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BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160021-EI

PETITION FOR RATE INCREASE BY  
FLORIDA POWER & LIGHT COMPANY.

\_\_\_\_\_ /

DOCKET NO. 160061-EI

PETITION FOR APPROVAL OF  
2016-2018 STORM HARDENING PLAN  
BY FLORIDA POWER & LIGHT COMPANY

\_\_\_\_\_ /

DOCKET NO. 160062-EI

2016 DEPRECIATION AND  
DISMANTLEMENT STUDY BY, FLORIDA  
POWER & LIGHT COMPANY.

\_\_\_\_\_ /

DOCKET NO. 160088-EI

PETITION FOR LIMITED PROCEEDING  
TO MODIFY AND CONTINUE INCENTIVE  
MECHANISM, BY FLORIDA POWER &  
LIGHT COMPANY.

\_\_\_\_\_ /

VOLUME 34  
PAGES 5127 - 5292

PROCEEDINGS: HEARING

COMMISSIONERS  
PARTICIPATING:

CHAIRMAN JULIE I. BROWN  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER ART GRAHAM  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER JIMMY PATRONIS

DATE: Wednesday, August 31, 2016

TIME: Commenced at 3:03 p.m.  
Concluded at 5:47 p.m.

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

1      REPORTED BY:                   LISA GAINEY  
2                                       Court Reporter  
                                      (850) 894-0828

3      APPEARANCES:                 (As heretofore noted.)

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JEFFERY KOPP

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20 Certificate of Reporter

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## EXHIBITS

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

(Transcript follows in sequence from Volume  
33.)

\* \* \* \* \*

(Continued testimony of Ned W. Allis)

BY MR. REHWINKEL:

Q And then I think it's 28 and 29, he also discusses -- actually, it's Page 27, Line 17. He references Mr. Kollen's more aggressive interim retirement curves. And on Page 28, Lines 12 and 13, again, he denies that his proposals are aggressive.

CHAIRMAN BROWN: Okay. Continue.

BY MR. REHWINKEL:

Q Let me ask you now to look at -- I think it's 771, the comparisons of retirement patterns.

A That's correct.

CHAIRMAN BROWN: Mr. Allis, you have a copy of that in front of you?

MR. ALLIS: I do.

BY MR. REHWINKEL:

Q Mr. Allis, would you accept that this is a proper graphic comparison of 0.1565, interim retirement rate, and a 9 LO curve?

A Not exactly. I expected -- I would expected the .1565 to look like a straight line, but it would be

1 correct that it would end around the same place. So,  
2 this kind of gives a fair representation.

3 **Q Okay. So, I guess you are not accepting**  
4 **that this is as a proffered presentation?**

5 A Not exactly. I mean, there's some general  
6 things. I think this shows that the life I have  
7 recommended for capital spare parts is longer than what  
8 is currently approved for those assets. So, I can't  
9 validate every single data point. I would say, to some  
10 degree, the overall shape is reasonable.

11 **Q Okay. Let me ask you this: Given a 0.1565**  
12 **retirement rate for capital spare parts approved in the**  
13 **last case and the fact that it would result in**  
14 **100 percent retirement of a vintage and in less than**  
15 **seven years -- can you accept that?**

16 A Yes.

17 **Q Can you explain why there are any vintage**  
18 **balances for capital spare parts for vintages beginning**  
19 **in 2011 and going back in time that are fully**  
20 **depreciated?**

21 A I'm not sure I completely understand your  
22 question. I didn't propose -- Fleming didn't propose  
23 the .1565 curve in the last study. We proposed a  
24 different estimate. And I'm obviously, proposing a  
25 different one from that in this study.

1           **Q       The Commission ordered the 0.1565 interim**  
2           **retirement rate, correct?**

3           A       That's right. And I expect that the life  
4           will be longer than that. Again, the .1565 is based on  
5           actually a different method than what I've used as  
6           well. I think what you may be getting at is a few  
7           reasons why I think the interim survivor curve method  
8           I've used is superior.

9           **Q       So, did you just testify that your proposal**  
10          **was a 503 life curve combination?**

11          A       In the last study, yes, it was.

12          **Q       And when I say "you," I mean, Gannett**  
13          **Fleming.**

14          A       Yes.

15          **Q       Now, had the Commission adopted that**  
16          **proposal, the remaining life for capital spare parts**  
17          **would have been about 3.2 years; is that right?**

18          A       Calculated during the last study?

19          **Q       Yes.**

20          A       I don't know overall. I mean, it would have  
21          been different for every plant. You know, when you do  
22          a depreciation study, you're looking at every account  
23          in every plant. You're kind of starting there and  
24          building up.

25          **Q       So, to put things in perspective, you**

1 considered it incorrect and completely misleading to  
2 characterize this significant decrease in depreciation  
3 expense as an aggressive depreciation proposal because  
4 your proposal now would have approximately \$2.7 billion  
5 of investment in capital spare parts being half  
6 depreciated or 50 percent by nine years rather than the  
7 3.2 years you proposed in the last case?

8 A I don't think that's exactly how the math  
9 works out. Certainly, I've increased the life for  
10 capital spare parts. Depreciation has gone down as a  
11 result of that. You can't really do by half. These  
12 aren't linear functions.

13 I'm not sure I can completely answer your  
14 question.

15 Q No more exhibits or testimony. Let me ask  
16 you a hypothetical and see if I can understand your  
17 concept of what is aggressive and what's not. You went  
18 to Lafayette College, right?

19 A Yes.

20 Q And who's your rival? Is Lehigh a rival of  
21 yours?

22 A Yes, they are.

23 Q So, let's say you're driving -- I know  
24 you're a rock and roller, but you probably drive 55,  
25 right?



1           A       Yes.

2           Q       So, you're going 55 on I-76 from  
3   Conshohocken to Harrisburg going west. A LeHigh guy  
4   with LeHigh stickers all over his car full of other  
5   LeHigh-looking people passes you at 130 miles an hour  
6   weaving in and out of traffic and almost cut you off  
7   and kind of forces you down the road a little bit  
8   further up the road.

9                    Would you consider him driving aggressively?

10          A       I'm not sure what that has to do with  
11   depreciation.

12          Q       Well, follow me here and let's see if it  
13   does.

14          A       In that specific circumstance, he would be  
15   pretty aggressive.

16          Q       Now, if he slows down to 110 miles an hour,  
17   would you consider him to now be driving  
18   conservatively?

19          A       Again, I don't think that has anything at  
20   all to do with my testimony or what I've said. But  
21   that hypothetical situation, that sounds like it's a  
22   lot more interesting than depreciation.

23                   MR. REHWINKEL: I was trying to do that just  
24                    to kind of wake everybody up. Thank you very  
25                    much. I have no further questions.

1 THE WITNESS: I'm sure everyone appreciates  
2 that.

3 MR. REHWINKEL: Except for the LeHigh  
4 people.

5 THE WITNESS: We don't care about that.  
6 (Laughter.)

7 CHAIRMAN BROWN: Already, thanks,  
8 Mr. Rehwinkel. Public counsel did go over a great  
9 deal of questions, so I do want to remind the  
10 parties not to ask repetitive, duplicative  
11 questions moving forward.

12 FIPUG.

13 MR. MOYLE: You shouldn't have a concern  
14 about the repetitive, detailed questions coming  
15 from this quarter with respect to depreciation.  
16 Anyway, it is a dense topic.

17 EXAMINATION

18 BY MR. MOYLE:

19 Q I do have a few questions. Sir, when you  
20 identified the documents with staff that were work  
21 papers and different things, were the documents 1 to 10  
22 in count, 10 to 100 or 100 to a 1000?

23 A The number of documents or the number of  
24 pages?

25 Q The number of pages.

1           A       It was probably in maybe the 10 to 20 range.

2           Q       And I understand -- we have an issue with  
3       respect to the revised testimony that's been filed and  
4       I think we're going to deal with that -- lawyers will  
5       deal with that at a later point in time. So, I'm going  
6       to ask you a couple of questions, but I don't want you  
7       to get into, you know, necessarily the particulars of  
8       the changes. I'm trying to walk a line here that I  
9       would ask for a little help with, okay?

10          A       Okay.

11          Q       So, in your business, you are an expert in  
12       depreciation; is that right?

13          A       Yes.

14          Q       So, do you all have a working definition of  
15       substantive? Like a million dollars, \$5 million,  
16       \$10 million? When from a monetary standpoint is  
17       something substantive?

18                 MR. BUTLER: I'll object to the form of the  
19       question. I don't think that's something that can  
20       be answered in a vacuum. Many things are  
21       substantive relative to the context that they are  
22       being discussed.

23                 CHAIRMAN BROWN: Mr. Moyle, that is a rather  
24       ambiguous question. Can you put it into context?

25

1 BY MR. MOYLE:

2 Q In doing depreciation studies, do you try to  
3 record every penny, every dollar or at some point you  
4 say, well, you know, look, anything under 50 bucks, I'm  
5 not going to worry about it. What I'm trying to do is  
6 get your understanding of substantive, if you have one,  
7 for the purposes of your work.

8 A I'm not really not sure what you're getting  
9 at.

10 Q Okay. Well, let's not talk about your work.  
11 Let's talk about it in another context. Would you  
12 consider a million dollars substantive if somebody came  
13 in and said, hey, I've got a million dollars. Would  
14 you walk outside and take it? I expect you'd say  
15 that's a substantive amount of money. I'll walk  
16 outside and pick it up. Right?

17 A What does that have to be with my rebuttal  
18 testimony?

19 Q I'll bring it together in a second.

20 MR. BUTLER: I'm going to object again. I  
21 can't see the connection to the testimony. A  
22 million dollars to me would be very substantial.  
23 A million dollars relative to the Federal budget  
24 is probably not a very big deal.

25 I think it has to have context for it to be

1 a meaningful question.

2 BY MR. MOYLE:

3 Q Mr. Butler answered it. I don't know how  
4 much depreciation witnesses get paid. If he can't  
5 answer whether a million bucks is substantive -- you  
6 can't tell me that from your personal perspective, sir?

7 A Again, there's no context. A lot of times  
8 with the depreciation studies that I do, there's a lot  
9 of money in the capital investments the company has  
10 made. So, I really can't answer that question the way  
11 you're asking it.

12 Q Well, were you here for Mr. Barrett's  
13 testimony?

14 A I wasn't here. I maybe saw parts of it.

15 Q Okay. Exhibit 767 -- that is something  
16 that's been marked, and we're going to talk about  
17 later. Do you know -- again, I don't want to get into  
18 substance, but do you know how many people spent time  
19 working on the changes to your prefiled testimony?

20 A How many people?

21 Q Right.

22 A I don't know the exact number. There were  
23 others that may. I certainly spent some time on it.

24 Q How many others, if you know?

25 A I don't know off the top of my head.

1           **Q       And then you said you certainly spent time**  
2           **on it. How much time did you spend on it?**

3           A       I don't know exactly. I had to go through  
4           and delete large parts of it and make sure that  
5           everything was relevant to the other witnesses. I  
6           probably spent eight to ten hours on it, something like  
7           that.

8           **Q       Okay. And when did you do that?**

9           A       That was part of the fun I had this weekend  
10          a.

11          **Q       So, I take it you stayed in town?**

12          A       Actually, I was out of town this weekend. I  
13          got to do it at home.

14          **Q       And notwithstanding the fact that others**  
15          **were working on it, you're comfortable with 767?**

16          A       Can you explain --

17          **Q       Let me ask it this way. You said deletions.**  
18          **Is that all that has been done, words deleted, or have**  
19          **there been changes or words added?**

20                   MR. BUTLER: I'm going to object to this  
21                   line of questioning. It doesn't have anything to  
22                   do with his rebuttal testimony. We two days ago  
23                   provided a red line showing exactly what was  
24                   deleted and what as added between Mr. Allis'  
25                   originally filed rebuttal testimony and what we're

1 talking about today.

2 I don't see the relevance at this line of  
3 questioning.

4 CHAIRMAN BROWN: Mr. Moyle?

5 MR. MOYLE: Well, you know, we've objected.  
6 I'm a little bit in betwixt and between because I  
7 don't want to open a door and have him come in  
8 because I want to maintain my objection, but I  
9 want to ask some questions about how long it took.

10 My million-dollar question is going to be  
11 did the changes in numbers, you know, represent --  
12 I guess the record will speak for itself. I think  
13 there's lots of money in the changes of the  
14 numbers. That's where I'm trying to go with it.

15 CHAIRMAN BROWN: Suzanne.

16 MR. BUTLER: Before we go there, I just to  
17 comment briefly. Mr. Allis' testimony doesn't  
18 propose a dollar figure. It doesn't proposed any  
19 different dollar figure. Therefore, it's  
20 defending the study that he had already filed and  
21 the dollars that are reflected in that study.

22 CHAIRMAN BROWN: Thank you. I'm aware of  
23 that. Suzanne, there is an objection to this line  
24 of questioning.

25 MS. BROWNLESS: I think I agree with

1 Mr. Butler on this. Frankly, the questions with  
2 regard to time, timing, how long it took, I don't  
3 understand the relevance of those at all, but with  
4 regard to what Mr. Butler just said, I absolutely  
5 agree with that.

6 CHAIRMAN BROWN: Yes.

7 MR. REHWINKEL: Madam Chairman, I'm not  
8 trying to pick a fight with Mr. Moyle, but the  
9 first question I asked the witness -- he's a  
10 gator. He would kill me anyway.

11 CHAIRMAN BROWN: And he played football.

12 MR. REHWINKEL: Yes. I was there when he  
13 did.

14 MR. LAVIA: You can outrun him.

15 MR. REHWINKEL: I would do that. The first  
16 question I asked Mr. Allis was did he change  
17 anything in his study, and he said no. I accepted  
18 that, and I think almost as a matter of law, we're  
19 done with that.

20 CHAIRMAN BROWN: Thank you. I was going to  
21 go ahead and rule, but I wanted to give you an  
22 opportunity to object. The objection is  
23 sustained. Mr. Moyle, if you could move along  
24 with your questions substantively.

25 MR. MOYLE: Maybe I asked the wrong



1 question, but I wasn't asking about the study, as  
2 I understand it. I was asking about 767, right.  
3 That's what I was trying to ask about.

4 CHAIRMAN BROWN: I understand.

5 MR. MOYLE: I didn't just understand  
6 Mr. Rehwinkel's pointing out --

7 CHAIRMAN BROWN: I wasn't ruling on his  
8 point. I was ruling on Mr. Butler's objection.

9 MR. MOYLE: Well, I think, then, I  
10 understand your ruling. If I can just have a  
11 minute.

12 CHAIRMAN BROWN: Sure.

13 BY MR. MOYLE:

14 Q Sir, have you compared 767, the exhibit,  
15 with a copy of a red-line document that's been entered  
16 or marked in -- I believe it's been marked in this  
17 case, but it's been represented to be a red-line  
18 document reflecting changes made as a result of  
19 withdrawal of the testimony of Mr. Pous?

20 Have you actually, you, yourself, looked at  
21 the red line in your testimony and compared those?

22 A You're asking if I compared my new testimony  
23 to the red line that was made from comparing my new  
24 testimony to my old testimony?

25 Q Yes, sir.

1           A        I mean, I've gone through both of those,  
2       both the new testimony and the red line that I think  
3       was handed out to everybody a few days ago.

4           **Q        Right. But what I'm trying to understand is**  
5       **you compared both of them. You're satisfied that all**  
6       **of the changes in the red line are picked up in what**  
7       **may at some point be offered as 767?**

8           A        I think generally, yes, it was done by a  
9       computer. You were comparing old documents to the new  
10      one. Again, I've gone through it. I'm fairly certain  
11      that it captured the changes correctly.

12          **Q        You're aware that sometimes computers make**  
13      **mistakes, right?**

14          A        I don't think they are sentient beings.

15          **Q        You're a mathematics major, and I didn't**  
16      **understand what you said, but --**

17                   (Laughter.)

18          A        I don't think you can assign human  
19      characteristics to them.

20                   MR. MOYLE: Okay. I was right. Those are  
21      all the questions.

22                   CHAIRMAN BROWN: Thank you, Mr. Moyle. All  
23      right. Hospitals. Mr. Wiseman.

24                   MR. WISEMAN: No questions, Madam Chair.

25                   CHAIRMAN BROWN: Thank you. Retail

1 Federation.

2 MR. LAVIA: Just a few.

3 EXAMINATION

4 BY MR. LAVIA:

5 Q Good afternoon, Mr. Allis.

6 A Good afternoon.

7 Q Just a clarification. Your Exhibit 768,  
8 which is your errata -- those changes that are  
9 identified on Exhibit 768 are not related to the  
10 Mr. Pous issue, are they?

11 A That's correct. In the testimony I had  
12 reported what FEA had proposed. It's just correcting  
13 that so it matches FEA's testimony. It has nothing to  
14 do with OPC.

15 MR. LAVIA: Thank you. That's all.

16 CHAIRMAN BROWN: That was very helpful.

17 Thank you for that question. FEA.

18 MR. JERNIGAN: Just a couple of questions  
19 mostly for my own clarification.

20 EXAMINATION

21 BY MR. JERNIGAN:

22 Q In your summary statement, you referenced  
23 your rebuttal testimony and you referenced page  
24 numbers. You were actually referencing what's been  
25 marked as 767, correct?

1           A       Yes.

2           Q       And that goes for several of the other  
3       **questions that the intervenors have asked you. When**  
4       **you're referring to your rebuttal testimony, you're**  
5       **referring to 767, correct?**

6           A       Yes.

7                   MR. JERNIGAN: Thank you.

8                   CHAIRMAN BROWN: Thank you. Sierra.

9                   MS. CSANK: No questions.

10                  CHAIRMAN BROWN: Thank you. Wal-Mart is not  
11       present. Larsons.

12                  MR. SKOP: Madam Chair, Larsons have no  
13       questions for this witness.

14                  CHAIRMAN BROWN: Staff.

15                                   EXAMINATION

16       BY MS. BROWNLESS:

17           Q       What we have been marked as 714 is the  
18       **red-line version of your rebuttal testimony; is that**  
19       **correct?**

20           A       I believe that's the right number. I know  
21       that was admitted on Monday.

22                  MR. BUTLER: I'm not sure he knows the  
23       exhibit number.

24                  CHAIRMAN BROWN: And it has not been  
25       admitted into evidence yet, but it has been marked

1 as 714, and it is the red-line version. I have  
2 that.

3 BY MS. BROWNLESS:

4 Q And the red line version, if we take the  
5 part that's stricken out of that version, does it match  
6 what's contained in the exhibit that we've marked for  
7 identification as 767?

8 A Yes, it should. Again, it was made by  
9 computer comparisons, yes.

10 MS. BROWNLESS: Thank you so much.

11 CHAIRMAN BROWN: That answers Mr. Moyle's  
12 questions. All right. Commissioners.  
13 Commissioner Edgar.

14 COMMISSIONER EDGAR: Thank you, Madame  
15 Chair.

16 EXAMINATION

17 BY COMMISSIONER EDGAR:

18 Q Mr. Allis, I have experienced a fair number  
19 of rate cases over the years, and this is the first  
20 time that I've actually found depreciation to be  
21 interesting. So, I don't know if I have you to thank  
22 for that or Mr. Rehwinkel.

23 I think when you were here on your direct, I  
24 made the astounding disclosure that I am not a  
25 depreciation expert. And with that once again in mind,

1 I do have a couple of questions. I feel like I've been  
2 going through a Depreciation 101 tutorial. So, if I  
3 get some of the words wrong, just correct me.

4 A Okay.

5 Q Some of the terms to me seem to be  
6 interchangeable, and I'm told by staff that sometimes  
7 that's true and sometimes it's not.

8 A That would be correct.

9 Q So, I have some general questions and then  
10 some more specific just to start with, on Page 4 of  
11 your updated, non-red-lined rebuttal testimony. And  
12 beginning on Line 4 or 5, you talk about depreciation  
13 rates proposed in the 2016 depreciation study saying  
14 that they properly balanced the interests of current  
15 and future generations of customers.

16 Can you elaborate on that balance  
17 recognizing that my understanding as part of  
18 depreciation are mathematical computations.

19 A Sure. And I mean, that's getting into the  
20 concept of intergenerational equity.

21 Q Now, that's a term I know.

22 A All right. So, you know, with the study, I  
23 believe the lives in net salvage I recommended will  
24 allocate the proper amount of depreciation over the  
25 lives of the assets. And obviously, we're looking at

1 assets that will be in service for a long time, 40 or  
2 50 years for a number of them.

3 So, I think through the analysis I've done  
4 and the study I've done, I've been able to -- I've  
5 recommended lives and net salvage that will properly  
6 allocate those costs in a fair and equitable way which  
7 is usually understood to be using the straight-line  
8 method over the lives of those assets. That's what I'm  
9 getting at there.

10 It's also kind of contrasting to -- you  
11 know, we talked a lot about the capital spare parts.  
12 It quite clear that those are retired much more  
13 frequently than the balance of those plants. So, if  
14 you weren't to use, you know, a shorter survivor curve  
15 for those, what you'd have happen is a lot of those  
16 assets be retired before they're recovered, and that  
17 would be intergenerational inequity.

18 **Q And I think that is a theme that has carried**  
19 **through a couple of different points at a couple of**  
20 **different pages in your testimony. So, the capital**  
21 **spare parts having a shorter lifespan -- is that the**  
22 **term you used? A shorter service life? Again, I'm**  
23 **trying to get my terminology correct.**

24 A Yeah, lifespan refers to the overall plan.

25 **Q The whole thing, capital spare parts, pieces**

1 **and parts?**

2 A You got it.

3 **Q All right. So, for T & D plant, how would**  
4 **that be treated? Is that treated as lifespan or --**

5 A No, it's not. So, transmission  
6 distribution/general plant accounts are typically what  
7 we call mass property. So, that's meaning transmission  
8 distribution in general plant.

9 The lifespan is there's kind of this cut-off  
10 date when the whole plant retires. That's not normally  
11 true for substations or poles or wires and that sort of  
12 thing. So, what you do is you estimate one of the  
13 survivor curves.

14 A good way to think of how they work is to  
15 think of a bell-shaped curve. Some poles will retire  
16 earlier; some poles will retire later. So, the  
17 survivor curve describes that and kind of catches the  
18 whole population and estimates an average life, but  
19 also remaining lives and that sort of thing.

20 So, they are a little bit different. Those  
21 are based on estimates. Those are usually pretty  
22 long-lived assets. The lives of those assets have kind  
23 of been trending longer over the last few studies, and  
24 my study incorporates that.

25 **Q So, that's an example of T & D plant and**



1 **production plant being treated differently.**

2 A Yes.

3 Q You may have just answered this, but just  
4 turning over to Page 5, you have the statement in here  
5 that the hospital's proposal to rely on the 2009  
6 depreciation study would hurt current customers.

7 I know we just discussed intergenerational  
8 balance with the treatment that you are recommending,  
9 but could you speak more specifically to the statement  
10 of their proposal hurting current customers.

11 A Yeah, this part is actually getting into --  
12 I think it's pretty clearly inappropriate to use the  
13 old rates because the balances have changed quite a  
14 bit.

15 Q And when you say the old rates, that's from  
16 the 2009 study?

17 A Yes.

18 Q Because there has not been a comprehensive  
19 depreciation study since 2009?

20 A That would be exactly right. And so, I  
21 think no matter what, you need to calculate new  
22 depreciation rates. I mean, there's power plants that  
23 didn't exist in 2009 that are on the books.

24 So, if you took all the -- again, the  
25 Commission approves lives, net salvage and rates. So,

1 if you took all the approved lives in net salvage and  
2 applied them to current balances, it would be a much  
3 bigger increase than I would propose. I think it would  
4 be too much of an increase, and that would harm current  
5 customers.

6 **Q Okay. I'm turning to Page 24. And again,**  
7 **this is along the same line of thought. At the very**  
8 **bottom of the page you said that again with**  
9 **Mr. Kollen's recommendation that the cost of capital**  
10 **spare parts would not be recovered over their service**  
11 **lives. Instead, customers would have to pay for these**  
12 **assets after they are retired.**

13 What would be the mechanism by which  
14 customers would continue to pay for those assets after  
15 they were retired?

16 **A That would be through the remaining life**  
17 **depreciation rates. So, effectively, they'd be**  
18 **recovered over the rest of the life of the plant, but**  
19 **because a lot of those assets will be retired four or**  
20 **five years down the road you're going to -- if you took**  
21 **his proposal and carried it out to the extension, you'd**  
22 **have people 35 years from now paying for assets that**  
23 **had been gone for, say, 30 years.**

24 **Q Back to intergenerational?**

25 **A Okay.**

1 Q No, I mean, is that kind of that same --

2 A Absolutely. I think a customer paying for  
3 something that's been gone for 30 years would be  
4 intergenerational inequity.

5 Q Okay. I'm switching gears slightly. So,  
6 with the removal of or the withdrawal of Witness Pous  
7 and the subsequent changes to prefiled testimony in  
8 order to address that, I have some confusion about  
9 surplus, no surplus, reserve, imbalance. Again, some  
10 of the terminology as a non-accountant.

11 So, to just sort of cut through some of that  
12 confusion, does your depreciation study with the 2016  
13 deadline -- does it show there to be a surplus?

14 A Yes, in total. And there's -- again, I kind  
15 of build the study from the ground up. I go through  
16 every single type of asset class. So, different parts  
17 have different things. There's a reserve imbalance or  
18 reserve surplus for transmission distribution and  
19 general plant. I think it's \$620 million or something  
20 like that.

21 There's a negative deficiency, a reserve  
22 deficiency, for production plant. Again, I think one  
23 of the things that's driven that is that there hasn't  
24 been a separate sub account for capital spare parts. I  
25 think that will -- again, because it kind of tracks the

1 assets better by splitting them out, you'll be able  
2 to -- I think that surplus will decline relatively  
3 quickly and that that will prevent that sort of thing  
4 from happening again in the future.

5 The other big thing on production that kind  
6 of drove the deficiency was additions to nuclear  
7 primarily.

8 **Q That was going to be one of my questions.**

9 A To a lesser degree than some of the  
10 additions at the coal-fired power plants and the oil  
11 and gas-fired gas power plant, steam in general.

12 **Q You may have just answered this question.**

13 Again, I'm trying to get my terminology right.

14 By indicating that by the end of this year  
15 there will be a surplus, is that the same thing as  
16 saying that there is an imbalance?

17 A Yes. Imbalance is kind of a general term  
18 and --

19 **Q General works for me.**

20 A Surplus is positive deficiency or deficit --

21 **Q Imbalance can be positive or negative?**

22 A Yes.

23 **Q I just want you all to know that I've been**  
24 **reading this stuff.**

25 CHAIRMAN BROWN: Very impressive.

1           Q       So, how do you account for the imbalance,  
2       whether that be in different instances or different  
3       accounts or in different plant categories?

4           A       Typically -- and I'm a depreciation  
5       professional -- what we --

6           Q       That's why I'm asking you.

7           A       -- typically do is we recommend the  
8       remaining life technique. And again, that's account by  
9       account. That just handles everything over its  
10       remaining life. You know, that's what I've recommended  
11       and my colleagues have recommended elsewhere.

12                    Again, that's the recommendation of my  
13       study. I obviously know that that hasn't always been  
14       the practice here. There's other policy reasons, I  
15       think, that different things have been done, but you  
16       know, from a depreciation standpoint, I've recommended  
17       the remaining life technique.

18                    COMMISSIONER EDGAR: All right. Thank you.

19                    MR. ALLIS: Thank you.

20                    CHAIRMAN BROWN: All right. Redirect.

21                    MR. BUTLER: Could you give me just a  
22       moment, please? I kind of thought more of you  
23       commissioners would be wanting --

24                    CHAIRMAN BROWN: Ms. Edgar did a very  
25       substantial job for all of us.

1 MR. BUTLER: She did. Hold on one minute.

2 Thank you.

3 EXAMINATION

4 BY MR. BUTLER:

5 Q Mr. Allis, would you turn to Exhibit 771  
6 that was distributed by Mr. Rehwinkel.

7 A Yes.

8 Q The chart is titled "Comparison of  
9 Retirement Patterns." What sort of property is this  
10 comparing the retirement patterns for?

11 A Well, it doesn't say. The 9L0 is capital  
12 spare parts. The interim retirement rate is the  
13 approved estimate for capital spare parts.

14 Q And when you say "approved," approved when  
15 and for what?

16 A In the 2009 depreciation study. That was  
17 what came out of the order in that case.

18 Q Thank you. And so, am I looking at this  
19 correctly? The red curve is what was approved in 2009;  
20 is that right?

21 A Again, I think the graph would look slightly  
22 differently, but it's close.

23 Q And what is the blue?

24 A That would be what I've proposed for capital  
25 spare parts in this case.

1           Q       Does the blue line have longer or shorter  
2 lives for the capital spare parts than the red line?

3           A       The blue line has longer lives. You can see  
4 that basically by the fact that the blue line is above  
5 or beyond the red line for pretty much the full  
6 duration of the graph.

7           Q       Mr. Allis, one final question for you. Do  
8 you have the copy of Exhibit KO-19 that you were  
9 co-sponsoring?

10          A       Yes.

11          Q       Does KO-19 show using the 2016-year end plan  
12 and reserve balances what the theoretical reserve  
13 imbalances are for various functions that Commissioner  
14 Edgar was asking you about?

15          A       Yes, it does. Consistent with Commission  
16 rules, I've provided the book reserve, theoretical  
17 reserve and the resulting reserve and balance for every  
18 account and every power plant and generating unit as  
19 well. So, that starts on Page 63 and it goes on for  
20 quite a few pages.

21                   MR. BUTLER: Thank you. That's all the  
22 questions that I have.

23                   CHAIRMAN BROWN: Thank you. Getting to  
24 exhibits, it's a little tricky here. We've got  
25 339, 340 and 341. However --

1           MR. BUTLER: Well, I think that 340 and 341  
2           were exhibits that are not there anymore because  
3           they were addressing Mr. Pous' testimony, so we  
4           are only sponsoring, at this point, 339. I would  
5           move it into the record at this time.

6           CHAIRMAN BROWN: Hold on one sec.

7           MS. BROWNLESS: And you are sponsoring 339  
8           as revised; is that correct?

9           MR. BUTLER: As revised.

10          CHAIRMAN BROWN: 339 as revised, withdrawing  
11          340 and 341 as a result of the removal of Pous?

12          MR. BUTLER: That's correct.

13          CHAIRMAN BROWN: Any objection to 339 which  
14          is the mass property service lives account  
15          specific?

16          MR. MOYLE: That doesn't have anything  
17          related to Mr. Pous in it as revised, correct?

18          CHAIRMAN BROWN: Is that correct?

19          MR. BUTLER: That is correct.

20          MR. MOYLE: Then I have no objection.

21          MR. JERNIGAN: I have a question, FEA.  
22          NWA-3, revised, is part of 767. Are we also  
23          numbering that 339?

24          CHAIRMAN BROWN: Okay. Can you restate it?

25          MR. JERNIGAN: I'm looking at 767. The back



1 five pages are NWA-3. And I'm presuming -- it  
2 says revised exhibit, NWA-3. That's all right  
3 been marked as part of 767. Are we also marking  
4 it now as 339?

5 CHAIRMAN BROWN: No. No. We are not also  
6 marking it.

7 MR. BUTLER: You know, he raises a good  
8 point. If you want to hold all of 767 for  
9 admission after discussion about that, maybe it's  
10 better just to -- I think really, now that I'm  
11 thinking about it, that we would withdraw 339 as  
12 well and it will all become part of 767.

13 CHAIRMAN BROWN: He does raise a good point.

14 MR. MOYLE: If it gets admitted.

15 CHAIRMAN BROWN: If it gets admitted. Now,  
16 moving on to the other exhibits associated with  
17 Allis, we will take up 767 and 769 later. 768  
18 appears to have nothing to do with the Pous  
19 changes -- as a result of the Pous withdrawal; is  
20 that correct? As Mr. Allis testified earlier  
21 today.

22 MR. BUTLER: I'm sorry, which number?

23 CHAIRMAN BROWN: 768 which is the Allis  
24 rebuttal errata. He testified to Mr. LaVia that  
25 the errata has nothing to do with the removal.

1 MR. BUTLER: That's correct.

2 CHAIRMAN BROWN: I think that's okay to  
3 admit at this time. Does anybody have any  
4 objection to moving in 768?

5 MR. JERNIGAN: I'm sorry, ma'am. Again,  
6 this is referring to NWA-3 which we are now  
7 calling 767. So, it's the errata to 767 which has  
8 not been entered into the record yet.

9 CHAIRMAN BROWN: 768?

10 MR. JERNIGAN: 768 is entitled errata sheet  
11 to revised Exhibit NWA-3 which we just discussed a  
12 portion of 767.

13 MR. BUTLER: Why don't we hold it as well.  
14 He's right. It's part of the package of 767.

15 CHAIRMAN BROWN: Okay. So, we are holding  
16 off on all FPL exhibits associated with this  
17 witness until the end of the evening or early  
18 morning, whichever comes first or later.

19 OPC, you have 769, 770 and 771.

20 MR. REHWINKEL: Yes. Madam Chairman, it's  
21 at your pleasure. 769 is an excerpt from a  
22 document that is already in the record because it  
23 is his NWA-1 which came in last week, but we can  
24 move it in for efficiency. I think we have done  
25 that with some excerpts.

1 CHAIRMAN BROWN: We have done that.

2 MR. REHWINKEL: So, I would move 769, 770  
3 and 717.

4 CHAIRMAN BROWN: Any objections?

5 MR. BUTLER: None.

6 CHAIRMAN BROWN: Seeing none, we will go  
7 ahead and move 769 through 771 into the record.  
8 Would you like Mr. Allis excused so he can get  
9 back home?

10 MR. REHWINKEL: That would be wonderful

11 CHAIRMAN BROWN: Safe travels, Mr. Allis.

12 MR. ALLIS: Thank you.

13 CHAIRMAN BROWN: Let's take about a five-  
14 minute break at this time before FPL calls  
15 Mr. Jeffrey Kopp.

16 (Brief recess.)

17 CHAIRMAN BROWN: All right. We are on  
18 Mr. Jeffery Kopp, correct?

19 MS. MONCADA: Yes, ma'am.

20 CHAIRMAN BROWN: You may proceed.

21 MS. MONCADA: Thank you, Madam Chair. I  
22 don't believe Mr. Kopp has been sworn.

23 \* \* \* \* \*

24 JEFFERY KOPP

25 was called as a witness, having been first duly sworn,

1 was examined and testified as follows:

2 EXAMINATION

3 BY MS. MONCADA:

4 Q Mr. Kopp, for the record could you please  
5 state your full name and business address.

6 A My name is Jeffrey Kopp. My business  
7 address is Burns & McDonnell Engineering Company, Inc.,  
8 9400 Ward Parkway, Kansas City, Missouri, 61144.

9 Q Thank you. You just stated that you worked  
10 for Burns & McDonnell, Inc. In what capacity do you  
11 work for them?

12 A I am a manager in our business consulting  
13 group.

14 Q Have you prepared and caused to be filed 13  
15 pages of rebuttal testimony in this proceeding?

16 A Yes, I have.

17 Q Do you have any changes or revisions to your  
18 prepared rebuttal testimony?

19 A No, I do not.

20 Q Thank you. If I asked you the same  
21 questions today that were contained in your rebuttal  
22 testimony, would your answers be the same?

23 A Yes, they would.

24 MS. MONCADA: Madame Chair, I would ask that  
25 Mr. Kopp's prepared rebuttal testimony be entered

1           into the record as though read.

2                   CHAIRMAN BROWN: We will insert Mr. Kopp's  
3           prepared rebuttal testimony into the record as  
4           though read.

5                   (Prefiled rebuttal testimony inserted into  
6           the record as though read.)

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## I. INTRODUCTION

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

A. My name is Jeffrey (Jeff) T. Kopp. My business address is 9400 Ward Parkway Kansas City, Missouri, 64114.

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

A. I am employed by Burns & McDonnell Engineering Company, Inc. (“BMcD”), as a manager in the Business Consulting Department of the Business & Technology Services Division.

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

A. As a manager in the Business Consulting Department, I oversee a team of 10 project managers who provide consulting services to clients primarily in the electric power generation and electric power transmission industries, but also to other industrial and commercial clients. The services provided by this group of project managers include dismantlement studies, independent engineering assessments of existing power generation assets, economic evaluations of capital expenditures, new power generation development and evaluation, electric and water rate analysis, electric transmission planning, generation resource planning, renewable power development, and other various related engineering and economic assessments.

1 In my role as a group manager, project manager, and project engineer, I have  
2 worked on and overseen consulting activities on coal, natural gas, wind, solar,  
3 hydroelectric, and biomass power generation facilities.

4 **Q. Please describe your educational background and professional  
5 experience.**

6 A. I have a Bachelor's Degree in Civil Engineering from the University of Missouri  
7 – Rolla and a Masters of Business Administration from the University of Kansas.

8 **Q. Are you sponsoring or co-sponsoring any exhibits as part of your rebuttal  
9 testimony?**

10 A. Yes. I am sponsoring the following exhibits:

- 11 • JTK-1 – FPL's Response to Staff's Seventh Set of Interrogatories No.  
12 165

13 I am also co-sponsoring Section 8 (pages 16-84) of Exhibit KF-4 (Corrected) -  
14 FPL 2016 Dismantlement Study filed with the rebuttal testimony of witness  
15 Keith Ferguson.

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

17 A. The purpose of my rebuttal testimony is demonstrate that the  
18 recommendations in the testimony of the South Florida Hospitals and  
19 Healthcare Association ("SFHHA") witness Kollen with respect to  
20 dismantlement estimates are incorrect and should be rejected.

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

22 A. My rebuttal testimony will address witness Kollen's mischaracterization of  
23 how dismantlement cost estimates are prepared and the importance of

1 contingency in developing these estimates. I will also demonstrate that  
2 witness Kollen's recommendation to apply either a zero or at best a 10%  
3 contingency is unreasonable and unsupported based on my professional  
4 experience and the Commission's own rule and these recommendations  
5 should be rejected by the Commission.

6

7

## II. DISMANTLEMENT COST ESTIMATES

8

9 **Q. Please briefly explain how the dismantlement cost estimates are**  
10 **developed and the role of contingency in those estimates.**

11 A. The estimate of direct dismantlement costs is prepared with the intent of most  
12 accurately represent what BMcD would anticipate contractors bidding to  
13 dismantle the equipment, address environmental issues, and restore the site  
14 through a competitive bidding process, based on performing known  
15 dismantlement tasks under ideal conditions. In addition to these known tasks  
16 under ideal conditions, contingency is added to account for unknown, but  
17 reasonably expected to be incurred costs.

18

19 As outlined in FPL's 2016 Dismantlement Study, we prepared these cost  
20 estimates by estimating quantities for equipment based on a visual inspection  
21 and interaction with the facilities' engineers, review of engineering drawings,  
22 BMcD's in house database of plant equipment quantities, and BMcD's  
23 professional judgment. This resulted in an estimate of quantities for the tasks



1 required to be performed for each decommissioning effort. Current market  
2 pricing for labor rates, equipment, scrap materials, and unit pricing were then  
3 developed for each task. These pricing inputs were developed for each site  
4 based on costs specific to the area in which the work is to be performed.  
5 These rates were applied to the quantities for the plants to determine the total  
6 cost of decommissioning for each site.

7

8 Because the estimates of direct dismantlement costs are based on ideal  
9 conditions, and known dismantlement tasks, additional costs are included via  
10 contingency to cover unknown, but reasonably expected to be incurred costs.  
11 These costs include weather delays, unknown environmental contamination,  
12 discovering equipment or materials not shown on drawings, additional  
13 dewatering requirements and changes in the manner the work is performed.  
14 Contingency is a cost that is typically included by owners throughout all  
15 stages of planning through execution of the project, even once firm pricing is  
16 obtained from a contractor. These costs cover potential change orders based  
17 on these unknowns.

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22

1 **Q. Witness Kollen states on page 33, line 8 that BMcD has simply**  
2 **underestimated various dismantling projects in the past and asserts that**  
3 **this is not a valid basis for adding contingency. Does witness Kollen**  
4 **correctly understand the relationship between project cost estimation and**  
5 **contingency?**

6 A. No. Witness Kollen is referring to FPL's response to Staff's Seventh Set of  
7 Interrogatories No. 165; refer to my exhibit JTK-1. In the response to that  
8 discovery request, BMcD provided two examples of projects where  
9 contingency was expended during the execution of the projects, resulting in  
10 actual costs exceeding the original estimated direct costs. In both cases,  
11 change orders were necessary, which resulted in increased costs incurred by  
12 the generating facility owners. These change orders were not the result of cost  
13 estimating inaccuracies for the direct costs for the base scope of work, but  
14 were instead the result of changes to the demolition scope of work that  
15 resulted from unknowns during the preparation of the base scope, and were  
16 later discovered during project execution. These work scope changes were  
17 outlined in the response to Staff's Seventh Set of Interrogatories No. 165.  
18 These unknown, but reasonably anticipated costs are exactly the types of costs  
19 intended to be covered by contingency. These examples demonstrate the need  
20 for project owners to carry contingency, since work scope can change, even  
21 after firm fixed pricing is provided by a demolition contractor. The direct  
22 costs cover the knowns, the contingency covers the unknowns.

1 **Q. What qualifies BMcD to prepare accurate estimates of dismantlement**  
2 **costs and why should the Commission put weight into these estimates of**  
3 **the direct costs and application of contingency?**

4 A. BMcD has been in business since 1898, serving multiple industries, including  
5 the electric power industry. In 2016, BMcD was rated No. 14 overall of the  
6 Top 500 Design Firms by the Engineering News Record (“ENR”). BMcD  
7 was rated as the No. 1 engineering design firm in the United States serving the  
8 electric power industry by ENR in 2016.

9  
10 BMcD has vast experience in both preparation of dismantlement studies and  
11 executing actual construction projects, including hundreds of construction  
12 projects totaling more than \$1 billion dollars of construction last year alone.  
13 In order to execute over \$1 billion dollars of construction projects on an  
14 annual basis, BMcD has to win this work through competitive bidding  
15 processes, which requires us to be able to accurately prepare cost estimates. If  
16 we routinely estimated costs too high, we would not be successful in winning  
17 projects. If we routinely estimated costs too low, we would not be able to  
18 execute projects profitably and would no longer be active in this market. Our  
19 long history, large market presence, and top industry rankings demonstrate our  
20 ability to effectively and accurately estimate costs. In addition, we have  
21 worked with demolition contractors over the years to refine our estimating  
22 process for dismantlement studies to align our costs with theirs. However,

1 even with an accurate estimate of the known direct costs under ideal  
2 conditions, the application of contingency is prudent.

3 **Q. Is witness Kollen's general characterization of contingency correct?**

4 A. No. Witness Kollen infers that contingency represents the amount of  
5 inaccuracy in an estimate. This is not the case. The application of  
6 contingency is a common and demonstrably prudent practice in the  
7 construction industry and it is included in order to recognize the probability of  
8 increases in cost due to unknowns as described above. Experience with these  
9 unknowns impacting dismantlement costs was demonstrated in the examples  
10 provided by BMcD in FPL's response to Staff's Seventh Set of Interrogatories  
11 No. 165 (see JTK-1). The base estimated cost to dismantle assumes ideal  
12 weather and working conditions, which is an appropriate starting point for  
13 cost estimating but frequently cannot be achieved when the work is actually  
14 performed. The base cost estimate also does not include any costs for other  
15 unknowns such as additional environmental contamination or other unknowns  
16 outlined in my previous responses, but reasonably expected to be incurred,  
17 based on experience with other projects. Some of these costs cannot be  
18 determined until the dismantlement process has begun. Therefore,  
19 contingency is applied on top of the base estimated cost in order to formulate  
20 the most probable estimate to dismantle the generating facilities.

21

22

1 **Q. Does the Florida Public Service Commission’s rule on dismantlement**  
2 **studies provide for the application of contingency?**

3 A. Yes. Refer to subsection (2)(a) of Rule 25-6.04364, Electric Utilities  
4 Dismantlement Studies, F.A.C., which defines and permits contingency costs  
5 to be included in cost estimates to account for “unforeseeable elements of cost  
6 within the defined scope of the project.”

7 **Q. Witness Kollen recommends on page 34, lines 16 through 20, that the**  
8 **Commission completely remove all contingencies from the Company’s**  
9 **dismantlement estimates or reduce the percentage to 10%. Does witness**  
10 **Kollen provide any evidence to support this recommendation?**

11 A. No. Witness Kollen does not provide any evidence to support this  
12 recommendation other than a generalized statement that dismantlement  
13 estimates should become more accurate across the industry based on  
14 experience.

15 **Q. Please explain why you are recommending the application of 20%**  
16 **contingency to the dismantlement cost estimates.**

17 A. The percentage of contingency applied to any cost estimate is directly related  
18 to the level of unknowns associated with the project. When preparing  
19 construction cost estimates for a new fossil-fuel generation facility on a  
20 greenfield site, we would typically determine the level of contingency based  
21 on the stage of planning or execution that we are in, which impacts the level  
22 of unknowns. We would apply higher contingency, typically between 10%  
23 and 15%, at early stages of planning when there are more potential unknowns.

1           These would include potential scope changes as well as weather delays and  
2           other factors. As engineering design progresses and some of these unknowns  
3           can be reduced through subsurface investigations, engineering design  
4           drawings, and engineering specifications, the amount of contingency may be  
5           reduced. However, contingency would never be completely eliminated, even  
6           after full detailed design is completed, since some unknowns, as common as  
7           weather delays, cannot be completely eliminated.

8  
9           The dismantlement cost estimates prepared as part of this filing are most  
10          similar to the cost estimates developed in the early stages of planning for a  
11          new fossil-fuel generation facility on a greenfield site. However, when  
12          preparing a dismantlement cost estimate, there is a greater level of unknowns  
13          than new construction which cannot be eliminated at this stage of the planning  
14          process. For example, dismantlement activities occur at sites where power  
15          generation has been ongoing for many years and environmental contamination  
16          is more likely than a greenfield site. In addition, no on-site testing for  
17          hazardous materials and potential environmental contamination has been  
18          performed during these planning stages to fully identify the presence and  
19          extent of these items. No subsurface investigations or groundwater sampling  
20          has been performed to identify and define remediation requirements. And  
21          some unknowns, such as below grade storage tanks or piping, which may  
22          contain hazardous materials, may not be uncovered until the dismantlement  
23          process is underway. This is analogous to the difference between building a

1 new house with architectural drawings and specified quantities on an  
2 undisturbed plot of ground compared to gutting and renovating an existing  
3 house. With the latter, additional contingency would be warranted, due to the  
4 fact that a higher likelihood exists to encounter unknown materials that could  
5 be considered hazardous, unknown material types and quantities, and  
6 unknown foundation and subsurface conditions.

7  
8 For all of these reasons, as well as our experience with actual dismantlement  
9 costs relative to dismantlement cost estimates, as outlined in FPL's response  
10 Staff's Seventh Set of Interrogatories No. 165 provided as Exhibit JTK-1 and  
11 our professional judgment, we recommend and apply a 20% contingency to  
12 dismantlement cost studies. We recommend the application of 20%  
13 contingency to the FPL dismantlement cost estimates, consistent with the  
14 studies we have prepared for various utility clients throughout the United  
15 States. This includes Duke Energy Florida's most recently filed  
16 dismantlement study, also prepared by BMcD, which also included a 20%  
17 contingency, and was approved in Order No. PSC-10-0131-FOF-EI, Docket  
18 No. 090079-EI.

19 **Q. Does witness Kollen state anything further regarding the appropriateness**  
20 **of applying contingency to dismantlement costs?**

21 A. Yes. On page 33, lines 19 through 21, witness Kollen contradicts his own  
22 position that a zero contingency percentage should be applied by stating,  
23 "when contractors are retained to actually dismantle and restore sites at some

1           date in the future, it may be appropriate to add contingencies to contract  
2           costs....” As witness Kollen confirms with this statement, it is prudent to  
3           include contingency, even after firm pricing is provided by a demolition  
4           contractor. However, witness Kollen has it backwards. Contingency is even  
5           more important during the planning stages prior to retaining a contractor to  
6           dismantle and restore the sites, due to a greater level of uncertainty at the  
7           earlier stages of project planning.

8   **Q.    Please explain why the above statement is important.**

9   A.    Witness Kollen acknowledges that contingencies are an important component  
10       of cost estimates; however, his approach in effect would saddle future  
11       customers with the risk of increased costs. This is a clear violation of the  
12       principle of intergenerational equity, which is achieved only by treating  
13       dismantlement costs, including contingencies, as part of the cost of the facility  
14       generating power. The most equitable treatment for all generations of  
15       customers is to pay for the cost of dismantlement ratably over the life of the  
16       generating facilities rather than pay increased costs at plant’s end of life.

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

18 A.    Yes.



1 BY MS. MONCADA:

2 Q Mr. Kopp, are you sponsoring Exhibit JTK-1  
3 that is attached to your prepared rebuttal testimony?

4 A Yes.

5 Q And was this exhibit prepared under your  
6 direction or supervision?

7 A Yes, it was.

8 MS. MONCADA: Madame Chair, I would note  
9 that this exhibit has been identified on staff's  
10 comprehensive list as No. 346.

11 CHAIRMAN BROWN: So noted. Staff.

12 MS. BROWNLESS: Good afternoon.

13 MS. MONCADA: One second, Ms. Brownless.

14 Not quite finished.

15 BY MS. MONCADA:

16 Q Mr. Kopp, did you also co-sponsor Section 8  
17 of Exhibit KF-4 corrected?

18 A Yes, I did.

19 MS. MONCADA: And Madame Chair, just for the  
20 record, I would like to know that Exhibit KF-4  
21 corrected was identified on staff's list as 343.  
22 It has already been moved in. It was moved in at  
23 the conclusion of Mr. Ferguson's testimony.

24 CHAIRMAN BROWN: Thank you. Now, staff.

25 EXAMINATION

1 BY MS. BROWNLESS:

2 Q Good afternoon, sir.

3 A Good afternoon.

4 Q Have you had an opportunity to review  
5 staff's comprehensive exhibit list, Exhibits 405, 412,  
6 419, 460 and 522?

7 A Yes I have.

8 Q And are the responses to the interrogatories  
9 that are included there true and correct, to the best  
10 of your knowledge and belief?

11 A Yes, they are.

12 Q And did you provide materials in response to  
13 the production of documents request that are true and  
14 correct, to the best of your knowledge and belief?

15 A Yes.

16 Q And if you were asked the same questions  
17 today that are asked in the interrogatories, would your  
18 answers be the same?

19 A Yes, they would.

20 Q And if you were asked to produce the same  
21 documents today as you were requested to produce, would  
22 the documents you provide be the same?

23 A Yes, they would.

24 Q Okay. For Exhibit No. 522, those were  
25 rebuttal work papers. Did you provide work papers in

1 **response to that production of documents request?**

2 A Exhibit 522?

3 **Q Yeah.**

4 A I don't have that list in front of me. I  
5 responded to all of those. I don't think I had any  
6 work papers, so I think I had a response that said  
7 there were no work papers.

8 MS. BROWNLESS: Okay. Thank you so much.

9 CHAIRMAN BROWN: FPL.

10 FURTHER EXAMINATION

11 BY MS. MONCADA:

12 **Q Thank you. Mr. Kopp, did you prepare a**  
13 **summary of your rebuttal testimony?**

14 A Yes, I did.

15 **Q And can you provide that to the Commission**  
16 **at this time, please?**

17 A Yes. Good afternoon, Commissioners. Thank  
18 you for the opportunity to speak with you today. My  
19 name is Jeffrey Kopp. I'm a civil engineer employed by  
20 Burns & McDonnell Engineering Company, Inc., which has  
21 been in business since 1898.

22 The purpose of my rebuttal testimony is to  
23 demonstrate that the recommendations in the testimony  
24 of South Florida Hospital and Healthcare Association  
25 Witness Kollen with respect to dismantlement estimates

1 are incorrect and should be rejected and that the  
2 dismantlement cost estimates provided in the 2016  
3 dismantlement study should be accepted.

4           The estimates of direct dismantlement costs  
5 provided in the 2016 dismantlement study were prepared  
6 with the intent of most accurately representing what  
7 Burns & McDonnell would anticipate contractors bidding  
8 to dismantle the equipment, address environmental  
9 conditions and restore the sites through a competitive  
10 bidding process based on performing known dismantlement  
11 tasks under ideal conditions.

12           In addition to performing these tasks under  
13 ideal conditions, contingency was added to account for  
14 costs that are unknown but reasonably expected to be  
15 incurred. The contingency may cover costs for things  
16 such as weather delays, unknown environmental  
17 contamination, discovering equipment or materials not  
18 shown on drawings, additional dewatering requirements  
19 and changes in the manner of the works performed.

20           The application of contingency is a common  
21 and demonstrably prudent practice in the construction  
22 industry, and it is included in order to recognize the  
23 probability of cost increases due to unknowns.

24           Significantly, it is also supported by the  
25 Commission's dismantlement study rule. Burns &

1 McDonnell recommends the application of 20 percent  
2 contingency on the dismantlement cost estimates due to  
3 the greater level of unknowns associated with the  
4 projects than a new construction project.

5           Witness Kollen does not provide any evidence  
6 to support his recommendation that the Commission  
7 completely remove all contingencies from the company's  
8 dismantlement estimates.

9           Witness Kollen's approach which consists of  
10 excluding contingency during the planning stages when  
11 contingency is most important and then applying  
12 contingency after firm pricing is provided by a  
13 demolition contractor at the plant's end of life  
14 results in future customers paying additional costs  
15 which is a violation of the principle of  
16 intergenerational equity.

17           For all of these reasons, our experience  
18 with actual dismantlement costs and our professional  
19 judgment, we recommend and apply a 20 percent  
20 contingency to the dismantlement cost studies. This  
21 recommendation is consistent with the studies that we  
22 have performed for various electric utilities  
23 throughout the United States including Duke Energy  
24 Florida's most recently filed and approved 2009  
25 dismantlement study.

1 This concludes my summary.

2 MS. MONCADA: Thank you, Mr. Kopp. Madam  
3 Chair, Mr. Kopp is available for cross.

4 CHAIRMAN BROWN: Thank you. Mr. Rehwinkel.

5 MR. REHWINKEL: Madam Chairman, I have no  
6 rock chalk/Ward Parkway driving hypotheticals to  
7 ask this witness, so I have no questions.

8 CHAIRMAN BROWN: Thanks. All right. FIPUG.

9 EXAMINATION

10 BY MR. MOYLE:

11 Q Thank you. We didn't see you in direct, did  
12 we?

13 A No.

14 Q You're aware we saw your dismantlement study  
15 on direct, right?

16 A Yes.

17 Q And you've attached it to your rebuttal  
18 testimony; is that right?

19 A The corrected study, yes, is attached to my  
20 rebuttal testimony.

21 Q You don't need that to rebut the limited  
22 thing you talked about in your summary with respect to  
23 why you're appearing here today, correct?

24 A Yes, because it contains the 20 percent  
25 contingency that I'm rebutting Mr. Kollen' comments on.

1 Yes, that's the number that I am rebutting which is  
2 contained in that study.

3 MR. MOYLE: That's all I have.

4 CHAIRMAN BROWN: Thank you, Mr. Moyle.

5 Mr. Wiseman, Hospitals.

6 MR. WISEMAN: Thank you, Madam Chair.

7 EXAMINATION

8 BY MR. WISEMAN:

9 Q Good afternoon, Mr. Kopp.

10 A Good afternoon.

11 Q I'm Ken Wiseman representing the South  
12 Florida Hospital Healthcare Association. I just want  
13 to ask you a couple of questions.

14 I noticed in here you described your  
15 educational background, but you didn't say how long  
16 you've been actually performing dismantlement studies.  
17 Can you tell me how long that's been?

18 A Over ten years.

19 Q And how many dismantlement studies, just  
20 rough estimates, have you done?

21 A I've prepared estimates for over a hundred  
22 power generation facilities.

23 Q I'm interested, you just used the word  
24 "estimate." The amounts that are included in your  
25 dismantlement study are estimates, correct?

1           A       Yes.

2           Q       **And estimates, by their very nature, can be**  
3 **too high or too low. Would you agree with that?**

4           A       I would agree that theoretically, yes, they  
5 can be too high or too low, but they are our best  
6 estimates of what we believe today based on the data  
7 that we have in front of us.

8           MR. WISEMAN: Thank you. I have no further  
9 questions.

10          CHAIRMAN BROWN: Thank you, Mr. Wiseman.  
11 Retail Federation.

12          MR. LAVIA: No questions. Thank you.

13          CHAIRMAN BROWN: FEA.

14          MR. JERNIGAN: No questions, ma'am.

15          CHAIRMAN BROWN: I'm assuming Sierra Club  
16 has no questions since they are not here.

17          Wal-Mart.

18          MR. WILLIAMSON: No questions.

19          CHAIRMAN BROWN: Thank you. Larsons are not  
20 here either. Staff.

21          MS. BROWNLESS: Ma'am, thank you.

22          CHAIRMAN BROWN: Commissioners. FPL  
23 redirect.

24          MS. MONCADA: No redirect.

25          CHAIRMAN BROWN: All right. You got off



1 lucky.

2 MR. KOPP: Wow.

3 CHAIRMAN BROWN: FPL, I believe there's just  
4 one exhibit associated with this witness, 346?

5 MS. MONCADA: That's correct, just one  
6 exhibit. We would move that.

7 MR. MOYLE: And we would object to it in  
8 that we think the dismantlement study -- we made  
9 the point earlier should have been part of the  
10 direct case, and it came in. Essentially, he was  
11 the author of it and never showed up in direct;  
12 showed up in rebuttal. So, we object to it coming  
13 in as rebuttal.

14 CHAIRMAN BROWN: FPL.

15 MR. BUTLER: I think it's already been  
16 admitted, hasn't it?

17 MR. MOYLE: It has over objection. So, I  
18 don't think --

19 MR. BUTLER: I would make the same response  
20 to Mr. Moyle that I have before.

21 MS. MONCADA: And I want to jump in here.  
22 346 is JTK-1. It is not to the dismantlement  
23 study. What we are moving in is JTK-1 which  
24 consists of a response to staff's seven set of  
25 interrogatories, No. 165.

1           And also in response to Mr. Moyle's  
2           objection which was hearsay, Mr. Kopp has  
3           testified that he has -- he was the one who  
4           prepared Section 8 of the study. It is no longer  
5           hearsay. And in addition, it is corroborating  
6           Mr. Ferguson's use of the study.

7           CHAIRMAN BROWN: Okay.

8           MR. MOYLE: And my objection simply was that  
9           just like Mr. Allis where he was the guy who did  
10          the study, it should have been done in direct.  
11          Allis showed up and said, yeah, I'm here on the  
12          study. This guy comes in on the last day and  
13          says, yes, it's my study. Just note the objection  
14          for the record.

15          CHAIRMAN BROWN: Okay. Mr. Wiseman.

16          MR. WISEMAN: Thank you, Madam Chairman.  
17          FHA is going to object as well to the admission of  
18          the document on the basis that it's not rebuttal  
19          to Mr. Kollen. If the text of Mr. Kopp's  
20          testimony rebuts Mr. Kollen, that's clear. That's  
21          the subject.

22          The study is far broader. It goes into many  
23          details that have nothing whatsoever to do with  
24          anything that Mr. Kollen said or, for that matter,  
25          anything Mr. Kopp says in his prepared testimony.

1 So, we object to the admission of the study.

2 CHAIRMAN BROWN: Okay. FPL.

3 MS. MONCADA: Mr. Wiseman's objection is  
4 also met with my same response which is that what  
5 we are moving in is JTK-1 which consists of an  
6 answer to staff's discovery. The dismantlement  
7 study has already been moved into the record.

8 CHAIRMAN BROWN: Okay. Noting those  
9 objections for the record, we are going to go  
10 ahead and move in Exhibit 346 into the record.  
11 Thank you.

12 (Exhibit 346 admitted.)

13 CHAIRMAN BROWN: Would you like Mr. Kopp  
14 excused?

15 MS. MONCADA: Yes, please.

16 CHAIRMAN BROWN: Thank you. Have a good  
17 evening, Mr. Kopp. You're excused.

18 THE WITNESS: Thank you.

19 CHAIRMAN BROWN: The next witness up in the  
20 order that I have is Ms. Kathleen Slattery.

21 MR. BUTLER: Yes, we will call  
22 Ms. Slattery.

23 MS. BROWNLESS: Madam Chair, Ms. Slattery is  
24 the witness that the Sierra Club had questions  
25 for; is that correct?

1           CHAIRMAN BROWN: I don't know. Mr. Moyle  
2           had questions for Ms. Slattery.

3           MR. MOYLE: I did. I think it was the prior  
4           witness who got on the stand and left.

5           MR. BUTLER: This was about whether the  
6           incentive compensation affected decisions; is that  
7           right, Mr. Moyle?

8           MR. MOYLE: And some.

9           MR. BUTLER: That was with Mr. Ferguson, and  
10          that was deferred to Ms. Slattery.

11          MR. MOYLE: Right.

12          MR. REHWINKEL: Madam Chairman, while we're  
13          getting set up, I have appropriately collated my  
14          exhibits for Ms. Slattery and given them to staff  
15          and also had earlier given the documents to  
16          company for their witness to review so we can  
17          hopefully make this go a little faster.

18          CHAIRMAN BROWN: Good job, Mr. Rehwinkel.  
19          A+. All right. Is FPL ready to proceed?

20          MS. CLARK: We are, Madam Chairman. And  
21          Ms. Slattery has been previously sworn.

22                                   \* \* \* \* \*

23                                   KATHLEEN SLATTERY

24          was called as a witness, having previously been duly  
25          sworn, was examined and testified as follows:

1

## EXAMINATION

2 BY MS. CLARK:

3 Q Ms. Slattery, will you state your name and  
4 address for the record.

5 A Yes, my name is Kathleen Slattery. My  
6 business address is 700 Universe Boulevard, Juno Beach,  
7 Florida.

8 Q Are you employed by the same company you  
9 were employed by on your direct testimony?

10 A Yes.

11 Q Have you prepared and caused to be filed 31  
12 pages of rebuttal testimony in this proceeding?

13 A Yes, I have.

14 Q And you did not file an errata to the  
15 testimony; is that correct?

16 A That's correct.

17 Q And if I ask you the questions contained in  
18 your rebuttal testimony, would your answers be the  
19 same?

20 A Yes.

21 MS. CLARK: Madame Chair, I would ask that  
22 her rebuttal testimony be inserted in the record  
23 as though read.

24 CHAIRMAN BROWN: We will insert Ms. Kathleen  
25 Slattery's rebuttal testimony into the record as

1            though read.

2                   (Prefiled rebuttal testimony inserted into  
3           the record as though read.)

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

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

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

5 A. Yes.

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

7 A. Yes, I am sponsoring the following exhibit:

- 8
  - KS-9, FPL Planned vs. Actual Gross Payroll 2011 - 2015

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

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

14

15

## I. SUMMARY

16

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

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

1           Witness Schultz recommends limiting FPL's recovery of one component of its  
2           total compensation and benefits program – non-executive performance-based cash  
3           incentive compensation – but offers no evidence that the Company's total  
4           compensation and benefits levels (which include such performance-based cash  
5           incentive compensation) are not reasonable or necessary to attract and retain the  
6           required workforce to deliver on FPL's commitments to its customers. Instead,  
7           witness Schultz focuses on a flawed philosophy that advocates the sharing of cash  
8           incentive compensation costs between customers and shareholders. My rebuttal  
9           testimony addresses: (1) the market-based evidence that supports the  
10          reasonableness of the plan, (2) the current competitive position of the plan and  
11          potential negative impact of witness Schultz's recommended disallowance, and  
12          (3) the customer-focused design of the plan.

13

14          OPC witness Schultz has also made recommendations to disallow portions of  
15          payroll, benefits and payroll tax expense based on FPL's planned staffing levels,  
16          but in doing so erroneously concludes that headcount is the only factor in the  
17          payroll, benefits and payroll tax expense equations. He fails to consider the cost  
18          of turnover or acknowledge that when less-than-optimal staffing levels are  
19          employed, FPL spends additional money on expenses such as overtime. My  
20          rebuttal testimony demonstrates the flaws in witness Schultz's analysis of staffing  
21          and payroll and the associated benefits and payroll tax expense and provides  
22          further evidence of the reasonableness of these costs.

23



1                   **II. TOTAL COMPENSATION AND BENEFITS EXPENSE**

2

3   **Q.   Is FPL's projected total compensation and benefits expense for 2017**  
4       **reasonable?**

5   A.   Yes. As previously demonstrated in my direct testimony and exhibits, FPL's  
6       projected total compensation and benefits expense is reasonable and prudent, and  
7       does not include any type of expense that the Commission has not previously  
8       approved for recovery. *FPL's total gross compensation and benefits costs in*  
9       *2017 and 2018 are projected to be less than FPL's total gross compensation and*  
10      *benefits cost in 2013.* The total rewards package, emphasizing pay for  
11      performance, has successfully provided value to FPL's employees *and* its  
12      customers by driving a culture that rewards improved efficiency and performance.

13

14      As described in my direct testimony, FPL employs a total rewards approach. One  
15      of the stated objectives of this approach is to control fixed costs by placing  
16      emphasis on performance-based variable pay rather than fixed pay and traditional  
17      benefits. The strategic emphasis on performance-based variable pay rather than  
18      salary and benefits lowers the Company's exposure to steadily increasing salary  
19      and fringe benefit costs and adds flexibility in recognizing performance.

20

21

22

### III. VALIDITY AND COMPARISONS OF DATA

1  
2  
3 **Q. In his testimony, OPC witness Schultz takes issue with certain perceived**  
4 **variances in the Company's payroll-related discovery responses or other**  
5 **alleged discrepancies in information supplied by the Company. Are OPC**  
6 **witness Schultz's concerns valid?**

7 A. No. Most of witness Schultz's concerns arise from his attempt to compare apples  
8 to oranges, such as discovery responses based on gross dollars versus discovery  
9 responses based on net Operations & Maintenance ("O&M") dollars. The  
10 following examples from witness Schultz's testimony demonstrate that the  
11 confusion is on his part:

- 12 • Page 11, lines 1 through 15, regarding the executive incentive  
13 compensation adjustments: The supposed "significant" differences  
14 between the 2016 filing adjustment and the 2012 filing adjustment for  
15 executive incentive compensation are a result of witness Schultz trying to  
16 compare amounts that are dissimilar. FPL's response to OPC  
17 Interrogatory No. 139 presents cumulative Rate Base adjustments from  
18 January 2013 and annual Net Operating Income ("NOI") adjustments for  
19 2017 and 2018 net of affiliate charges. He then combines these  
20 adjustments and compares them to amounts on MFR C-35 worksheets  
21 from Docket No. 120015-EI, which reflect total *gross* amounts before  
22 subtraction of capital, below-the-line amounts, affiliate allocations and  
23 other amounts. FPL's 2017 and 2018 adjustments are correct.

- 1           • Page 11, line 19 through page 12, line 4, regarding MFR C-35 payroll  
2 detail for executive incentive amounts: First, witness Schultz states that  
3 MFR C-35 “indicates that for the projected test year 2017 the executive  
4 incentives amount is \$13.220 million and stock based compensation is  
5 \$34.407 for a total of \$47.627 million.” Witness Schultz has mistakenly  
6 added stock based compensation for 2018 (\$34.407) instead of stock based  
7 compensation for 2017 (\$33.336); thus, the correct 2017 total is \$46.556  
8 million. Then, he tries to compare his incorrect calculation of a *gross*  
9 amount to the sum of the cumulative Rate Base adjustment and the *NOI*  
10 adjustment for executive incentive compensation. Again, FPL’s 2017  
11 Rate Base and NOI executive incentive adjustments are correct
- 12           • Page 12, lines 4 through 6, “Performance Incentive”: Witness Schultz  
13 noted that in the 2012 filing, FPL’s executive incentive compensation also  
14 included what was identified as “Performance Incentive,” and he further  
15 states that he has not seen a reference to that in this filing. The simple  
16 reason for witness Schultz’s confusion on this point is that a different  
17 account was used for budgeting purposes. In 2012 and 2013, Account  
18 5992259 Executive Performance Incentive was used to budget the gross  
19 Executive Annual Cash Incentive, whereas in 2017 and 2018 Account  
20 5230000 Executive Incentives was used. FPL’s executive incentive  
21 compensation adjustments are correct.
- 22           • Page 12, lines 8 through 12, regarding C-35 payroll detail for Employee  
23 Incentives: The supposed discrepancy is a result of witness Schultz

1           trying to compare amounts that are not comparable; specifically, he  
2           incorrectly compares the amount on MFR C-35 workpapers for Employee  
3           Incentives for 2017, which is a *gross* number for non-executive, non-  
4           bargaining, short-term and long-term incentives and which does not break  
5           out capital, below-the-line amounts, affiliate allocations, clause and other  
6           non-base O&M, to *net* amounts in FPL's response to Staff Interrogatory  
7           No. 21 for the base O&M and capital expenditure portion of non-  
8           executive, non-bargaining short-term only incentive amounts.

9           In summary, FPL's filings and discovery responses are accurate and reliable.

10   **Q.   In his testimony, OPC witness Schultz takes issue with certain confidential**  
11   **documents being treated as “highly sensitive.” Are OPC witness Schultz’s**  
12   **concerns valid?**

13   A.   No. FPL has provided reasonable access to any confidential and highly sensitive  
14   documents requested, while appropriately protecting them. It is in customers'  
15   best interests for FPL to properly protect highly sensitive compensation and  
16   benefits information, since safeguarding this competitive information ultimately  
17   aids in controlling escalation of compensation and benefits expense over the long  
18   term.

19   **Q.   Do you have concerns with the validity of data provided by witness Schultz?**

20   A.   Yes. In his testimony and exhibits, OPC witness Schultz calculates recommended  
21   disallowances to payroll and benefits expense based on assumed O&M allocation  
22   factors. However, witness Schultz has used incorrect O&M allocation factors in

1 his calculated disallowances for both 2017 and 2018. The correct O&M  
2 allocation factors are as shown below.

3 O&M Factor for Employee Compensation Expense

	<u>Schultz (Incorrect)</u>	<u>Correct</u>
4 2017	66.29%	59.40%
5 2018	66.29%	59.70%

6 O&M Factor for Employee Benefit Expense

	<u>Schultz (Incorrect)</u>	<u>Correct</u>
7 2017	70.48%	61.10%
8 2018	70.56%	61.27%

9 **Q. Were you able to discern the basis of his incorrect O&M allocation factors?**

10 A. Yes. With regards to employee compensation expense, witness Shultz used  
11 FPL's response to Staff's Interrogatory No. 21 as the basis for calculating his  
12 O&M Factor, which mistakenly assumes the figures summed to a gross amount;  
13 the response included only the base O&M and capital expenditure components of  
14 the gross amount. With regards to employee benefits expense, witness Shultz  
15 used MFR C-4 and Federal Energy Regulatory Commission ("FERC") account  
16 926000, employee pensions and benefits, as the basis for calculating his O&M  
17 Factor. MFR C-4 account 926000 is inappropriate as it includes items such as  
18 clause O&M and affiliate charges.  
19  
20  
21

1 **IV. NON-EXECUTIVE PERFORMANCE-BASED CASH INCENTIVE**  
2 **COMPENSATION**

3  
4 **Q. What is OPC witness Schultz's recommendation regarding non-executive performance-based cash incentive compensation?**

5  
6 A. Witness Schultz refers to non-executive performance-based cash incentive  
7 compensation as non-executive incentive compensation and is recommending a  
8 disallowance of 70% of such expense; his 70% disallowance is comprised of  
9 100% disallowance of the 40% of the plan that he erroneously characterizes as  
10 based on "financial-related goals" (page 24, lines 22 and 23), and a 50%  
11 disallowance of the remaining 60% of the plan that he describes as based on  
12 "customer-related goals" (page 25, lines 1 through 3).

13 **Q. Is witness Schultz's assertion that 40% of the non-executive performance-**  
14 **based variable compensation plan is based on financial-related goals**  
15 **accurate?**

16 A. No. 100% of the plan is based on customer-related goals. Witness Schultz's  
17 characterization of O&M costs and capital expenditures as "financial" goals is  
18 misleading; they are only "financial" in the sense that they are measured in  
19 dollars. Examples of true measures of "financial" performance – which are *not*  
20 used in FPL's plan – would be earnings, revenue growth, return on equity, total  
21 shareholder return, earnings per share, and so forth. Instead, both O&M costs and  
22 capital expenditures are tied directly to the customer value proposition.

23

1 Capital expenditures include investments such as those that FPL makes to  
2 maintain and upgrade the T&D system, for storm hardening, and for improving  
3 the efficiency of our power plants, all of which lead to improved reliability and  
4 long-term savings to customers. These capital investments have contributed to  
5 our industry-leading service reliability performance and average customer bills  
6 that are the lowest in Florida and 30 percent below the national average. Clearly  
7 they benefit customers.

8  
9 Similarly, FPL's focus on containing non-fuel O&M expenses directly benefits  
10 customers. FPL's performance on O&M expenses relative to other investor-  
11 owned-utilities shows that FPL has outperformed its peers. As discussed by FPL  
12 witness Reed in his direct testimony, FPL is a top performer in non-fuel O&M,  
13 and as discussed by FPL witness Barrett, all of these projected savings are fully  
14 reflected in the forecasts in this filing. In fact, FPL projects that the non-fuel  
15 O&M expense in 2017 will be lower than the amount incurred in 2013 (Barrett  
16 direct testimony page 23, lines 9 through 11). That performance directly reduces  
17 FPL revenue requirements presented in this case, and therefore directly benefits  
18 customers.

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1 **Q. Does witness Schultz base his recommendation for partial disallowance on**  
2 **empirical data or any other analysis which suggests that the Company's non-**  
3 **executive performance-based cash incentive compensation is not reasonable**  
4 **or effective?**

5 A. No, he does not. Significantly, witness Schultz has not criticized FPL employee  
6 pay levels or FPL's inclusion of performance-based cash incentive compensation  
7 in its total rewards design. Neither witness Schultz nor any other witness has  
8 made any allegations or presented any evidence that the total compensation paid  
9 to FPL employees, including performance-based cash incentive compensation, is  
10 not reasonable, not necessary or ineffective. Nor have they presented any analysis  
11 of FPL's compensation levels compared to market pay levels to refute the  
12 evidence presented in my direct testimony that FPL employees' base salaries and  
13 performance-based variable compensation are at or near the market median  
14 (Exhibits KS-3 and KS-4). Witness Schultz's recommendation therefore is not  
15 based on empirical evidence.

16 **Q. Is non-executive performance-based cash incentive compensation a typical**  
17 **and necessary component of a utility's total rewards program?**

18 A. Yes. Even witness Schultz, in his testimony, admits that he is not aware of any  
19 utility that does not have some form of incentive compensation (page 23, lines 21  
20 and 22). Market data from Aon Hewitt shows that over 90 percent of U.S.-based  
21 companies include incentive compensation as part of their total rewards mix.



1 **Q. On what basis then does witness Schultz recommend a partial disallowance**  
2 **of the Company's non-executive performance-based cash incentive**  
3 **compensation?**

4 A. At its core, Witness Schultz's recommendation is based on the flawed premise  
5 that a properly designed performance-based incentive compensation plan benefits  
6 shareholders and customers equally and therefore the costs should be shared  
7 equally. FPL witness Deason explains why allowing cost recovery on the basis of  
8 assigning proportions of costs based on perceived benefits is contrary to basic  
9 cost-of-service regulation.

10 **Q. If FPL's non-executive performance-based cash incentive compensation**  
11 **expense is disallowed, in whole or in part, what impact would a**  
12 **corresponding elimination or reduction of the program have on FPL salaried**  
13 **employee's compensation compared to market median?**

14 A. In the aggregate, FPL salaried employees would be compensated more than 13%  
15 below market median if performance-based cash incentive compensation were  
16 eliminated. As shown in Exhibit KS-4 to my direct testimony, median levels of  
17 performance-based variable pay have recently been at 13% of base salaries. Also,  
18 as shown in Exhibit KS-3 to my direct testimony, exempt employees' base  
19 salaries are, in the aggregate, 1.2% below the market median. Without its current  
20 levels of performance-based variable compensation, FPL would not be able to  
21 attract and retain the caliber of employees that sustain a high-performing  
22 organization.

1 **Q. OPC witness Schultz makes several references to the Progress Energy**  
2 **Florida 2009 rate case (Docket Nos. 090079-EI, 090144-EI, 090145-EI),**  
3 **wherein the Commission disallowed, in its March 2010 order (Order No.**  
4 **PSC-10-0131-FOF-EI), all incentive compensation costs due to the plans’**  
5 **design. Are there other cases not cited by witness Schultz?**

6 A. Yes, in fact he fails to cite a more recent case in which the Commission rejected  
7 this same position taken by OPC. In its April 2012 order in Gulf Power’s rate  
8 case (Order No. PSC-12-0179-FOF-EI), this Commission rejected OPC’s  
9 recommended adjustment to exclude all incentive compensation, calling it  
10 “unreasonable” and citing the negative impact such a disallowance would have on  
11 Gulf employee’s compensation compared to market median (page 97). The  
12 Commission allowed 100 percent of Gulf’s non-executive annual cash incentive  
13 program to be included in O&M expense (page 94). FPL witness Deason  
14 discusses the Commission’s precedent on this topic in more detail.

15 **Q. Witness Schultz claims there is a discrepancy between FPL’s implementation**  
16 **of its non-executive adjustment and the “true intent” of the Commission’s**  
17 **2010 Order issued in Docket No. 080677-EI. Please respond.**

18 A. Witness Schultz claims that the Commission’s 2010 order “appears to have  
19 inadvertently omitted the cash-based portion of the non-executive incentive  
20 compensation” (page 16, lines 1 through 3). However, it was OPC’s own witness  
21 in that docket who calculated the disallowance later adopted by the Commission.  
22 In addressing “Non-Executive Incentive Compensation” in her testimony in  
23 Docket No. 080677-EI, OPC witness Sheree L. Brown recommended an

1 adjustment of \$5.7 million for 2010 to “the stock-based compensation for non-  
2 executives” (page 57, lines 11 through 16). Her calculated disallowance  
3 contained no adjustment to cash-based non-executive incentive compensation.  
4 Commission Staff then recommended that the Commission accept this adjustment  
5 at page 344 of their recommendation (citing Ms. Brown’s recommendation on  
6 *stock-based compensation*), and the Commission did in its final order (Order No.  
7 PSC-10-0153-FOF-EI, pages 149 and 150). The disallowed amount, and what it  
8 represented, is clear.

9 **Q. As further support for his recommendation for partial disallowance, witness**  
10 **Schultz criticizes FPL’s goal setting. How does FPL establish its annual**  
11 **goals under the non-executive performance-based cash incentive**  
12 **compensation plan?**

13 A. FPL’s robust annual goal-setting process is based on industry benchmarks and  
14 historic company performance on each customer-focused metric: O&M costs,  
15 capital expenditures, fossil generation availability, nuclear industry composite  
16 performance index score, three measures of service reliability, employee safety,  
17 environmental compliance, customer satisfaction as measured by residential and  
18 business value surveys, and performance under FERC and the North American  
19 Electric Reliability Corporation (“NERC”) reliability standards. FPL’s typical  
20 performance goals are equal to or better than the top quartile performers in the  
21 utility industry.

22

1 **Q. Witness Schultz cites a concern that FPL’s customer satisfaction goals lack**  
2 **measurable values and performance is subjectively determined. Is that an**  
3 **accurate assessment?**

4 A. No, it is not. In arriving at this inference, witness Schultz focuses on select  
5 excerpts from FPL’s parent company’s proxy filings. Under the Securities and  
6 Exchange Commission’s disclosure rules governing such proxy filings,  
7 companies are permitted to curtail select details from broad public disclosure that  
8 may need to be kept confidential for competitive purposes. Thus when witness  
9 Schultz opines on page 19 of his testimony that FPL’s customer satisfaction goal  
10 “does not provide any way to measure performance” and that “identified  
11 achievement provides no measurement value” (lines 9 through 11), this is  
12 contrary to the facts. FPL’s residential and business customer satisfaction goals  
13 do in fact have specified and challenging quantitative, measurable objectives.  
14 FPL’s performance relative to these quantitative, measurable objectives are based  
15 on the results of customer satisfaction surveys conducted each year, which  
16 witness Schultz himself recommends should be the basis for measuring customer  
17 satisfaction (page 19, line 13).

18  
19 Moreover, customer satisfaction survey scores are metrics under FPL’s plan due  
20 to its customer-centric culture and FPL’s desire to incent its workforce to focus on  
21 producing the best results possible for customers. Results demonstrate that this  
22 strategy is working; FPL has been recognized by various third parties for its  
23 continued high performance with regard to customer satisfaction. In July 2016,

1 J.D Power released its rankings of utility performance with respect to customer  
2 satisfaction. FPL ranked #1 amongst large utilities in customer satisfaction in the  
3 South and #2 across the entire nation. Additional information on FPL's high  
4 levels of customer satisfaction can be found in the direct testimony of FPL  
5 witnesses Dewhurst and Santos.

6 **Q. Witness Schultz suggests that FPL “is willing to relax the requirements**  
7 **[under its non-executive performance-based cash incentive compensation**  
8 **plan] to allow a better opportunity for achieving an incentive payout” (page**  
9 **20, lines 4-5). He cites service reliability as an example of this. Can you**  
10 **respond to this assertion?**

11 A. In explaining why he is incorrect, I would like to start by briefly discussing FPL's  
12 overall process for determining performance objectives under the plan. FPL  
13 employs a robust, iterative process to establish challenging but achievable annual  
14 performance goals, which are designed to drive employee behavior to achieve  
15 results that benefit customers. Where applicable, FPL's goals are directly  
16 benchmarked against industry data from third-party sources such as the Electric  
17 Edison Institute, NERC, FERC filings, and the Institute of Nuclear Power  
18 Operations. FPL typically sets goals at a level equal to or more challenging than  
19 the top quartile of the utility industry. In several cases, the goals are in fact set at  
20 the top-decile level or higher.

21

22 Witness Schultz's testimony on the evolution of FPL performance goals is  
23 focused on 2011 through 2015. With respect to service reliability, he specifically

1 focuses on the average number of momentary interruptions per customer metric  
2 (“MAIFI”). Witness Schultz’s analysis of FPL’s service reliability goals is  
3 lacking from several perspectives. For each of the years 2011 through 2015,  
4 FPL’s annual MAIFI goal was established at a level that was at least equal to or  
5 more challenging than the prior year’s goal, with the exception of one year, 2012  
6 - the only year that witness Schultz relies upon as the basis for his position. When  
7 viewing our MAIFI goal over the entirety of the period that witness Schultz  
8 analyzed, the goal decreased from 13.4 in 2011 to 11.7 in 2015, representing an  
9 aggregate decrease (i.e., more challenging) of 13%. Accordingly, for witness  
10 Schultz to look solely at the 2012 MAIFI goal relative to 2011 and incorrectly  
11 imply that this is indicative of a trend is simply inaccurate.

12  
13 If one were also to look at the other two service reliability metrics under the plan,  
14 service unavailability (“SAIDI”) and average frequency of customer interruptions  
15 (“SAIFI”), a trend of continuously raising the bar is evident. In each year during  
16 the 2011 through 2015 period, FPL’s SAIDI and SAIFI goals have been set at a  
17 level either equal to the prior year, or, in the majority of instances, at an  
18 increasingly challenging level.

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1 **Q. Witness Schultz levied a similar charge with respect to employee safety,**  
2 **claiming that there is inadequate goal-setting in the area of safety. Is his**  
3 **claim with respect to Occupational Safety and Health Administration**  
4 **(“OSHA”) supportable?**

5 A. No, once again witness Schultz fails to analyze the entirety of the period 2011  
6 through 2015 that he references. Let me first note that OSHA recordable events  
7 are another metric where a lower score is better. Over the period that witness  
8 Schultz reviewed (i.e., from 2011 through 2015) FPL’s employee safety goal  
9 (measured by number of OSHA recordable events per 200,000 work hours)  
10 moved from 1.47 in 2011 to 0.61 in 2015.

11

12 Because of the tremendous results that FPL has achieved in improving safety,  
13 FPL’s safety goals year over year have become increasingly challenging. FPL’s  
14 management places a very high degree of importance on safety. For that reason,  
15 we continue to set aggressive goals. This is reflected in the benchmarking that we  
16 do. For 2015, the year witness Schultz’ criticizes, FPL’s OSHA goal of 0.61 was  
17 *lower* than the most-recently reported top-decile OSHA score for our industry. It  
18 is not reasonable for one to suggest that setting a safety goal that is more  
19 challenging than top decile performance is indicative of inadequate goal setting.  
20 Rather, it simply underscores the high degree of importance FPL management  
21 places on safety.

1 **Q. Witness Schultz indicates at page 23 that incentive pay, in general, is not a**  
2 **shift from one form of remuneration to another but is instead just an add-on.**  
3 **Is this true of FPL?**

4 A. No. I disagree with his general contention and it is specifically not true with  
5 regard to FPL. As explained in my direct testimony, FPL's approach to the  
6 design and administration of compensation and benefits is to consider them parts  
7 of one total rewards package, and I specifically addressed the redesign of the  
8 employment package in 1997. Prior to the redesign, the Company did not have a  
9 broad-based non-executive incentive plan; any awards were granted on a very  
10 limited basis to top management. The redesign of the employment package  
11 implemented the current non-executive performance-based cash incentive plan,  
12 but not as an "extra" program element. The variable pay component was funded  
13 by reducing benefit plan costs, specifically the conversion of the traditional  
14 pension plan to a much leaner cash balance plan and the elimination of retirement  
15 medical and life insurance benefits for all employees hired after 1997. To be  
16 clear, FPL did not reduce base salaries at the time that it implemented the non-  
17 executive performance-based cash incentive plan, but it did reduce the value of  
18 the pension plan and cut other post-retirement benefits. Witness Schultz appears  
19 to be looking only for evidence of a shifting of dollars from base salaries to  
20 variable pay programs, and is ignoring the impact of fixed-cost benefit plans in  
21 the total rewards equation. Moreover, those changes were made nearly 20 years  
22 ago and the design elements of our total compensation plan have been the subject  
23 of our benchmarking for years. As I have explained, and a point that is not



1           refuted by witness Schultz or any other witness in this case, our total  
2           compensation packages are consistent with market.

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

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

13

14          FPL believes that its current total rewards program, with its emphasis on  
15          performance-based pay, is optimal and directly benefits customers.  However, if  
16          future regulatory decisions were to perpetuate disallowance of performance-based  
17          incentive compensation, then FPL naturally would be inclined to re-evaluate the  
18          program design.  Legitimate, reasonable expenses incurred in delivering service to  
19          our customers need to be recovered; if regulatory policy were to precludes  
20          recovery of a portion of total compensation otherwise consistent with market  
21          rates, simply because it is labeled incentive compensation, then FPL (and perhaps  
22          other penalized utilities) will be induced to re-design the compensation and

1 benefits programs to conform to regulatory policy that disfavors performance-  
2 based compensation. We do not believe this is the right result for customers.

3 **Q Please summarize why it would be inappropriate to disallow 70% of the cost**  
4 **of the non-executive performance-based variable cash compensation plan as**  
5 **recommended by OPC witness Schultz.**

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

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**V. PAYROLL AND STAFFING LEVELS**

**Q. OPC witness Schultz has made recommendations regarding FPL’s projected staffing and payroll for 2017. Has he evaluated the required staffing level in view of FPL’s specific workload or requirements?**

A. No. He has incorrectly relied only on historical staffing levels; as has been the case in past FPL rate proceedings in which he has participated, he evidently has made no attempt to analyze FPL’s specific workload trends and requirements which are much better predictors of actual needs and, in fact, are the basis for budgeting.

**Q. Please explain the difference between forecast and actual staffing that OPC witness Schultz claims to have identified.**

A. The staffing-level forecasts are management’s reasonable estimates of what is needed to do the required work based on optimal staffing levels. Like all companies our size, FPL experiences some turnover of personnel each year and is constantly recruiting, hiring, training and developing new talent. Every effort is made to fill the forecast positions, but a number of factors have made it difficult for the Company to fill all open positions. Among these are fluctuations in the housing market, limited availability of a technical and engineering related labor force, increased desirability of in-demand technology skills, and the fiscal constraints the Company has placed on the competitiveness of its pay and benefits package. All of these factors and more have resulted historically in the hiring process lagging slightly behind expectations. But this does not mean that the

1 Company does not incur the costs corresponding to the budgeted headcount in  
2 ensuring that the required work is completed.

3 **Q. Citing the observed historical difference between budgeted and actual**  
4 **staffing, OPC witness Schultz recommends staffing level, and corresponding**  
5 **payroll reductions, for the 2017 Test Year and 2018 Subsequent Year.**  
6 **Should the Commission accept that analysis?**

7 A. No. His conclusion is premised on the incorrect assumption that the payroll  
8 budget is solely a function of headcount. FPL budgets employee projections at  
9 the staffing level necessary to most efficiently get the work done to ensure the  
10 Company delivers on its customer service and reliability commitments. However,  
11 the Company has to sometimes rely on less efficient staffing models (such as  
12 overtime, temporary labor, etc.), which drives costs up. In order to insulate  
13 customers from these potentially higher costs, the Company focuses on total  
14 compensation and benefits at optimal staffing levels when formulating its  
15 forecast. Therefore, the methodology employed by OPC witness Schultz, which  
16 only considers one input in a dynamic equation, is an incomplete analysis,  
17 underestimates FPL's actual costs, and should be rejected. As I will discuss later,  
18 the past five years of actual versus planned gross payroll bears this out. Payroll,  
19 of course, includes the costs I referenced above (overtime, temporary labor, etc.)  
20 that are incurred in order to accomplish the work, even when we are temporarily  
21 delayed in finding the right person to fill an open position.

1 **Q. Do you have other concerns with OPC witness Schultz’s methodology?**

2 A. Yes. Although he presents more than 10 years of data on his exhibit (HWS-2), he  
3 elects to base his recommended adjustment selectively on the 2015 average  
4 headcount (8,835). It shows a lack of understanding of the variability and  
5 complexity of the work. He also overstates the O&M “Expense Factor” in his  
6 calculation for Exhibit HWS-2, “Payroll Adjustments,” which should be reflected  
7 as 59.4% for 2017 and 59.7% for 2018, rather than the 66.29% used on the  
8 exhibit. This correction would reduce his recommended adjustment by \$1.78  
9 million for 2017 (to \$15.38 million) and by \$1.58 million for 2018 (to \$14.35  
10 million).

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

13 A. Yes. It would be more appropriate to actually analyze the dollars spent on  
14 payroll.

15 **Q. Have you analyzed the Company’s historical payroll expense?**

16 A. Yes. Exhibit KS-9 presents a variance analysis of FPL’s planned to actual gross  
17 payroll expense from 2011 to 2015. It is essential to get a representative view of  
18 reasonable and necessary payroll, and omitting an analysis on gross payroll is a  
19 flaw in OPC witness Schultz’s analysis.

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

21 A. As demonstrated in the table on Exhibit KS-9, the variance between actual and  
22 planned gross payroll, as reflected in filings with the FPSC for available years, is  
23 1.21% over that five year period. In other words, the aggregate actual gross

1 payroll expense has been 1.21% *higher* than planned, and overall quite close to  
2 planned. This directly contradicts witness Shultz's assertion that FPL's  
3 headcount projections, which are higher than actuals, "corresponds to tens of  
4 millions of dollars in over-collected payroll costs" (page 4, line 19). In fact, FPL  
5 would have slightly under-collected payroll costs if these forecasts had served as  
6 the basis for cost recovery (rather than settlements over this time frame). Exhibit  
7 KS-9 supports the conclusion that no payroll adjustment of any size is warranted.

8 **Q. What other conclusions should the Commission draw from the planned**  
9 **versus actual gross payroll analysis in Exhibit KS-9?**

10 A. In addition to the above conclusions, the analysis (1) demonstrates that the one-  
11 year average headcount sample upon which witness Schultz bases his  
12 recommendation is skewed and cannot be considered representative; (2) illustrates  
13 the fulfillment of gross payroll expectations on a continued basis, raising  
14 questions about a methodology that entirely ignores that part of the data; and (3)  
15 provides evidence that the assumed predictability inherent in witness Schultz's  
16 analysis and recommendation does not exist.

17  
18 My analysis demonstrates what I have stated previously: this is a dynamic  
19 equation and the payroll budget is not solely a function of the staffing levels.  
20 Based on ever-changing operational demands, environmental challenges, and  
21 economic conditions, payroll expense will fluctuate, sometimes slightly under and  
22 sometimes slightly over budget. But overall the aggregate variance (actual gross

1 payroll 1.21% above planned gross payroll over that five year period) does not  
2 correlate to OPC witness Schultz's recommended adjustment.

3 **Q. Based on his analysis, OPC witness Schultz makes reference to "excessive"**  
4 **(page 3, line21) headcount and recommends a disallowance of the payroll**  
5 **associated with nearly 232 positions. Should the Commission accept that**  
6 **recommendation?**

7 A. No. First of all, FPL has demonstrated that no adjustment is necessary to its  
8 projected payroll expense, which reflects far more than staffing headcount.

9  
10 Second, it is inaccurate to describe FPL planned staffing levels as "excessive"  
11 when FPL's labor efficiency (a combined metric that includes employees per  
12 customer and pay and benefits on a per customer and per employee basis) has  
13 been demonstrated to be the best among large Florida electric utilities and top  
14 quartile in a broader 27-company electric utility comparator group (Reed direct  
15 testimony, pages 26 and 27, and Exhibit JJR-6, pages 27 through 29).

16  
17 Third, even if one accepted witness Schultz's methodology, his recommendation  
18 can only be characterized as excessive. Witness Schultz has referenced dozens of  
19 headcount figures from various disparate sources in his testimony, but I would  
20 highlight four relevant numbers with respect to the Company's staffing  
21 complement:

22	2015 Average Actual Staffing	8,836
23	July 2016 Actual Staffing	9,092

1	2016 Average Staffing	9,087
2	2017 Test Year Average Budgeted Staffing	9,091

3 The July 2016 actual staffing number is 5 positions above the MFR C-35 2016  
4 average staffing figure of 9,087, and is 1 position above the 2017 test year  
5 average staffing figure of 9,091. Despite the fact that the Company's 2017 Test  
6 Year projected average staffing level is 1 position *less* than the July 2016 actual  
7 staffing level, OPC witness Schultz considers it reasonable to recommend a  
8 disallowance of 232 positions from the 2017 Test Year staffing, and claims he is  
9 making a "conservative adjustment." His analysis is flawed and anything but  
10 conservative, and should be rejected.

11

## 12 VI. BENEFITS AND PAYROLL TAXES

13

14 **Q. OPC witness Schultz has recommended an adjustment of \$2.6 million in**  
15 **employee benefits costs for 2017 and \$2.4 million in employee benefits costs**  
16 **for 2018, based on his analysis of headcount. Do you have concerns with his**  
17 **recommendation?**

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



1 department calculates the benefits costs included in MFR C-35, for most benefits,  
2 based on *enrolled* headcount. As a result, his adjustment is overstated.

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

4 A. Yes. Witness Schultz excludes pension and post-retirement benefits ("OPEB")  
5 costs arbitrarily from his disallowance calculation without providing an  
6 explanation for this adjustment. Perhaps it is because they net to a credit as  
7 opposed to an expense. This demonstrates the bias in his analysis. Additionally,  
8 as previously stated, the O&M benefits expense used in his disallowance  
9 calculation improperly includes clause-related adjustments and charges to  
10 affiliates.

11 **Q. You have explained that witness Shultz uses an incorrect O&M factor for**  
12 **employee benefits expense. If the correct MFR C-35 O&M factor for**  
13 **employee benefit expense was applied to witness Shultz's Benefit Expense**  
14 **Adjustment Exhibit (HWS-4), and pension and post retirement costs were**  
15 **included in total benefits costs, what would be the impact on his**  
16 **recommended disallowance?**

17 A. First, I must repeat that no disallowance is warranted. However, if one were to  
18 accept his headcount-related arguments, these corrections would reduce his  
19 recommended adjustment by \$1.1 million for 2017 (to \$1.47 million) and by \$1.1  
20 million for 2018 (to \$1.37 million). Even then it would remain overstated  
21 because it relies upon total headcount, as opposed to enrolled headcount.

1 **Q. OPC witness Schultz also has recommended an adjustment of \$1.1 million in**  
2 **payroll tax expense for 2017 and for 2018 based on his analysis of headcount.**

3 **Do you have concerns with his recommendation?**

4 A. Yes. His recommendation is inappropriate based on my testimony regarding his  
5 payroll headcount analysis. It should be rejected.

6 **Q. OPC witness Schultz has recommended a separate adjustment of \$1.7 million**  
7 **in payroll tax expense for 2017 and 2018 to correspond with his adjustment**  
8 **to incentive compensation. Do you have concerns with his recommendation?**

9 A. Yes. Any adjustment would be inappropriate because the non-executive  
10 performance-based cash incentive compensation should be allowed for recovery,  
11 as discussed above.

12

## 13 **VII. CONCLUSION**

14

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

17 A. No, his conclusions are based on the selective application of individual data  
18 points, unsound or incomplete analyses, or no analysis at all. He has proposed  
19 reducing recovery of non-executive cash incentive expense based on a cost  
20 sharing philosophy that would result in the disallowance of reasonable and  
21 prudently-incurred expenses, and he has recommended reducing payroll without  
22 analyzing payroll expense. But importantly, he has not provided any evidence to  
23 challenge the overall reasonableness of the total compensation and benefits

1 package. And that is the real test of any total compensation and benefits program.  
2 FPL's program has been demonstrated to be reasonable, and has supported the  
3 Company's achievement of the superior performance documented by other FPL  
4 witnesses.

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

6 A. Yes.

1 BY MS. CLARK:

2 Q Ms. Slattery, you only have one exhibit,  
3 KS-1; is that correct?

4 A Yes.

5 Q Was that exhibit prepared under your  
6 direction, supervision or control?

7 A Yes.

8 MS. CLARK: Madame Chair, I would note  
9 that the staff has pre-identified that as  
10 Exhibit 351.

11 CHAIRMAN BROWN: So noted. Staff.

12 EXAMINATION

13 BY MS. BROWNLESS:

14 Q Good afternoon, Ms. Slattery.

15 A Good afternoon.

16 Q Did you have an opportunity to review what's  
17 been marked on the comprehensive exhibit list as  
18 Exhibit No. 522 which is South Florida's request for  
19 all work papers and computations underlying any portion  
20 of your rebuttal testimony and exhibits?

21 A Yes.

22 Q And are those true and correct to the best  
23 of your knowledge and belief?

24 A Yes.

25 Q If that question were asked again, if you

1 were asked to produce the same thing today, would the  
2 documents you've produced be what you would produce?

3 A Yes.

4 Q And are any portion of those documents  
5 confidential? Of your work papers or --

6 A I know I do have some confidential items.  
7 Which exhibit numbers should I be looking at?

8 Q 522. And it's your work papers for your  
9 rebuttal testimony.

10 A Yes, there are confidential documents on  
11 there.

12 Q In the work papers for the rebuttal  
13 testimony. Not the direct, but the rebuttal.

14 A Yes, I do have confidential work papers to  
15 my rebuttal testimony.

16 MS. BROWNLESS: Thank you so much.

17 CHAIRMAN BROWN: FPL.

18 FURTHER EXAMINATION

19 BY MS. CLARK:

20 Q Are you ready to give your summary?

21 A Yes, I am.

22 Q Please do.

23 A Good afternoon, Madam Chairman and  
24 Commissioners. The only witness in this case to take  
25 issue with any aspect of FPL's compensation and

1 benefits package is OPC Witness Shultz, who recommends  
2 several adjustments that should be rejected.

3 No witness has made any allegations or  
4 presented any evidence that the total compensation in  
5 benefits paid to FPL employees, including  
6 performance-based cash incentive compensation, is not  
7 reasonable, necessary or effective. OPC Witness Shultz  
8 recommends limiting FPL's recovery of nonexecutive  
9 performance-based cash incentive compensation even  
10 though he acknowledges that every utility that he knows  
11 has some form of incentive compensation and that  
12 incentive plans with customer-focused performance  
13 measures benefit customers.

14 He recommends partial disallowance of FPL's  
15 cost based on his flawed philosophy that cash incentive  
16 compensation costs should be shared between  
17 shareholders and customers.

18 My rebuttal testimony addresses five primary  
19 reasons why Witness Shultz's position should be  
20 rejected. First, the nonexecutive cash incentive  
21 compensation plan is part of a market-based,  
22 competitive total rewards program than has been  
23 demonstrated to be prudent and reasonable and effective  
24 in producing the desired results.

25 Second, the focus of the discussion should

1 be on how much is paid, not how it is paid. And no  
2 witness has presented evidence that FPL's employee  
3 compensation is excessive or unreasonable.

4 Third, the plan relies on customer-focused  
5 operating performance goals to determine employee  
6 payouts.

7 Fourth, if the plan was reduced or  
8 eliminated, it would negatively impact the competitive  
9 position of the company's total rewards package and the  
10 company's ability to attract and retain talent, thus  
11 further demonstrating the necessity and prudence of  
12 this program.

13 Fifth, disallowance of part or all of the  
14 costs would be inconsistent with the most recent  
15 Commission precedent in the Gulf Power rate case in  
16 which the Commission allowed 100 percent of Gulf's  
17 nonexecutive annual cash incentive program to be  
18 included in O&M expense.

19 OPC Witness Shultz has also made several  
20 recommendations to disallow portions of payroll  
21 benefits and employee tax expense apparently premised  
22 on the incorrect assumption that the payroll budget is  
23 solely a function of head count.

24 FPL budgets employee projections at optimal  
25 staffing levels necessary to most efficiently get the

1 work done to ensure the company delivers on its  
2 customer service and reliability commitments. However,  
3 the company has to sometimes rely on less-efficient  
4 staffing models such as overtime and temporary labor.

5 The methodology employed by OPC Witness  
6 Shultz, which only considers one input in the dynamic  
7 equation with multiple inputs, is an incomplete  
8 analysis, underestimates FPL's actual cost and should  
9 be reinjected.

10 In Exhibit KS-9 to my rebuttal testimony, I  
11 present a variance analysis of FPL's planned to actual  
12 total gross payroll from 2011 to 2015. Over the  
13 five-year period aggregate actual total gross payroll  
14 has been 1.21 percent higher than planned and overall  
15 quite close to planned.

16 This directly contradicts Witness Shultz's  
17 assertion that lower-than-projected head count results  
18 in an overcollection of payroll cost. In fact, FPL  
19 would have slightly undercollected payroll costs if  
20 these forecasts had served as the basis for cost  
21 recovery over this timeframe.

22 Exhibit KS-9 illustrates the fulfillment of  
23 gross payroll expectations on a continued basis and  
24 supports the conclusion that no payroll adjustment of  
25 any size is warranted. FPL's projected total



1 compensation and benefits expense is fair and  
2 reasonable and should be approved for cost recovery.

3 The company should be allowed flexibility to  
4 design its Total Rewards Program to maximize economic  
5 efficiency and attract, retain and engage the employees  
6 that drive the performance-based culture that has  
7 directly benefited customers.

8 This concludes my summary.

9 MS. CLARK: Madam Chairman, we tender the  
10 witness for cross examination.

11 CHAIRMAN BROWN: Thank you. Good afternoon.

12 MS. SLATTERY: Good afternoon.

13 CHAIRMAN BROWN: Mr. Rehwinkel. I believe  
14 you're passing out some exhibits right now.

15 MR. REHWINKEL: Yes, Madam Chairman, we have  
16 a few -- I think six or so -- to pass out.

17 CHAIRMAN BROWN: We will be starting on 772,  
18 so if you'd like to identify them as you go or --

19 MR. REHWINKEL: Let's identify them as we  
20 go. We may not need to discuss some of them.

21 CHAIRMAN BROWN: And thank you for collating  
22 them. Please proceed.

23 MR. REHWINKEL: Thank you, Madam Chairman.

24 EXAMINATION

25

1 BY MR. REHWINKEL:

2 Q Good afternoon.

3 A Good afternoon.

4 Q I feel like I'm in a casino, and I hate  
5 casinos. It's just like timeless.

6 A True. Very true.

7 (Laughter.)

8 Q It's nice to see you again. In your summary  
9 of your testimony I think you stated something about no  
10 intervenor witnesses other than Mr. Shultz has taken  
11 issue with your compensation. Did I hear that right?

12 A Yes.

13 Q It's also true that no intervenor witness  
14 has said they support the compensation levels that the  
15 company requests for 2017 and 2018; isn't that right?

16 A That's correct.

17 Q Now, you're an attorney; are you not?

18 A Yes, nonpracticing.

19 Q I understand. But you went to law school.

20 A I did.

21 Q And you understand what the burden of proof  
22 is, don't you?

23 A Yes.

24 Q And would you agree with me that FPL has the  
25 burden of proof to demonstrate the reasonableness and

1     **appropriateness of their projected compensation costs**  
2     **for the years 2017 and 2018?**

3           A       Yes, and I believe we discussed it at length  
4     during my direct testimony.

5           Q       Thank you. Now, I would ask you to please  
6     turn to Page 4, Lines 1 through 6, of your rebuttal  
7     testimony. I feel like I should ask you if any of your  
8     testimony has anything to do with Jack Pous just to be  
9     clean with this.

10          A       Nothing whatsoever to do with Mr. Pous.

11          Q       Thank you. So, Mr. Moyle won't have to  
12     object to my questions.

13                 So, here you state that Mr. Shultz offers no  
14     evidence that the company's total compensation and  
15     benefit levels are not reasonable and necessary to  
16     attract and retain a required work force, correct?

17          A       That's correct.

18          Q       And you would also agree with me that the  
19     issue before this Commission is what is a reasonable  
20     level of compensation to be included as part of FPL's  
21     rate request, right?

22          A       Yes.

23          Q       And let me ask you: Do you have  
24     Mr. Shultz's testimony with you, his July testimony?

25          A       Yes, I do.

1           **Q**       **Doesn't the question on Page 24 ask about**  
2       **the competitiveness of compensation with other**  
3       **utilities?**

4           MS. CLARK: Madam Chairman, I would like to  
5       get a minute to get to --

6           MR. REHWINKEL: I apologize.

7           CHAIRMAN BROWN: Oh, yes. And just a  
8       question for Mr. Rehwinkel. 24 of Mr. Shultz's  
9       direct or 24 of Ms. Slattery's rebuttal?

10          MR. REHWINKEL: Mr. Shultz, his  
11       July testimony.

12          CHAIRMAN BROWN: Thank you.

13          MS. CLARK: I have it, Mr. Rehwinkel.

14          MR. REHWINKEL: Thank you.

15          THE WITNESS: Yes, I'm there.

16       BY MR. REHWINKEL:

17           **Q**       **Would you agree that the question here asks**  
18       **about the competitiveness of compensation with other**  
19       **utilities?**

20           A        I believe the question and answer is a  
21       little bit more limited in scope and that it is focused  
22       on the competitiveness of recoverable compensation  
23       which is a moot point when determining the appropriate  
24       pay necessary to attract, retain and motivate employees  
25       in the utility industry.

1           Q       You don't dispute the fact that there are no  
2       compensation studies that make a comparison of what was  
3       or what was not allowed in rates for the utility study,  
4       do you?

5           A       That's correct. I'm not aware of any  
6       benchmarking study that compares only recoverable  
7       compensation expense because, as I said, it's a moot  
8       point. So, salary survey companies are not interested  
9       in that.

10          Q       In the company's litigated last rate case,  
11       which is the '09 case, didn't the Commission disallow  
12       some of the company's incentive compensation?

13          A       Yes, it did.

14          Q       And when you compared FPL's compensation to  
15       that of other companies, you did not exclude that  
16       disallowed portion of FPL's compensation to determine  
17       the reasonableness of FPL's compensation in this case,  
18       did you?

19          A       That's correct. As I just stated, it's a  
20       moot point. It's not pertinent to what we need to pay  
21       employees to attract, retain and motivate them in a  
22       competitive market.

23          Q       Let's look at Page 7, Lines 1 through 10.

24          A       Is this of my testimony?

25          Q       Yes. Did you identify in your testimony

1     **there an error made by Mr. Shultz in his testimony?**

2           A       Yes.

3           **Q       Now, was the error that you identified here**  
4 **part of any adjustment he made in his testimony?**

5           A       If you're asking me if as a result of me  
6 pointing out this error, he corrected it as part of his  
7 five and a half pages of errata? I believe he did.

8           **Q       Okay. So, is the error that you point out**  
9 **related to executive incentive compensation?**

10          A       Yes, that's correct.

11          **Q       Did he propose an adjustment to executive**  
12 **incentive compensation?**

13          A       No, because 100 percent of executive  
14 incentive compensation is already excluded from the  
15 rate request.

16          **Q       So, let's look at Page 7, Lines 12, through**  
17 **21 of your rebuttal. Now, here do you say that**  
18 **Mr. Shultz is confused?**

19               MS. CLARK: I'm sorry. Can you give me the  
20 reference again, Mr. Rehwinkel?

21               MR. REHWINKEL: Lines 12 through 21.

22               MS. CLARK: Of Page 7?

23               MR. REHWINKEL: Yes, ma'am. I'm sorry.

24               THE WITNESS: I don't state explicitly that  
25 he is confused. I just point out a correction to

1 his assumption.

2 BY MR. REHWINKEL:

3 Q Okay. So, you're not saying he's confused.  
4 Do I understand that?

5 A I believe he must have been confused, but I  
6 think that it was -- it was a reasonable conclusion  
7 that he drew.

8 Q Okay. Thank you. On lines 20 and 21 on  
9 that same page, don't you state that FPL's executive  
10 incentive compensation is correct?

11 A I state that FPL's executive incentive  
12 compensation adjustments are correct meaning the  
13 exclusion of these costs from rates in Witness  
14 Ousdahl's MFRC-3.

15 Q And isn't it your adjustment, FPL's  
16 adjustment for equity incentive compensation for  
17 executives -- isn't that what the adjustment is for?

18 A This paragraph references executive  
19 performance incentive, and I believe it might actually  
20 be cash in this paragraph we're talking about. But  
21 again, 100 percent of executive incentive compensation,  
22 both cash and equity, is excluded from the rate  
23 request.

24 Q So, the entirety of the executive incentive  
25 compensation is out?

1 A Yes.

2 MS. CLARK: Asked and answered.

3 Q Now, part of the equity compensation  
4 adjustment -- what's not included here is nonexecutive  
5 incentive compensation in the reference here; is that  
6 right?

7 A I just want to doublecheck.

8 Q Okay.

9 A I have confirmed that the references here on  
10 Line 20 are to cash, not equity.

11 Q Okay. Just so I understand, the reference  
12 on Lines 20 through 21 do not reference an adjustment  
13 to equity compensation for executives?

14 A No, but again, the purpose of this paragraph  
15 was to clarify misunderstanding on OPC Witness Shultz's  
16 part. It is not intended for anybody to infer that  
17 we're not also excluding 100 percent of stock-based  
18 compensation for executives which we are excluding  
19 100 percent.

20 Q So, looking at the next item on Page 7, Line  
21 22 continuing on to the next page through Line 22 --

22 A Yes.

23 Q -- on Page 8, here you discuss an error that  
24 Mr. Shultz made with respect to his relying on Staff  
25 Interrogatory 21; is that right?



1 A Yes.

2 MR. REHWINKEL: Madam Chairman, I would like  
3 to identify Staff Interrogatory 21.

4 CHAIRMAN BROWN: Okay. We will mark that as  
5 Exhibit 772. It just says Interrogatory No. 21,  
6 but we'll add in the word.

7 MR. REHWINKEL: Yes, I apologize for that.  
8 Thank you.

9 CHAIRMAN BROWN: We'll add the word "staff"  
10 in before interrogatory.

11 (Exhibit 772 marked.)

12 MR. REHWINKEL: Okay.

13 CHAIRMAN BROWN: Ms. Slattery, do you have a  
14 copy of that in front of you?

15 MS. SLATTERY: Yes, I do.

16 BY MR. REHWINKEL:

17 Q Before I ask about there, let me ask you:  
18 Do you recognize this document?

19 A Yes, I do.

20 Q And is this one you provided?

21 A Yes.

22 MR. REHWINKEL: Does counsel have a copy?

23 MS. CLARK: Yes, thank you.

24 BY MR. REHWINKEL:

25 Q Would you agree with me that the question

1 asked by staff here is for you to provide the level of  
2 related incentive compensation bonus payments included  
3 in the projected test year ending December 31, 2017?

4 A Yes.

5 Q Now, the response here identifies two  
6 amounts that are for nonexecutive/non-bargaining  
7 employees; is that right?

8 A That's correct. Specifically it describes  
9 it as nonexecutive/non-bargaining employee incentive  
10 accruals net of allocations to affiliates clause and  
11 other non-base O&M.

12 Q Now, would you agree with me that the total  
13 incentive compensation identified in this response,  
14 with the conditions that you just stated, totals to  
15 60,806,654?

16 A Yes, again, subject to the conditions I just  
17 stated which are stated in the response here.

18 Q Okay. Now, do you have a copy of  
19 Mr. Shultz's original -- not his amended -- Exhibit  
20 HWS-3 with you?

21 A Yes, I do.

22 Q And I'll let counsel get there?

23 CHAIRMAN BROWN: And we do have a copy of  
24 that among your exhibits. Would you like that  
25 marked?

1 MR. REHWINKEL: Yes.

2 CHAIRMAN BROWN: Okay. We can mark that as  
3 773. That's Shultz Exhibit No --

4 MR. REHWINKEL: Oh, I apologize, Madam  
5 Chairman. That's for 2012. I'm asking for 2016.  
6 Thank you. I apologize.

7 (Exhibit 773 marked.)

8 CHAIRMAN BROWN: Okay.

9 MS. CLARK: So, just to be clear, I should  
10 be looking at his testimony?

11 MR. REHWINKEL: His originally-filed HWS-3.

12 MS. CLARK: Got it.

13 THE WITNESS: Yes, I'm there.

14 BY MR. REHWINKEL:

15 Q And if I could direct you, please, to Line 1  
16 of that exhibit, would you agree with me that the  
17 60,086,654 appears to be the same amount that is summed  
18 on what is now known as Exhibit 772?

19 A Could you please repeat that figure?

20 Q 60,806,654.

21 A Yes, and it rounds to 60,807.

22 MS. CLARK: Mr. Rehwinkel, just so I'm  
23 clear, where are you looking at?

24 MR. REHWINKEL: On HWS-3, Line 1. There's  
25 an amount of 60,807,000.

1 MS. CLARK: I thought you said six.

2 MR. REHWINKEL: Ms. Slattery appropriately  
3 pointed out that it is rounded.

4 BY MR. REHWINKEL:

5 Q Now, on the same schedule, Line 8, what is  
6 the O&M factor that Mr. Shultz uses?

7 A 66.29 percent.

8 Q And would you agree that the reference in  
9 that schedule is the same Interrogatory 21 which is  
10 Exhibit 772?

11 A Yes. He based it on that interrogatory  
12 response.

13 Q Now, you take issue with this on Page 7  
14 beginning on Line 22. This meaning that O&M factor of  
15 66.29, correct?

16 A Yes, I do. Could you please state again the  
17 page number and line number.

18 Q Yes, your Page 7 beginning on Line 22 and  
19 continuing on to the next page.

20 A Now, on Page 67, I'm not talking about the  
21 O&M factor. That was on Page 9 of my testimony.

22 Q I apologize.

23 A On Page 9 my rebuttal system where I lay out  
24 the correct O&M factor which I believe Mr. Shultz has  
25 adopted in his errata.

1           Q       Okay. Now, would you agree with me that  
2       Mr. Shultz -- first of all, let me ask you to turn to  
3       Mr. Shultz's 2016 July testimony at Page 12 and direct  
4       you to Lines 8 through 12.

5           A       Yes.

6           Q       Would you agree with me here in Mr. Shultz's  
7       testimony that he is making an observation that MFRC-35  
8       indicates an amount different from the company response  
9       in Interrogatory 21 which is Exhibit 772?

10          A       Yes, he is. And I believe the difference  
11       between those two figures was explained in the response  
12       I made to OPC, Interrogatory No. 392.

13          Q       So, the amount he references from MFRC-35 is  
14       80.282 million; is that right?

15          A       Yes, that's correct.

16          Q       Let's talk about your late-filed deposition,  
17       Exhibit No. 2. And Madam Chairman, I would like to  
18       have this identified. This would be 773?

19                   CHAIRMAN BROWN: That is correct. And we'll  
20       title that just as you described, Slattery  
21       deposition late-filed Exhibit No. 2.

22                   (Exhibit 2 marked.)

23                   CHAIRMAN BROWN: Ms. Slattery, do you have a  
24       copy of that in front of you? It was along with  
25       the packet.

1 THE WITNESS: Yes, I have it.

2 BY MR. REHWINKEL:

3 Q Before I ask you substantive questions about  
4 it, I would ask you, first of all, do you recognize the  
5 last two pages of the exhibit?

6 A Yes, I do.

7 Q And this is a deposition exhibit requested  
8 by staff at your deposition?

9 A That's correct.

10 Q And if I could ask you to turn to the first  
11 page which is an e-mail from me to Mr. Shultz. If  
12 you'll accept that Helmuthws is his e-mail address of  
13 an e-mail from FPL Attorney David Lee at 5:08 p.m.  
14 transmitting this late-filed deposition Exhibit 2 as  
15 well as two others.

16 A Yes.

17 Q Do you see where it shows I sent it to  
18 Mr. Shultz on that Saturday August 13 at 1:19 p.m.?

19 A Yes.

20 Q You recognize it, and you would attest to it  
21 as being true and correct?

22 A That's correct.

23 Q If you would look on Page 1 of 2 of your  
24 late-filed deposition exhibit and go to the bottom half  
25 of the page where the year 2017 is shown. And in the

1 first column at the bottom of that column in the total  
2 Account 524, Employee Incentives, to ask you is that  
3 \$80,282,000 figure the one that is referenced in  
4 MRC-35?

5 A Yes.

6 Q Does that \$80,282,000 include cash  
7 incentives and stock-based compensation?

8 A Yes, it does.

9 Q And am I also correct that the company made  
10 an adjustment to remove a portion of the employee  
11 stock-based compensation from this number?

12 A Yes.

13 Q Can you tell me what is the total -- well,  
14 let me ask you this: Isn't the total cash incentive  
15 amount for 2017 \$79,130,000?

16 A Yes, that's the gross figure.

17 Q Okay. And it's in that same far left-hand  
18 column under the year 2017 next to the label of cash  
19 incentives, correct?

20 A That's correct. This includes both annual  
21 and long-term cash incentives for non-executives.

22 Q In the next column to the right under FPL  
23 O&M, the corresponding cash incentive number with the  
24 same qualifier that you just mentioned is 50,853,000;  
25 is that right?

1           A       That's correct, but I would like to point  
2 out one thing, Mr. Rehwinkel. This column FPL O&M net  
3 of capital affiliate allocations below the line clause  
4 and other is HR's estimate. So, in other words, I have  
5 sourced the first column from MRFC-35 work papers and  
6 the third column from Witness Ousdahl's work papers to  
7 C3 for the exact disallowed amount, although these are  
8 pretax numbers she uses after tax.

9                       But the column in between FPL O&M is HR's  
10 estimate. That is the reason there may be a few  
11 immaterial differences between the FPL's O&M column and  
12 the NOI adjustment-per-book column.

13           **Q       So, the column between -- you mean further**  
14 **to the right?**

15           A       I should use column headers so we don't get  
16 confused. The FPL O&M net of capital affiliate  
17 allocations below the line clause and other, which is  
18 the second column from the left, is HR's estimation  
19 based on assumed O&M factors. Whereas, the third  
20 column from the left, NOI adjustment per book and  
21 before taxes, executive portion, and the fourth column  
22 from the left, NOI adjustment per book before taxes,  
23 nonexecutive portion, are again from the C3 work  
24 papers.

25           **Q       Okay. So just so I understand, I see dashes**



1 to the right or in those last two columns that you  
2 mentioned that would correspond with the \$50,853,000;  
3 is that correct?

4 A That's correct. In other words, on that  
5 row, there are no NOI adjustments to the 50,853,000  
6 because those are non-executive cash incentives.

7 Q Just so I understand, when you say that's an  
8 estimate, you're not saying that for purposes of this  
9 Commission's decision-making here they cannot rely upon  
10 that number for whatever decisions they make in this  
11 docket.

12 A No, they can be relied upon.

13 Q Okay. Now, according to this exhibit -- and  
14 I think you answered this, but I want to make sure --  
15 none of that amount, the 50,000,853 was excluded from  
16 the company's request for the purposes of setting  
17 rates; is that correct?

18 A That's correct.

19 Q Now, I think you would agree with me if we  
20 compare Exhibit 773 to Exhibit 772, 773 being  
21 late-filed Exhibit 2, 772 being Staff Interrogatory 21,  
22 that the 50,000,853 included in the company's O&M for  
23 2017 is different from what was identified by the  
24 company as being in O&M and the response to Staff  
25 Interrogatory 21?

1           A           That's correct because Exhibit 772 is in  
2           regards to only annual incentives; whereas, Exhibit 773  
3           includes annual and long-term cash incentives.

4           **Q           Was there something about the way the**  
5           **question was asked that made you answer it the way you**  
6           **did?**

7           A           Yes, it was a question about incentive  
8           compensation bonus payments.

9           **Q           Okay.**

10          A           Which we interpreted as annual incentive  
11          payments, not long-term incentive.

12          **Q           Now, was there something in the answer that**  
13          **explained that that was your interpretation of what the**  
14          **word "bonus" meant?**

15          A           I feel the answer was clear about what it  
16          was in regards to and also the fact that we were  
17          excluding allocations to affiliates clause and another  
18          non-base O&M. And as I mentioned before, there was an  
19          interrogatory from OPC that we answered that also  
20          explained the differences.

21          **Q           Can you point to me where in your rebuttal**  
22          **testimony -- you identified that Mr. Shultz was**  
23          **incorrect in using the \$60,807,000 number and that the**  
24          **actual employee cash incentive amount was 79,130,000.**

25          A           No, I don't believe I have that in my

1 rebuttal testimony.

2 Q Okay. Now, you recall we just spoke a few  
3 minutes ago about your testimony on Page 9, Line 5, in  
4 the 2017 row where you discussed Mr. Shultz's  
5 66.29 percent incorrect number and you put forth your  
6 59.4 percent correct number, right?

7 A Yes.

8 Q So, you're stating there in your testimony  
9 he should have used the same percentage that you  
10 identified there as being the correct percentage in  
11 making his adjustments that he was presenting to the  
12 Commission for their consideration, right?

13 A Yes. Specifically, Mr. Shultz relied on our  
14 response to Interrogatory 21. So, in this rebuttal, we  
15 did the complete math inclusive of the other components  
16 of O&M which would be clause and below-line O&M and  
17 charges to affiliate. We provided that in the work  
18 papers to this rebuttal to show the complete assessment  
19 of what the O&M factor is.

20 Q So, looking back at Exhibit 773, which is  
21 late-filed deposition Exhibit 2, on Page 1, the  
22 \$79,130,000 in that far left 2017 column -- that  
23 reflects the total incentive compensation cost that FPL  
24 projects in rate year 2017. And to the right of it, it  
25 shows what that projection is allocated to O&M.

1 Do I understand that right?

2 A Yes. Now, this is FPL O&M net of capital  
3 affiliated allocation below the line clause and other.  
4 When we provided this corrected O&M factor here on  
5 Page 9, Lines 5 and 6, we actually included -- I want  
6 to speak correctly on this.

7 We included in the calculation base O&M,  
8 revenue enhancement O&M, non-clause fuel O&M and below  
9 the line O&M just to make sure that we had all of the  
10 O&M in there. So, this 59.40 percent for 2017 and  
11 59.70 percent for 2018 is the correct O&M factor.

12 Q Okay. So, if I took the 50.853 and divided  
13 it by 79,130,000, I would get a number which I would  
14 ask you to accept subject to check or perform of  
15 64.3 percent, right?

16 A Subject to check.

17 Q Okay.

18 A I have not done that calculation.

19 Q So, why isn't that the right factor? Is it  
20 all those things you said before I asked you that  
21 question?

22 A Yes. Again, I have not performed the  
23 calculations based on this late filed deposition  
24 exhibit, but with regard to the back-up to  
25 Interrogatory 21, we looked at all the components of

1 O&M including the ones I just reeled off.

2 Q So, basically you're saying that the O&M  
3 factor that Mr. Shultz used, whether it was 66.29 or if  
4 he had used 64.3 -- those both would have been  
5 incorrect and the only right one is 59.4 for 2017?

6 A That's correct.

7 Q Now, the O&M factor of 66.29 was the one  
8 also used by Mr. Shultz for employee compensation in  
9 his adjustment, right?

10 A That's correct.

11 Q If he had used the percentage that you  
12 identify on Page 9, Line 5, of 59.4, would his  
13 adjustment to O&M have been reduced, what he  
14 recommended to the Commission? All other things being  
15 equal.

16 A All other things being equal, yes.

17 Q Would you accept, subject to check, that  
18 Mr. Shultz received from FPL responses that would have  
19 allowed him to understand that 59.4 was the right  
20 number on July 5, 2016?

21 A I am not sure.

22 MS. CLARK: Can you be more specific,  
23 Mr. Rehwinkel?

24 MR. REHWINKEL: Yes. Perhaps I could pass  
25 out an exhibit. I haven't pre-positioned this

1           one, Madam Chairman, because I wasn't sure I was  
2           going to have to use it.

3           CHAIRMAN BROWN: Staff, can you help  
4           Mr. Rehwinkel? We'll be at 774.

5           (Exhibit 774 marked.)

6           MR. REHWINKEL: I gave away my exhibit. I  
7           don't even have a copy of it. I can't speed it  
8           along.

9           CHAIRMAN BROWN: The title just says  
10          Interrogatory No. 371, timeline.

11          MR. REHWINKEL: Yes.

12          CHAIRMAN BROWN: Mr. Rehwinkel, do you have  
13          a copy of it?

14          MR. REHWINKEL: Yes, I do.

15          CHAIRMAN BROWN: Ms. Slattery, do you have a  
16          copy of it?

17          MS. SLATTERY: Yes, ma'am.

18          MS. CLARK: Madam Chairman, what is the  
19          relevance of this in a series of e-mails?

20          MR. REHWINKEL: Well --

21          CHAIRMAN BROWN: I'm assuming Mr. Rehwinkel  
22          will provide some guidance here.

23          MR. REHWINKEL: We certainly aren't moving  
24          it into the record at this point.

25          CHAIRMAN BROWN: Okay

1 BY MR. REHWINKEL:

2 Q The first page is one that I think is a  
3 company document or at least in part. So, I would ask  
4 a question about the first page, and I would ask  
5 Ms. Slattery if she could accept that the bottom half  
6 of this is -- well, the top half of the e-mail, I think  
7 you can see, is an e-mail I sent to myself last night  
8 at 9:36 p.m.

9 A Yes. I see you were working late.

10 Q Well, that was before Mr. Donaldson and I  
11 exchanged e-mails at about midnight about the errata.  
12 The bottom half of this is an e-mail from an FPL  
13 attorney to what appears to be the service list in this  
14 docket. It references FPL's notice of service and  
15 objections in response to OPC's 16th set of  
16 interrogatories, Nos. 362 through 373.

17 You see that?

18 A Yes, I do.

19 Q And it also says please note that responses  
20 to interrogatories numbered 362 through 366 were  
21 provided on June 14, 2016. You see that?

22 MS. CLARK: Madam Chairman, I'm having  
23 difficulty understanding how this relates to her  
24 rebuttal testimony.

25 CHAIRMAN BROWN: I am, too, Mr. Rehwinkel.

1           MR. REHWINKEL: Sure. I'm bringing a line  
2 of questioning in for a landing, Madam Chairman,  
3 on the scope of rebuttal. Oftentimes, the company  
4 criticizes public counsel or other intervenors for  
5 their lack of preciseness -- or precision I guess  
6 is the right word -- in their adjustments while we  
7 all know that the company holds all the cards and  
8 all the numbers.

9           So, the characterization of errors and the  
10 criticisms of the intervenors' testimony is, I  
11 think, somewhat colored by the quality and the  
12 timing of information received. I just want to  
13 see if I can deal with this here.

14           There is also a pending objection by the  
15 company about the quality or the characteristic of  
16 some corrections that have been referenced in  
17 testimony here today by Mr. Shultz in this exact  
18 area.

19           So, I'm kind of hoping that I can kill two  
20 birds with one stone. I don't really want to kill  
21 any birds, but with respect to the character of  
22 the rebuttal testimony, maybe I can head off the  
23 need to have debate about that errata tomorrow or  
24 maybe at 12:01 this morning.

25           CHAIRMAN BROWN: Ms. Clark.



1 MS. CLARK: Madam Chairman, first of all, I  
2 would point out that he appears to be impugning  
3 the lack of information provided to his witness  
4 regarding the data on the subject that his witness  
5 testifies on.

6 He's had ample time to propound discovery  
7 and ask those questions of FPL, and FPL has  
8 provided those responses in every instance on a  
9 timely basis.

10 CHAIRMAN BROWN: Mr. Rehwinkel.

11 MR. REHWINKEL: Madam Chairman, I'm not  
12 impugning or criticizing the company. I know that  
13 the employees of this company in Ms. Slattery's  
14 area probably worked round the clock.

15 We did take Ms. Clark up and we took  
16 Ms. Slattery's deposition. And I think as you've  
17 seen, we received a late-filed deposition exhibit  
18 within nine days of the start of this hearing, so  
19 we've been working hard. The company has been  
20 working hard. I think the Commission is after the  
21 truth and to get the facts right. So, I'm just  
22 trying to do that.

23 I really am not trying to impugn the  
24 company's testimony. I'm just trying to lay a  
25 predicate for why we testified the way we did and

1 the timing of it.

2 CHAIRMAN BROWN: Ms. Brownless.

3 MS. CLARK: May I -- we're here on this  
4 witness' rebuttal testimony. It is not the  
5 opportunity for Mr. Rehwinkel to rehabilitate the  
6 testimony of his witness through other  
7 information.

8 CHAIRMAN BROWN: Thank you, Ms. Clark.  
9 Thank you.

10 MS. BROWNLESS: All right. If I understand  
11 the testimony and also what Mr. Rehwinkel is  
12 attempting to accomplish, he asked a series of  
13 questions about what is clearly the rebuttal  
14 testimony of Ms. Slattery.

15 He seems to be attempting to establish  
16 through a line of questioning associated with be  
17 Exhibit 774, the e-mails, that it was reasonable  
18 for his witness to reach the conclusions he  
19 reached.

20 To the extent that Ms. Slattery has made the  
21 corrections in her rebuttal that reference  
22 Mr. Shultz's previously-filed testimony, I think  
23 that this line of questioning is relevant.  
24 However, I would make this suggestion. If  
25 Mr. Rehwinkel is attempting to show when he was

1 provided information, then perhaps a quick review  
2 of the e-mail would allow Florida Power & Light to  
3 either agree with the timeline or not and save us  
4 a bit of time there.

5 MS. CLARK: Okay. Madam Chairman, if  
6 Mr. Rehwinkel is attempting to show that the  
7 information provided in response to Interrogatory  
8 371 was provided July 5, I believe we can agree to  
9 that.

10 CHAIRMAN BROWN: Okay. Mr. Rehwinkel.

11 MR. REHWINKEL: Yes, that's fine, Madam  
12 Chairman. I appreciate that. Thank you to  
13 counsel, staff and the company.

14 CHAIRMAN BROWN: All right. Could you move  
15 along with your questions.

16 MR. REHWINKEL: I don't intend to linger on  
17 this. We might see it again in a motion  
18 discussion later.

19 CHAIRMAN BROWN: Okay.

20 MR. REHWINKEL: Everybody is now on notice.

21 MR. REHWINKEL: Let's do this. We can put  
22 aside the OPC timeline document and look at  
23 Interrogatory 371 which I would ask it be given a  
24 number.

25 CHAIRMAN BROWN: We're going to number that

1 as 775 as you titled.

2 (Exhibit 775 marked.)

3 MR. REHWINKEL: Thank you, Madam Chairman.

4 BY MR. REHWINKEL:

5 Q I would ask once counsel and Ms. Slattery  
6 have had a chance to review this, if Ms. Slattery  
7 recognizes this document.

8 A Yes, I do.

9 Q And if she can state whether she prepared it  
10 or it was prepared under her control and supervision  
11 and if it's accurate.

12 A It was prepared under my control and  
13 supervision, and it is accurate.

14 Q Thank you. So, would this document,  
15 Exhibit 775, serve as a response in discovery that  
16 could have been relied upon or could be relied upon to  
17 determine what the O&M percentage was in 2017 based on  
18 MFRC-35?

19 A Not with precision because unlike the  
20 calculation underlying the corrections I detail in my  
21 rebuttal testimony, Page 9, Lines 5 and 6, which total  
22 base O&M, revenue enhancement O&M, non-clause fuel O&M  
23 and below the line O&M to come up with the correct O&M  
24 factor, relying on Interrogatory No. 371 would not  
25 provide that level of detail because those revenue

1 enhancement O&M, non-clause fuel O&M, below the line  
2 O&M -- some of that is in the all other.

3 So, I believe if you were to just do the  
4 math from expense to total would be 58 percent here.

5 Q Okay. 57.6, right in there?

6 A Yeah, rounded to 58.

7 Q Would you agree with me that this  
8 information that we're talking about, all this payroll  
9 information, the subsets of types of compensation  
10 incentive, all that -- it's a complicated area?

11 A I agree wholeheartedly with that.

12 Q And you would also agree that it's not  
13 information that FPL spreads around on the street.  
14 It's kept kind of close, right? It may not be  
15 confidential in a rate case, but it's not known by  
16 everyone.

17 A Absolutely. It's an important part of  
18 controlling costs to keep this information confidential  
19 since it's competitive information.

20 Q So, you would also agree that the public  
21 counsel, other intervenors, are dependent upon FPL to  
22 forward this information?

23 A Yes.

24 Q So, can you tell me why you would identify  
25 in your rebuttal testimony as an error Mr. Shultz's use

1 of the O&M factor for payroll that would result in a  
2 lower O&M adjustment but not identify as an error his  
3 use of an incorrect incentive amount that would  
4 increase his O&M adjustment for incentive compensation  
5 by about \$7 million in 2017?

6 A First of all, he did not use an incorrect  
7 amount. He just used the annual incentive amount.

8 Q Okay.

9 A And I don't believe I have any duty to  
10 correct him. I assumed he just wanted to calculate  
11 based on annual incentive on that schedule.

12 Q Okay. So, would it be fair to say that if I  
13 looked at Exhibit 773 and if the Commission -- well,  
14 let's say, first of all, if the intervenor wanted to  
15 propose an adjustment to nonexecutive employee  
16 incentive compensation, that the appropriate number to  
17 use would be the 50,853,000 that's shown on Page 1 in  
18 the O&M column?

19 A The most important point is that no  
20 adjustment of any size is warranted for the reasons  
21 stated in my rebuttal summary.

22 Q I understand.

23 A But this is the correct, total, short term  
24 and long-term cash incentive figure. Again, Mr. Shultz  
25 wasn't clear in his testimony or exhibits that he was

1 trying to include both long-term and short term.

2 **Q Okay. So, you're saying he just didn't ask**  
3 **the question right?**

4 **A** Well, Mr. Shultz didn't ask any questions  
5 directly of me throughout these proceedings. OPC  
6 certainly served plenty of interrogatories on us, but  
7 all of this information was available through early  
8 production of documents and MFRC-35 work papers  
9 underlying the gross payroll.

10 We've been asked a lot of questions about  
11 that, including in deposition you asked me a number of  
12 questions about it. So, he had access to all of the  
13 necessary information related to the total gross  
14 incentive figures for non-executive and executives.  
15 So, I assumed he knew what he was pulling when he chose  
16 that figure for his original HWS-3 exhibit.

17 **Q But the appropriate number would have been**  
18 **the 50,853,000 acknowledging your contention that the**  
19 **adjustment is not warranted, right?**

20 **A** That's correct.

21 **Q Let's go to your rebuttal at Page 10. If I**  
22 **could get you to look at Lines 1 through 22, you would**  
23 **agree that your testimony is that Mr. Shultz is wrong**  
24 **when he classifies O&M costs and capital expenditures**  
25 **as financial goals?**

1           A           That's correct. They are not financial  
2 return measures. Just because they are measured in  
3 dollars does not make them financial return measures.  
4 They are customer value and cost management measures.

5           **Q           And is it your testimony that 100 percent of**  
6 **the planned goals are customer goals?**

7           A           Yes, that's absolutely my testimony. This  
8 is a balanced score card that has customer-focused  
9 goals for reliability, customer service, safety  
10 compliance, cost management and prudent investment for  
11 customers.

12          **Q           And if I'm looking in this section that**  
13 **starts on Line 16 on down through 22, would it be**  
14 **appropriate for me to conclude that you state here that**  
15 **earnings is a financial performance goal?**

16          A           Earnings could be a financial performance  
17 goal, yes. We do not have that in our plan.

18          **Q           And you would also agree with me that**  
19 **earnings are the result of revenue less O&M expenses?**

20          A           In simplest terms, that's one of the inputs.

21          **Q           And if O&M expenses are a component of a**  
22 **financial goal, how is it that an O&M goal is not a**  
23 **financial goal?**

24          A           There are many other factors that go into  
25 determining earnings. Nonfuel O&M is used in our plan



1 which, as Witness Barrett testified, is projected to be  
2 lower in 2017 than it was in 2013.

3 And as Witness Reed testified as best in  
4 class performance is a cost management function, and  
5 it's incredibly important part of our balance score  
6 card because without any kind of focus on containing  
7 nonfuel O&M and making prudent investment for our  
8 customers, we would be essentially communicating to  
9 employees that we're setting them to provide safe,  
10 reliable, excellent service at any cost.

11 That's not at all what we're trying to do.  
12 We're trying to balance cost efficiency and cost  
13 containment with providing superior operating results.

14 **Q And you would agree with me that a return on**  
15 **equity is a financial goal even if it's not included in**  
16 **the FPL plan, right?**

17 A That's correct.

18 MS. CLARK: Object.

19 CHAIRMAN BROWN: She answered.

20 **Q Wouldn't you agree that capital expenditures**  
21 **are reflected in rate base. And when rates are set,**  
22 **that a return on equity is applied to that value?**

23 A I'm not an accounting or finance witness.  
24 And unfortunately, I'm not very deep in these topics.  
25 This is not my area of expertise.

1 Q Was it your testimony that that's not true?

2 A No, I'm not saying that. I'm just saying  
3 that goes beyond my expertise.

4 Q So, how many rate cases have you testified  
5 before this Commission in?

6 A This is the third time I've testified before  
7 the Commission as a Human Resources professional.

8 Q Now, in Exhibit 773, we talked about the  
9 adjustment that gets you from 79,130,000 to 50,853,000,  
10 right?

11 A Yes.

12 Q And part of that is an allocation of these  
13 costs to capital, correct?

14 A Yes.

15 Q So, you understand what capital is, don't  
16 you?

17 A Well, certainly. I understand that when we  
18 take a gross figure, a certain dollar figure goes out  
19 to allocations to affiliates. Some of it goes to  
20 capital; some goes to other. But I'm not very expert  
21 in what those other things are.

22 Q But you don't have to be an expert to know  
23 that capital goes into rate base, right?

24 A Certainly.

25 MS. CLARK: Asked and answered.

1 MR. REHWINKEL: Actually, it's the first  
2 time she answered it.

3 CHAIRMAN BROWN: But she answered it.

4 MR. REHWINKEL: Yes, thank you.

5 BY MR. REHWINKEL:

6 Q And you do know that the return on equity is  
7 a component of the cost that goes into setting rates  
8 when applied as an overall rate of return to rate base,  
9 right?

10 MS. CLARK: I object. Outside the scope of  
11 her testimony.

12 CHAIRMAN BROWN: Sustained.

13 Q So, you state also that total shareholder  
14 return is a financial goal, don't you?

15 A Yes, and it is not part of our plan.

16 Q Right. And you would agree that return on  
17 equity represent a shareholder's return, right?

18 MS. CLARK: Madam Chairman, I object to  
19 this line of questioning. It's not in her  
20 testimony.

21 CHAIRMAN BROWN: Sustained.

22 MR. REHWINKEL: It is in her testimony.

23 CHAIRMAN BROWN: Point me to it,

24 Mr. Rehwinkel.

25 MR. REHWINKEL: Okay. On Line 19, Page 10,

1           it says: Examples of true measures of financial  
2           performance which are not used in FPL's plan would  
3           be earnings, revenue growth, return on equity,  
4           total shareholder return -- which is what I just  
5           asked her about -- earnings per share and so  
6           forth.

7           MS. CLARK: I think her testimony is it's  
8           not in their plan.

9           MR. REHWINKEL: Well, I don't have to accept  
10          everything that is in her testimony as true. I'm  
11          here on cross examination. And what I'm trying to  
12          understand is what is truly out and what's truly  
13          in.

14          CHAIRMAN BROWN: Mr. Rehwinkel, restate the  
15          question.

16          BY MR. REHWINKEL:

17           **Q       Okay. My question was: Would you agree**  
18           **that the return on equity represents the shareholders'**  
19           **return? And that was objected to.**

20           A       Return on equity is not part of our  
21           incentive plan.

22           **Q       Okay. But components that generate return**  
23           **on equity are in your incentive plan, right?**

24           MS. CLARK: Asked and answered.

25           CHAIRMAN BROWN: Mr. Rehwinkel.

1 MR. REHWINKEL: She can't have it both ways.  
2 She can't say it's not in there and then the  
3 components that yield it not being in there are in  
4 there. I'm trying to get there.

5 MS. CLARK: She acknowledged the  
6 relationship of O&M expenses and explained  
7 that the purely financial performance indicators  
8 are not part of what FPL is requesting in this  
9 case.

10 MR. REHWINKEL: Madam Chairman, I'm entitled  
11 to a clear answer, not fogged-up answers. I'm  
12 really trying to get to precision in here about  
13 what's in and what's not.

14 CHAIRMAN BROWN: Okay. You can continue.

15 MR. REHWINKEL: Thank you.

16 MR. REHWINKEL: Now, I have to ask the court  
17 reporter to read my last question.

18 (Testimony read by reporter.)

19 BY MR. REHWINKEL:

20 Q Do you understand that question?

21 A Could you please rephrase it.

22 Q So, components that generate the result  
23 which is the return on equity or the shareholders'  
24 return are included in your plan such as O&M costs and  
25 capital expenditures.

1           A           I don't know. I've never calculated ROE.

2           **Q           I think there's other people that have**  
3 **already done that in this record. Thank you.**

4                    Let's go to Page 12 of your rebuttal, Lines  
5 1 through 15, and I would ask you if it's your  
6 testimony here that the comparison of total  
7 compensation in the market is important?

8           A           Yes.

9           **Q           And when making such comparisons, you would**  
10 **agree that other utilities that you are comparing**  
11 **compensation to also have incentive compensation**  
12 **included in their total compensation, right?**

13          A           The majority of utilities do.

14          **Q           And do you know whether any utilities in the**  
15 **market surveys have had incentive compensation**  
16 **disallowances when rates are set for them?**

17          A           No, that is not part of the benchmarking  
18 that we perform because, again, it's a moot point when  
19 determining the appropriate levels of total  
20 compensation necessary to attract and retain employees.

21          **Q           But that wasn't my question. My question**  
22 **was: Do you know whether any of the utilities in the**  
23 **market surveys have had incentive compensation**  
24 **disallowances when their rates were set?**

25          A           I'm not familiar with all of the utilities

1 revenue recovery with regard to incentive compensation.  
2 I'm not an expert on that topic. I do not want to  
3 speculate.

4 **Q Okay. I didn't ask if all. I said if any.**

5 A Well, the benchmark surveys that we use --  
6 and there are multiple surveys from multiple sources --  
7 will have a number of different utilities in there. I  
8 don't have the list with me, and I'm not familiar with  
9 the recovery for each utility.

10 **Q Okay. So, it's your testimony that none of**  
11 **them have disallowances in there?**

12 MS. CLARK: He has mischaracterized her  
13 answer.

14 CHAIRMAN BROWN: I would agree with  
15 Ms. Clark.

16 MR. REHWINKEL: Okay.

17 CHAIRMAN BROWN: Strike that question.

18 BY MR. REHWINKEL:

19 **Q Do you know whether any of the compensation**  
20 **analyses that you reviewed -- from any of the**  
21 **compensation analyses you reviewed whether the utility**  
22 **incentive compensation to which FPL was compared was**  
23 **disallowed in the jurisdiction where the company was**  
24 **located?**

25 MS. CLARK: Asked and answered.

1 THE WITNESS: Asked and answered.

2 CHAIRMAN BROWN: It came from everywhere.

3 Sustained.

4 BY MR. REHWINKEL:

5 Q All right. Let's look at Page 13, Lines 22.

6 Would you agree with me that the disallowance of  
7 incentive compensation and rate does not mean that the  
8 company is required to eliminate such incentive  
9 exception?

10 A I agree with you.

11 Q And when FPL's long-term incentive plan was  
12 disallowed or the costs for that incentive plan were  
13 disallowed in previous rate cases, FPL did not  
14 eliminate that plan, right?

15 A Do you mean executive or non-executive?

16 Q Executive.

17 A No, we did not. We did not eliminate the  
18 plan.

19 Q Did you scale back any of the long-term  
20 incentive plans that you had after such a disallowance?

21 A Well, the levels of pay under the incentive  
22 plans are generally not markedly different today than  
23 they were then because we need to maintain competitive  
24 levels of total compensation and benefits in order to  
25 ensure we have the necessary work force at all levels



1 of the organization to drive performance.

2 Does that answer your question?

3 Q Well, let me ask you this. I think the  
4 implication in a prior answer was that there is a  
5 non-executive and an executive long-term incentive  
6 compensation plan, correct?

7 A That's correct.

8 Q So, did you shift any of the nonexecutive  
9 equity incentive compensation from cash over -- from  
10 equity compensation to cash compensation in the  
11 non-executive area?

12 A Yes, but to be clear, we still do use some  
13 stock-based compensation for non-executives, and we  
14 properly removed from our revenue requirement  
15 50 percent of those costs. We primarily use cash for  
16 non-executives for a number of reasons, including the  
17 administrative hurdles associated with using stock  
18 since it's under SEC regulations.

19 Q So, would you agree with me that for 2013,  
20 the nonexecutive equity incentive compensation amount,  
21 total amount, was \$5.7 million with a \$3.5 million  
22 amount in O&M?

23 A From 2013?

24 Q Yeah.

25 CHAIRMAN BROWN: Mr. Rehwinkel, I'm finding

1           it hard to track where this is affecting her  
2           rebuttal.  These sound more like direct questions  
3           that should have been asked on direct.

4           MR. REHWINKEL:  Well Madam Chairman, I'm  
5           about to get to a question that talks about what's  
6           going on this year because it's our position that  
7           they've shifted dollars that were disallowed  
8           into --

9           MS. CLARK:  Madam Chairman, he's testifying.

10          MR. REHWINKEL:  I'm trying to answer the  
11          chairman's question.

12          CHAIRMAN BROWN:  Mr. Rehwinkel, continue,  
13          but could you get to that question.

14          MR. REHWINKEL:  Sure.  Yes, ma'am.

15          CHAIRMAN BROWN:  Thank you.

16  BY MR. REHWINKEL:

17           **Q        So, the amount that's in non-executive**  
18           **equity incentive compensation for this test year, 2017,**  
19           **is \$679,000, correct?**

20           A        Let me verify.

21           **Q        Okay.**

22           A        Subject to check, I believe that might be  
23           correct.

24           **Q        And the corresponding amount in 2013 was**  
25           **\$3.5 million, right?**

1           A       I do not know. I don't know the 2013  
2 figures. One thing I'd point out of that 679,000,  
3 that's not the gross amount. And more than 50 percent  
4 is removed from the revenue requirement because in  
5 addition to removing 50 percent of the target amount,  
6 we remove 100 percent of anything that accrues and pays  
7 out above target on the stock. So, the gross figure is  
8 above a million.

9           **Q       So, my question to you is: In the cash side**  
10 **of the non-executive incentive compensation, are there**  
11 **dollars that you recovered in prior test year now being**  
12 **recovered in equity, now being recovered in cash?**

13          A       I do not -- are you asking me to compare  
14 2013 to 2017, test year to test year?

15          **Q       Yes, and I'm asking you if dollars that were**  
16 **disallowed in the equity portion are now being shifted**  
17 **over to cash for non-executive.**

18          A       No, I believe our use of cash and stock in  
19 2013 was fairly comparable to what it is today. I do  
20 not have the 2013 rate case figures with me or 2012  
21 rate case figures with me, but I believe that our  
22 practices were very similar in 2013 to what they are  
23 today.

24          **Q       Okay. You mentioned Mr. Deason in your**  
25 **testimony. You would agree with me he's not a**

1       **compensation expert, would you?**

2           A       That's correct, but he is an expert on  
3       ratemaking.

4           **Q       Sure. And on Page 15 of your rebuttal,**  
5       **Lines 9 through 21, you criticize Mr. Shultz here by**  
6       **saying he's making recommendations for adjustment based**  
7       **on what he questions as proper goals used by FPL.**

8           A       That's correct.

9           **Q       Is it your testimony here that FPL is a top**  
10       **performer in the goals that they utilize?**

11          A       I'm not the FPL witness to speak to the  
12       individual performance metrics, but the Commission has  
13       heard from numerous FPL witnesses over the last week  
14       and a half regarding our superior performance, our  
15       reliability measures, our nonfuel O&M cost containment  
16       and customer service.

17                    So, again, I don't want to testify for those  
18       witnesses. I'll reference instead that they've already  
19       testified to it.

20          **Q       It's not your testimony in your role here as**  
21       **a compensation expert that FPL has set goals and that**  
22       **that's the most they can do. There's no further**  
23       **achievement that they can --**

24                    MS. CLARK: Asked and answered. She's

25                    already said that she doesn't know anything about

1 the goals. She doesn't set them. Have you not?

2 THE WITNESS: Well, I would like to clarify.

3 CHAIRMAN BROWN: Just one second.

4 Mr. Rehwinkel.

5 MR. REHWINKEL: I'm asking her if on her  
6 side of the ledger that there's nothing more that  
7 they can do because she's in the compensation  
8 side, and they are --

9 CHAIRMAN BROWN: Please ask that question.

10 BY MR. REHWINKEL:

11 **Q That's my question.**

12 A Your prior question was very specific asking  
13 if I was testifying regarding FPL's best-in-class  
14 performance. I felt that was a little bit beyond the  
15 scope of my expertise and my purpose here.

16 **Q And I accept that.**

17 A But I can definitely speak to the robustness  
18 of our goal-setting process for the annual incentive  
19 plan which is within my scope of expertise.

20 **Q Okay. So, I'm asking if there's nothing**  
21 **further that you can do in setting incentive**  
22 **compensation goals.**

23 A That is not my testimony at all. I have  
24 detailed in my rebuttal testimony the robustness of our  
25 goal-setting process which is based on industry

1 benchmarks. We set our goals at or before the top  
2 quartile for each industry benchmark. Many of them are  
3 set at above top decile.

4 I've demonstrated in my testimony  
5 improvements over the past five-year period of time in  
6 all of our measures.

7 **Q Let's go to talking about head count,**  
8 **Page 24, Lines 3 through 10. You would agree with me**  
9 **that head count is considered when FPL prepares its**  
10 **budget, right?**

11 A Yes. I agree that's one factor.

12 **Q And you would agree that head count drives**  
13 **the dollars for base pay in the budget process, right?**

14 A No. Head count is one of the inputs. And  
15 other things we consider are the employee complement,  
16 the work performed, estimates of when peak work will be  
17 performed such as refueling averages, construction  
18 projects and so forth. There are many inputs. It's a  
19 dynamic equation.

20 **Q Would you agree that it is the number one**  
21 **driver?**

22 A I would disagree. The number one driver is  
23 the planned work that we have to deliver to our  
24 customers. We build everything around that.

25 **Q Would you agree with me that Mr. Shultz's**

1     **employee compensation on his original Exhibit HWS-2,**  
2     **Page 2 -- I'll let counsel get there.**

3             CHAIRMAN BROWN:   Are you there?

4             A           Just to clarify, it should be at HWS-2,  
5     Payroll Adjustments, Page 2 of 3?

6             Q           **Yes, Page 3.  Would you agree with me that**  
7     **that schedule indicates that FPL does not employ the**  
8     **number of employees that it projects that it will have?**

9             A           Yes and no.  I agree that this shows that  
10    the actual average head count is below the maximum  
11    authorized head count, but as any company our size, we  
12    experience normal turnover.  We're constantly  
13    recruiting and filling.

14            We still have to get the work done.  That's  
15    why Exhibit KS-9 to my testimony demonstrates that our  
16    payroll forecasting processes are accurate.  They've  
17    been demonstrated to be accurate over a sustained  
18    period, and that's the most important indicator here of  
19    the appropriateness of our MSRC-35.

20            Q           **Now, on this HWS-2, I think you've told me**  
21    **before that the responses Mr. Shultz relied on to**  
22    **develop the comparisons on HWS-2, Page 2, are accurate?**

23            A           Yes.

24            Q           **And you don't dispute the 2016 numbers used**  
25    **by Mr. Shultz in this presentation of HWS-2, Page 2,**

1 right?

2 A That's correct.

3 Q And those responses are from OPC POD 3; is  
4 that right?

5 A I believe that's the POD number. It's the  
6 MFRC-35 work papers.

7 Q And do you suggest that there is a more  
8 appropriate analysis of payroll that compares a  
9 variance of plan to actual payroll on your Page 25,  
10 Lines 11 through 23?

11 A Yes, actually analyzing payroll dollars is  
12 the most appropriate way to analyze payroll expense.

13 Q Okay. And we did agree earlier, even if it  
14 wasn't the most important driver, that head count is  
15 considered in your budgeting process, right, for  
16 payroll?

17 A It is considered with work being the most  
18 important driver.

19 Q So, is it also true that the planned payroll  
20 will have the planned employee complement and the  
21 actual payroll will be driven by the actual employee  
22 count?

23 A I want to be sure I understand your  
24 question.

25 Q Okay. Let me ask the question again. Is it



1 true that the planned payroll will have the planned  
2 employee complement in it and the actual payroll will  
3 be driven by the actual employee count?

4 A Again, yes and no. It's true that planned  
5 payroll will have as one input the optimal staffing  
6 level and that actual payroll will have as one input  
7 the actual staffing level, but what we frequently have  
8 to do when we have normal turnover where it takes a  
9 while to fill a position is rely on less-than-optimal  
10 staffing levels, which means over time it's greater  
11 than planned. Temporary labor is greater than planned.

12 And there are significant costs to turnover  
13 that are embedded in that. And that is why as I've  
14 demonstrated on KS-9, actual and planned -- it's been  
15 very accurate over time because the work still has to  
16 get done. So, when we have less-than-optimal staffing  
17 levels and we have to use overtime and temporary labor,  
18 we still spend the payroll dollars.

19 Q But you did agree with me that the company's  
20 budgeted employee counts were not generally achieved  
21 when compared to actual, right?

22 A The total authorized head count at optimal  
23 staffing levels is sometimes greater than what we  
24 actually have on payroll because of normal turnover  
25 which, for any utility, is 6 to 7 percent a year.

1 Q Now, contrast that to KS-9 where it shows  
2 the planned payroll and actual is -- well, if we look  
3 at the planned payroll and we look at the actual, it is  
4 1.21 percent higher than planned.

5 A That's correct.

6 Q And you consider that quite close to being  
7 to the plan, that 1.21 percent variance?

8 A Yes. On dollar figures this large, that's  
9 extremely close.

10 Q And with the employee countdown, are the  
11 dollars associated with the employee shortfall made up  
12 with overtime?

13 A In part. That's one part of the equation.  
14 Temporary labor overtime, sometimes contract work, but  
15 overtime is a driver.

16 Q Is any of the gap made up, if you will, by  
17 incentive compensation?

18 A I want to be sure I understand your  
19 question. I don't understand that.

20 Q Okay. So, you have a planned payroll, and  
21 you have an actual. And there's a difference --

22 A Oh, I see. No, incentive compensation is  
23 not a driver. Overtime is the single largest driver.

24 Q Is it a factor? Is there incentive  
25 compensation that would make up that difference, if you

1 will, of planned and actual, some of it you said is  
2 overtime. Is any of it incentive compensation?

3 A Generally, no, but there's going to be  
4 variability from year to year in incentive compensation  
5 and total, but our plan is pretty consistent from year  
6 to year as demonstrated through our filings.

7 Q Let's look at -- I think we're about to end  
8 this line of cross.

9 CHAIRMAN BROWN: Did you say end the whole  
10 line of cross?

11 MR. REHWINKEL: Yes, Madam Chairman. I know  
12 we're kind of looking at the clock here.

13 BY MR. REHWINKEL:

14 Q Let's look at POD-3. Do we have that in the  
15 packet here? Do I have the right work paper for the  
16 head count.

17 CHAIRMAN BROWN: Yes, you have POD-3, C-35.  
18 Let's mark that, if you'd like.

19 MR. REHWINKEL: Yes.

20 CHAIRMAN BROWN: As 776.

21 (Exhibit 776 marked.)

22 CHAIRMAN BROWN: Ms. Slattery, do you have a  
23 copy of that?

24 THE WITNESS: Yes, I do.

25 CHAIRMAN BROWN: Please proceed,

1 Mr. Rehwinkel.

2 BY MR. REHWINKEL:

3 Q Do you recognize this document?

4 A Yes, I do.

5 Q Is this a payroll work paper that supports  
6 the payroll numbers that are in C-35?

7 A Yes -- well, no, I'm sorry, this is not a  
8 payroll document. This is a staffing document. So,  
9 this is the optimal staffing levels by month and by  
10 year that supports the head count figure on C-35.

11 Q And it, in turn, supports the payroll.

12 A As we've discussed, it is one factor in  
13 determining the payroll, yes.

14 Q Can you tell me by looking at this document  
15 what the July 2016 actual staffing was that you  
16 identified?

17 A Well, if I'm looking at the correct page and  
18 the correct document, this is the planned staffing. Am  
19 I correct? Am I looking at the correct thing?

20 Q Let's go to your rebuttal at Page 27. I'm  
21 about to drown in paper here. I've lost your testimony  
22 which you probably would like.

23 A It would be fine with me.

24 Q Page 27, Line 23.

25 A Yes, I'm there.

1 Q So, your July 2016 actual staffing level is  
2 9,092; is that right?

3 A Yes.

4 Q Now, what was the projected employee count  
5 for July 2016 based on Exhibit 776, if you could tell  
6 me?

7 A Under July 2016, that column total is 9,164.

8 Q Do we need to add any numbers to that? Were  
9 there some --

10 A Oh, I believe that this is an exhibit. We  
11 add 21 to that. There's a manual adjustment of 21 to  
12 the year, so if we're going to look at just one month,  
13 we can add 21 to the month.

14 Q So, 9,164 plus another 21; is that right?

15 A 9,146 plus another 21. I'm sorry. I'm  
16 looking at -- 9,164. You're correct, plus 21.

17 Q Yes. And if we look down in the  
18 December 2016 column right above the total of 9,086.5,  
19 we see 21. Is that the 21 you're talking about?

20 A Yes.

21 MR. REHWINKEL: Now, Madam Chairman, I think  
22 I need to --

23 CHAIRMAN BROWN: You're done?

24 MR. REHWINKEL: -- to identify another one  
25 which is 367.

1 CHAIRMAN BROWN: You said that was your last  
2 line.

3 MR. REHWINKEL: It's a long line.

4 CHAIRMAN BROWN: We will mark that as 777  
5 and that's Interrogatory 367.

6 (Exhibit 777 marked.)

7 MR. REHWINKEL: And once everybody has had a  
8 chance to look at this, I'm going to ask the  
9 witness to authenticate it, if she knows it, if it  
10 was prepared by her under her supervision and  
11 control and if it's accurate.

12 CHAIRMAN BROWN: Ms. Slattery, do you have a  
13 copy of it in front of you?

14 THE WITNESS: Yes, I do.

15 CHAIRMAN BROWN: All right, Mr. Rehwinkel.

16 BY MR. REHWINKEL:

17 Q Is this a document you're familiar with?  
18 Did you prepare it or was it prepared under your  
19 supervision and control, and is it true and correct?

20 A Yes.

21 Q So, in July of 2012 -- in 2012, what  
22 month -- let me just ask it this way. Isn't it true  
23 that in 2012, July had the highest employee count?

24 A Yes.

25 Q Isn't it true that that count in that month

1 **was driven by the temporary employee count?**

2 A Yes, that was one of the drivers of the head  
3 count. There was also an increased month over month in  
4 exempt.

5 Q **But it's also true that that July of 2012**  
6 **had the highest number of temporary employees?**

7 A Yes, that's correct.

8 Q **Let's look at 2013. Would you agree with me**  
9 **that July had the highest employee count?**

10 A I'm looking at 2013, and I do not agree that  
11 July had the highest total employee count. Looking at  
12 July 2013, total employee count, 9,642 -- that's not  
13 the highest. The highest --

14 Q **Are you saying it's April? No?**

15 A Let me look.

16 Q **January?**

17 A January.

18 Q **What about in 2014?**

19 A The highest employee count appears to be in  
20 February of 2014.

21 Q **All right. Let's do this. I'm asking it**  
22 **the wrong way. Let's ask about temporary employees.**  
23 **So, in 2013, did July have the highest number of**  
24 **temporary employees?**

25 MS. CLARK: Madam Chairman, I would like

1 to know if he could point to where in the  
2 rebuttal testimony this line of questioning  
3 relates to.

4 MR. REHWINKEL: Well, we're looking on  
5 Page 27. She's rebutting Mr. Shultz's staffing  
6 testimony and saying that their numbers are right,  
7 and I'm testing them.

8 CHAIRMAN BROWN: Mr. Rehwinkel, my  
9 understanding is that the witness has already said  
10 that she helped prepare this document?

11 MR. REHWINKEL: Yes.

12 CHAIRMAN BROWN: And these numbers  
13 reflect -- are what they are. I know you're  
14 asking her to acknowledge which one is higher and  
15 that kind of questioning.

16 MR. REHWINKEL: I see where you're going.  
17 What I would ask is if -- we can end this all and  
18 the torment here if the company will agree that we  
19 can accept this document, 777, and what I would  
20 ask to be identified as 778 which is late-filed  
21 Deposition Exhibit 3, and I can dispense with  
22 further cross examination.

23 CHAIRMAN BROWN: Okay. First, let me mark  
24 778 which is Slattery late-filed deposition  
25 Exhibit 3.



1 MR. REHWINKEL: Yes.

2 CHAIRMAN BROWN: And then let me give FPL an  
3 opportunity to look at it.

4 MS. CLARK: Madam Chairman, just so I'm  
5 clear, 777 and 778 he's asking if we will object  
6 to admitting it into the record?

7 CHAIRMAN BROWN: Yes.

8 MS. CLARK: We will not object to that.

9 (Exhibit 778 marked.)

10 MR. REHWINKEL: So I would ask one last  
11 question or series of --

12 MS. CLARK: Wait a minute. Wait a minute.  
13 You changed the deal, Mr. Rehwinkel.

14 MR. REHWINKEL: Having to do with  
15 authentication. That's all I wanted to do.

16 CHAIRMAN BROWN: Fair enough.

17 MS. CLARK: Okay.

18 BY MR. REHWINKEL:

19 Q So, you have 778 with you?

20 A I do.

21 Q And would you agree that -- you recognize  
22 it, of course?

23 A Yes, I do.

24 Q It's prepared by you or under your  
25 supervision or control?

1 A Yes, it was.

2 Q **And it is true and accurate?**

3 A Yes, it is.

4 CHAIRMAN BROWN: Thank you, Mr. Rehwinkel.

5 MR. REHWINKEL: With that, I'll end my  
6 cross.

7 CHAIRMAN BROWN: Oh, I was already going. I  
8 would be surprised of the other intervenors have  
9 any questions of since this witness is really  
10 rebutting OPC Witness Shultz. So, I want to  
11 preface that before I go to the other intervenors.  
12 Again, I would be very surprised.

13 Mr. Moyle.

14 MR. MOYLE: I do have some. One was  
15 specifically punted to me from the other one about  
16 the bias. So, I mean, I do have some questions,  
17 but the witness has been on the stand a long time.  
18 Is she comfortable moving on?

19 THE WITNESS: I'm comfortable.

20 CHAIRMAN BROWN: As am I, and I believe my  
21 fellow Commissioners are, too. No break.

22 EXAMINATION

23 BY MR. MOYLE:

24 Q **Good evening.**

25 A Good evening, Mr. Moyle.

1           **Q**       **One of the documents that was handed to me**  
2 **by OPC is Interrogatory 371. I don't think it was**  
3 **marked, Madam Chairman.**

4           CHAIRMAN BROWN: 371?

5           MR. REHWINKEL: 775.

6           CHAIRMAN BROWN: Yeah.

7           MR. MOYLE: Well, I missed it. It was  
8 Interrogatory 371?

9           CHAIRMAN BROWN: It's Exhibit 775.

10 BY MR. REHWINKEL:

11          **Q**       **You have that in front of you?**

12          A        Yes, I do.

13          **Q**       **And then you sponsored it?**

14          A        Yes, I did.

15          **Q**       **And familiar with it?**

16          A        Yes, I am.

17          **Q**       **So, I guess my question is this: I've asked**  
18 **a number of witnesses about what FPL earns on in terms**  
19 **of getting their ROE. Does FPL earn on its salaries**  
20 **that it pays people?**

21                MS. CLARK: Madam Chairman, I object to this  
22 question as unrelated to her rebuttal testimony.

23                MR. MOYLE: This exhibit that they've asked  
24 questions of is capitalized. It has a capitalized  
25 expense.

1 CHAIRMAN BROWN: One second. Staff.

2 MS. BROWNLESS: I have to agree with FPL on  
3 this one. These are the types of questions that  
4 should have either been asked on direct to other  
5 witnesses. They are not -- Ms. Slattery has  
6 repeatedly stated that she is the person --

7 CHAIRMAN BROWN: So the court reporter can  
8 hear, Ms. Brown was making her sagacious remarks.

9 MS. BROWNLESS: She has repeatedly stated  
10 that her area of expertise is employees, employee  
11 benefits, human relations, whatever the buzz word  
12 is that goes with employees and employee stuff.

13 General questions that appear to me to be  
14 accounting questions totally unrelated to  
15 Ms. Slattery's rebuttal, I believe, are way beyond  
16 the scope of rebuttal testimony and should be  
17 disallowed.

18 CHAIRMAN BROWN: Mr. Moyle, can you move  
19 long with your questions?

20 MR. MOYLE: Sure.

21 CHAIRMAN BROWN: Thank you.

22 BY MR. MOYLE:

23 Q When you were on the stand in your direct,  
24 we had a document that had parameters or criterion for  
25 the performance, incentive pay. Do you remember that?

1 A Yes, I do.

2 Q And I had asked you a question about rate  
3 case outcome, and that was a criterion on that  
4 document, correct?

5 A I believe we were looking at an  
6 interrogatory response which is an exhibit and the 2012  
7 annual incentive plan goals.

8 Q That's right.

9 A Yes.

10 Q Is rate case performance outcome like it was  
11 in 2012 similarly --

12 MS. CLARK: Objection. And it's the same  
13 objection. What does that have to do with the  
14 rebuttal testimony that has been filed here which  
15 basically deals with OPC's witness?

16 CHAIRMAN BROWN: Sustained.

17 MR. MOYLE: Can I make a proffer, please?

18 CHAIRMAN BROWN: You can make a proffer.

19 MR. MOYLE: So, if I had been permitted to  
20 ask these questions, I think the answer may have  
21 been yes, that people are compensated based on the  
22 outcome of the rate case.

23 I think that goes to bias of a witness. I  
24 think a witness -- when a witness takes the stand  
25 at any point in time --

1           CHAIRMAN BROWN: Mr. Moyle, did you have an  
2           opportunity to ask Ms. Slattery these questions on  
3           direct?

4           MR. MOYLE: I think I probably did on  
5           direct.

6           CHAIRMAN BROWN: I do believe you did as  
7           well. So, I don't think it's appropriate right  
8           now in rebuttal.

9           BY MR. MOYLE:

10          **Q        Do you know what the total compensation and**  
11          **benefit expense is for 2017 that you're asking this**  
12          **Commission to approve?**

13          MS. CLARK: Again, Madam Chairman, that was  
14          part of her direct testimony.

15          CHAIRMAN BROWN: I agree.

16          BY MR. MOYLE:

17          **Q        The documents that you were asked by staff**  
18          **to authenticate -- were they between 1 and 10, 10 and**  
19          **100 or 100 to 1000?**

20          A        Over a hundred pages.

21          **Q        I'm sorry?**

22          A        I know it's over a hundred pages. I'm not  
23          sure how many unique documents.

24          **Q        And you have in your rebuttal testimony**  
25          **about how you believe monies for incentive compensation**

1 should be allocated between the company, its  
2 shareholders and ratepayers, correct? And you  
3 criticized Mr. Shultz for suggesting that there be a  
4 sharing of expense between ratepayers and shareholders;  
5 is that right?

6 A That's absolutely correct. These are  
7 necessary and reasonable costs incurred in delivering  
8 service to our customer. And under basic cost of  
9 service, regulation should be 100 percent includable in  
10 rates.

11 Q And you have duties, do you not, to  
12 shareholders and to ratepayers?

13 MS. CLARK: Objection. Beyond the scope of  
14 rebuttal testimony.

15 MR. MOYLE: I'm trying to show they are all  
16 interrelated and to the extent she has duties to  
17 shareholders and it's fulfilling duties to  
18 shareholders and other FPL employees --

19 CHAIRMAN BROWN: I'll allow the very general  
20 question. That's not definitely addressed in her  
21 rebuttal, but it is somewhat relevant. You can  
22 answer.

23 BY MR. MOYLE:

24 Q I think you had answered and said that you  
25 do have duties to shareholders and you also have duties

1 to ratepayers, correct?

2 A I did not. I don't recall saying that.

3 Q I'm confused as to when the objection was  
4 inserted. Would you answer that question, please?

5 A I want to make sure I answer it as you've  
6 asked it. Could you please rephrase it or restate it,  
7 please.

8 Q Let me try it this way. Do you believe that  
9 you have duties to shareholders?

10 A Are you asking about me personally or are  
11 you asking me to speak on behalf of the company?

12 MS. CLARK: Again, Madam Chairman, this is  
13 beyond the scope of her rebuttal testimony. He  
14 could have asked it on direct and he didn't. It's  
15 getting late, if we want to get this --

16 CHAIRMAN BROWN: Mr. Moyle, I'm trying to  
17 give you some latitude.

18 MR. MOYLE: I appreciate it. You did, and  
19 you ruled that I could ask her the question. And  
20 now, I'm trying to ask her the question, and I'm  
21 either not formulating it well or -- and  
22 obviously, I'm not asking her personally like --  
23 you know, you're up here as a witness on behalf of  
24 company.

25 CHAIRMAN BROWN: Mr. Moyle, I'll allow you



1 to ask one question that's very general in scope,  
2 as you stated previously. And anything more  
3 detailed, though, it does not go to her rebuttal  
4 at all.

5 MR. MOYLE: So, I'll have to ask it in a  
6 compound way to get both shareholders and  
7 ratepayers, if that's okay.

8 BY MR. MOYLE:

9 Q Ma'am, do you believe that you have duties  
10 to both shareholders and ratepayers?

11 A I'm going to answer this within the scope of  
12 my rebuttal testimony which is that our incentive  
13 compensation plan is designed entirely around customers  
14 and aligning the goals of every employee in the company  
15 with the interest of customers.

16 MR. MOYLE: And I wasn't intending to ask it  
17 within the scope of that. I was asking it in a  
18 broader context.

19 CHAIRMAN BROWN: She was allowed to answer  
20 it the way she felt good.

21 MR. MOYLE: And I'm not allowed to ask her a  
22 follow-up on the broader question with respect  
23 to --

24 CHAIRMAN BROWN: Could you move along.  
25

1 BY MR. MOYLE:

2 Q So, beyond the plan -- I'm just trying to  
3 ask you: Do you think you have fiduciary duties to  
4 shareholders?

5 MS. BROWNLESS: This is so far beyond the  
6 scope of the rebuttal testimony --

7 CHAIRMAN BROWN: Sustained. Please move  
8 along.

9 MR. MOYLE: I'll just make a proffer, and  
10 we'll wrap it up. If I'd been permitted to ask  
11 questions with respect to the duties she has to  
12 shareholders -- she also has duties to ratepayers.  
13 Some of them overlap; some of them are different,  
14 but that that would serve as a basis for an  
15 allocation of cost as proposed by Witness Shultz.

16 He's suggesting that some of the things be  
17 allocated -- incentive compensation be allocated  
18 to shareholders and others be allocated to  
19 ratepayers. What I wanted to try to point out was  
20 that some of his suggestion is supported by the  
21 interplay between shareholders and ratepayers and  
22 how that works.

23 So, thank you for the ability to make the  
24 proffer.

25 CHAIRMAN BROWN: That was a very creative

1 approach. All right. Moving along to hospitals.

2 MR. WISEMAN: No questions.

3 CHAIRMAN BROWN: Retail Federation.

4 MR. LAVIA: No questions. Thank you.

5 CHAIRMAN BROWN: FEA.

6 MR. JERNIGAN: No questions. Thank you.

7 CHAIRMAN BROWN: Sierra.

8 MS. CSANK: No questions, ma'am.

9 CHAIRMAN BROWN: Wal-Mart.

10 MR. WILLIAMSON: No, ma'am.

11 CHAIRMAN BROWN: Staff.

12 MS. BROWNLESS: No, ma'am. Thank you.

13 CHAIRMAN BROWN: Commissioners -- Larsons.

14 Sorry.

15 MR. SKOP: Larsons have no questions.

16 CHAIRMAN BROWN: My apologies, Mr. Skop.

17 Commissioners. Redirect.

18 MS. CLARK: May I have just a moment?

19 CHAIRMAN BROWN: Yes.

20 MS. CLARK: Mr. Butler has just shortened  
21 this up for me.

22 EXAMINATION

23 BY MS. CLARK:

24 Q Mr. Rehwinkel asked you a number of  
25 questions about head count and relating to head count.

1    **What is your view of the use of head count to assess**  
2    **payroll expenses?**

3           A       Head count is just one factor that should be  
4    considered.  As I mentioned earlier, the complement of  
5    employees, the most important driver is the planned  
6    work, including, for example, projects such as  
7    construction projects and outages and the use of  
8    overtime and temporary labor to account for the costs  
9    of turnover and lost productivity from turnover.

10           That is why the only accurate way to assess  
11    and analyze payroll costs is to actually look at  
12    payroll.

13           And KS-9 to my rebuttal testimony does that  
14    and proves over a five-year period, the company has  
15    done a very good job of accurately forecasting payroll  
16    and actually had actual costs just slightly over plan.

17           MR. REHWINKEL:  Madam Chairman, I believe  
18    that's all I have.

19           CHAIRMAN BROWN:  Okay.  You have 351 for  
20    this witness.

21           MS. CLARK:  We would move that into the  
22    record.

23           CHAIRMAN BROWN:  Any objection?  Seeing  
24    none, we will go ahead and move 351 into the  
25    record.

1 (Exhibit 351 was admitted.)

2 CHAIRMAN BROWN: Public counsel, you have a  
3 number of, one of which you said, 774, you were  
4 not going to request to move into the record. You  
5 have 772 through 778.

6 MR. REHWINKEL: Yes, we would move, except  
7 for 774, all exhibits, 772 through 778.

8 (Transcript continues in sequence in Volume  
9 35.)

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## CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON       )

I, LISA GAINEY, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED this 1st day of September, 2016.



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LISA GAINEY  
NOTARY PUBLIC  
COMMISSION #EE198942  
EXPIRES MAY 23, 2020