases?

A It means I think you need to observe that the capital market costs for the utility are very low right now and, in some part, due to the economic conditions of the world economy and the markets like equality in investment such as low risk utility investments that has driven down the current market cost of equity for utility companies.

And by reflecting the current market cost of equity in developing rates, the rate increase will be mitigated because the return on equity is lower now than it has been in the past. Recognizing return on equities are low in this environment mitigates rate increases on retail customers.

Q But you're not suggesting that you have recommended a return on equity that is below the cost of equity or a fair rate of return just to mitigate the rate increase?

A I am not; that is correct. I have recommended a return on equity that I think is conservatively consistent with an accurate estimate of what the current market cost of equity is, and recognizing low capital market cost in today's environment will mitigate the rate increase on retail customers.

Q And it wouldn't be appropriate to authorize -- for the Commission to authorize a return on equity if it's lower than the fare rate of return just to mitigate a rate increase; would it?

A Unless there is imprudence or unreasonable behavior on the utility management part, I believe the authorized return on equity should be reasonable and balanced and a fair assessment of what the current cost market cost of equity is. If there is imprudence or unreasonable behavior on the management part, then return on equity adjustment might be appropriate.

Q So it might be appropriate to reduce the return on equity below the market determined return on equity, but you don't think it's appropriate to increase for good performance if it's above?

A I can't say that there wouldn't be any circumstances where an ROE adder might not be appropriate if there is exceptional management performance, but in this case, I believe FPL's proposal for one has not been justified.

Q Okay. So you are not opposed to an adder in principle, you just don't think that FPL has satisfied whatever standard should be satisfied?

A In part, yes. But given the current state of the economy and the difficulty on the service area, an ROE premium in this marketplace, I believe, would -- I would recommend be inconsistent with a balance determination of a fair return on equity and a rate impact on customers.

Q Now, you have spoken several times about the ongoing hardship for some of Florida's customers. Let's explore that a little bit. If in 2011, Wal-Mart earned a return on equity of 23.49 percent and over the three years ending 2011 it earned an ROE of 20.58 percent, then would you agree degree that Wal-Mart appears to be handling the ongoing economic hardships pretty well?

A I would have to look at that ROE relative to the historical ROE's for Wal-Mart, but Wal-Mart is a supplier to the economy, which offers very low prices for their products and customers that don't -- they have a reduced level of disposal income are looking for the lowest priced products. So it wouldn't surprise me that Wal-Mart's business would not be detrimentally impacted by the economy because it's one of the low cost providers.

Q If in 2011, Home Depot earned a return of 20.7 percent and over the three years ending 2011, it earned a return on equity of 17.06 percent, would you agree that Home Depot appears to be handling the ongoing economic hardships pretty well?

MR. MOYLE: Object to the form.

THE WITNESS: Its earnings would appear to be stronger than the three-year average and --

MR. MOYLE: The objection just for the record is both with the Wal-Mart and the Home Depot. Assumes facts not in evidence.

THE WITNESS: But, again, Home Depot is a company that tries to reduce prices to attract customers, and its business may increase simply because customers are attracted to low cost providers.

BY MR. GUYTON:

Q So in your mind, it's good to be a low cost provider?

A It's always good to be a low cost provider of high quality products.

Q That describes FPL, too; doesn't it?

A It does.

Q And if in 2011 CSX earned a return of 21.74 percent and over the three years ending 2011, it earned a return of 17.06 percent, would you agree that CSX appears to be handling the ongoing economic hardships pretty well?

MR. MOYLE: Same objection. Assumes facts not in evidence.

THE WITNESS: I give the same answer to that question also.

BY MR. GUYTON:

Q I am going to turn a little bit to your proxy group.

In your cost of equity analysis, you have developed a group of publicly traded utilities that you have determined share investment risks similar to FPL, correct?

A Yes. Well, it's the same proxy group that your witness used, and I believe it does have reasonable comparable investments to FP&L.

Q **Okay. And the proxy group members have the same credit ratings as FPL?**

A On average, yes, as shown on my Exhibit MPG 3.

Q **So how do you define investment risk?**

A Well, I defined it in a way, as outlined in my testimony, by comparison of bond rating, which is a credit rating analyst's assessment of total investment risk as reflected in their bond rating. I also consider a financial risk benchmark tied directly to the Common Equity Ratio, and I also consider Standard & Poor's business scores as an assessment of the operating risk of the underlying utility operating companies.

Q **So -- I am sorry.**

A So investment risk is a combination of financial and business risk, and I believe those are two separate components of general assessments of those two primary risk components.

Q **Now, S&P's credit ratings evaluate credit on an assessment of both financial and business risk, correct?**

A Yes.

Q **And you testified that the comparable credit rating of FPL in the proxy group evidenced comparable investment risk, correct?**

A I am sorry. Can you repeat that, please?

Q You testified that the S&P's comparable credit rating of FPL and the proxy group members evidences comparable investment risk, correct?

A Yes.

Q At times in your testimony your recommendation speaks of maintain FPL's current bond rating, say, for instance, at page three, line five. Do you see that?

A Yes, I do.

Q And at other times you say that your recommendation will only maintain an investment grade bond rating, like at page 17, line 12. Do you see that?

A I do.

Q Now, BBB is an investment grade bonds rating; is it not?

A It is.

Q Are you targeting FPL for downgrade from its current low A rating to a BBB rating?

A I am not.

Q In the section of your testimony where you discuss FPL's investment risk, you mention the FPL rate assessment several times, correct?

A Yes.

Q Both Fitch and Moody's made a specific reference to the rate assessment in discussing their

ratings for FPL, correct?

A I believe that's correct. Yes.

Q **And under that rate settlement, FPL was allowed to collect revenues for investment in West County 3, correct?**

A Subject to check, yes, that's my understanding.

Q **And under that rate settlement, FPL was allowed to amortize its depreciation reserve excess with some flexibility; wasn't it?**

MR. MOYLE: I am just going to object to the form, and to the extent this is being offered for evidence, the settlement agreement is the best evidence and speaks for itself.

THE WITNESS: I would have to review the settlement agreement for that factor again, but I believe that is correct.

BY MR. GUYTON:

Q **And that rate settlement agreement has had the effect of allowing FPL to earn a return on equity for both 2010 and 2011 of 11 percent, correct?**

A I believe that is correct.

Q **And that rate settlement is going to also allow FPL to earn up to 11 percent again in 2012, correct?**

A I would assume so.

Q So that rate settlement, which has been approved by the Commission, has allowed FPL to earn a return on equity of 11 percent for three years, correct?

A Two years, yes. Possibly three.

Q Okay. Now, some might say that the rate settlement virtually assured FPL of earning an 11 percent return on equity for three years. Would you be among those?

A I would have to review that aspect of the rate settlement. I can't say that's true.

Q Okay. Now, that rate settlement goes away in 2013, correct?

A Correct.

Q And FPL will no longer be assured of earning a return on equity of 11 percent when that goes away?

MR. MOYLE: Object to the form.

THE WITNESS: Well, if the rate settlement goes away, I am not certain they will earn 11 percent this year.

BY MR. GUYTON:

Q Now, in place of that regulatory mechanism, you advocate that FPL be given an opportunity to earn 9.25 percent, correct?

A Yes.

Q In FPL's last rate case, the Commission declined to adjust FPL's capital structure and impute debt for actual equity as you recommended, correct?

A They adopted the company's capital structure; that is correct.

Q And they didn't -- and you advocated the imputation of debt into the capital structure in that case, and the Commission declined?

A Correct.

Q And in the rate settlement, there was no adjustment to FPL's actual equity investment; was there?

A I believe that's true. I would need to check that.

Q So if that's true, the current regulatory mechanism in place for FPL to recover costs through base rates would be to use the company's actual capital structure?

A Which is consistent with my testimony, yes.

Q Okay. And if the Commission were to change that regulatory mechanism and impute debt, what affect would that have on FPL's investment risk?

A Well, my assessment of a fair return on equity is based on a proxy group, the proxy company's Common Equity Ratio, so the return on equity would reflect a level of greater financial risk than FPL in a stand-alone basis. So there would be offsets to such a determination, and it would increase FPL's financial risk. But it would help support an even more competitive cost structure.

Q And if it would -- I am sorry.

A So the ultimate determination of whether or not it's appropriate would be consistent with determine weathering or not that capital structure would support its current bond rating and whether or not it would do so at the lowest possible rate structure possible. And if that were the case, then -- and I don't think it would have a detriment impact of the overall investment risk of FPL because increase in financial risk would be offset by reduced operating risk that is created by using more competitive rates.

MR. GUYTON: Mr. Gorman, that's all I have. I appreciate your patience with me.

THE WITNESS: Thank you.

MR. GUYTON: Any redirect?

MS. WHITE: No, I don't think I have any redirect.

MR. GUYTON: I must not be doing my job. Very good. Thank you.

MR. MOYLE: Just for clarification, is the witnessing to go read or waive?

MS. WHITE: Mike, I think you want to read; don't you?

THE WITNESS: Yeah, I was waiting to see. Yeah, I will read and sign off on it.

(Whereupon, the deposition was concluded at 11:40 a.m., and the witness did not waive reading and signing.)

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, the undersigned authority, certify that the above-named witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 8th day of August, 2012.

Debra R. Krick

DEBRA R. KRICK
COMMISSION #DD797877
EXPIRES JULY 13, 2012
PROFESSIONAL COURT REPORTER
(850) 894-0828

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 5 through 66, 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 8th day of August, 2012.

Debra R. Krick

DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #DD797877
EXPIRES JULY 13, 2012

ERRATA SHEET

I have read the transcript of my deposition, pages 5 through 66 and hereby subscribe to same, including any corrections and/or amendments listed below.

DATE:______________________ ____________________________
MICHAEL GORMAN

(PETITION INCREASE IN RATES BY FLORIDA POWER & LIGHT COMPANY)

PAGE/LINE	CORRECTION/AMENDMENT	REASON FOR CHANGE

DATE OF DEPOSITION: AUGUST 6, 2012

REPORTER: DEBBIE KRICK

PREMIER REPORTING
114 West 5th Avenue
Tallahassee, FL 32303
(850) 894-0828

August 8, 2012

TO: Karen S. White, Esq.

re: Petition for increase in rates by Florida Power & Light Company

Dear Ms. White:

Enclosed please find your copy of the depositions of Michael Gorman taken on August 6, 2012, in the above-styled case.

As the witness did not waive reading and signing, I am also attaching the errata sheet as the last page of the transcript and request that your office make the necessary arrangements with your witness to read your copy of the depositions, noting any corrections on the errata sheet, then dating and signing the errata sheet, within 30 days or before commencement of trial, whichever is first.

PLEASE FORWARD THE ORIGINAL, SIGNED AND DATED to Keino Young, Esq. If the errata sheet or a request for an extension is not received within 30 days, Counsel may assume that the signature has been waived.

It was a pleasure working with you on this matter.

Sincerely yours,

Debra R. Krick

DEBBIE R. KRICK

Professional Reporter
Enclosures (Errata sheet and transcript.)