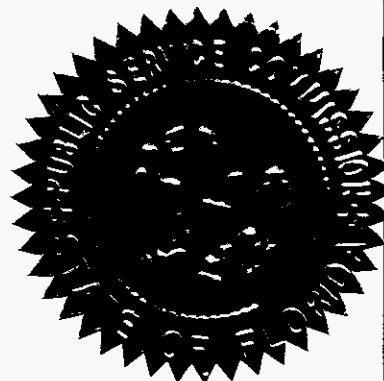


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES DOCKET NO. 080677-EI
BY FLORIDA POWER & LIGHT COMPANY.

2009 DEPRECIATION AND DISMANTLEMENT DOCKET NO. 090130-EI
STUDY BY FLORIDA POWER & LIGHT
COMPANY.



VOLUME 29

Pages 3917 through 4028

ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Friday, September 4, 2009

TIME: Commenced at 9:30 a.m.

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

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

PARTICIPATING: (As heretofore noted.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESSES

NAME:	PAGE NO.
Kim Ousdahl	
Cross-Examination by Ms. Bennett	3925
Redirect Examination by Mr. Butler	4004

EXHIBITS

1	EXHIBITS		
2	NUMBER:	ID	ADMTD.
3	473 FPL's Discovery Responses	3921	3925
4	474 Dismantlement and Discovery Responses	3922	3925
5	475 Non-Investor Capital Resources	3923	3925
7	476 Discovery Responses for GBRA	3923	3925
8	477 Deposition Exhibits 2 through 5 of Ms. Ousdahl	3924	3925
9	478 Connect/Disconnect Service Charge	3924	3925
10	479 Removal Cost Account 355	3924	3925
11	480 Late-Filed Deposition Exhibit 6	3953	4015
12	353 - 358		4014
13	117 - 126		4014
14	466 - 468		4015
15	469 - 472		4015
16	481 (Late-Filed) Flight Logs and Passenger Seat Manifest for Fixed-Wing Aircraft, 2006 to Present		4017
17	Exhibit 35 on Comprehensive Exhibit List, Item 65		4018
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 28.)

4 **CHAIRMAN CARTER:** We are back on the record.
5 Was there a preliminary matter before we begin?

6 **MS. CLARK:** Just to let you know,
7 Mr. Chairman, we are trying to work on the schedule
8 again, and see where we might wind up. And staff wants
9 to check a few things, and maybe when Ms. Ousdahl is
10 done we can talk about it.

11 **CHAIRMAN CARTER:** Okay. We will give you guys
12 a couple of minutes after Ms. Ousdahl, and we can do
13 that. All right. Is that okay with all the parties?

14 Okay.

15 Ms. Bennett, you're recognized.

16 **MS. BENNETT:** Thank you.

17 Before Mr. Meischeid, we were starting to
18 introduce my stack of exhibits, and then there were some
19 concerns with some of the inclusions or exclusions in
20 the exhibits. Evidently my typing skills failed me. So
21 I have provided everyone with a corrected cover sheet
22 for Exhibit Number 473.

23 Basically, to let everybody know the nuclear
24 fuel lease, instead of 197, it should have been 187 to
25 192, and we added 197 to 198. And then in addition we

1 are missing Attachment 2 under the GBRA. We will add
2 these to the court reporter's stack and correct it
3 completely. And I think then the other thing that we
4 did was to delete -- there was a reference to deposition
5 exhibits in the old list, and I had included that in a
6 separate stack. So you will get the deposition
7 exhibits, but it is not in this Stack 1, which is
8 Exhibit Number 473. So with that --

9 **CHAIRMAN CARTER:** For ease of operation, I
10 appreciate it. Everybody is on the same page. You guys
11 have got it?

12 Okay. You may proceed.

13 **MS. BENNETT:** Okay. We would like FPL's
14 discovery responses marked as Staff's Exhibit Number 473
15 for this witness.

16 **CHAIRMAN CARTER:** All right.

17 **MS. BENNETT:** And my second stack is --

18 **CHAIRMAN CARTER:** Hang on. FPL's discovery
19 response.

20 (Exhibit Number 473 marked for
21 identification.)

22 **CHAIRMAN CARTER:** Okay. Your second stack.

23 **MS. BENNETT:** My second stack I would like
24 marked as Staff's 474 for Ms. Ousdahl.

25 **CHAIRMAN CARTER:** Okay.

1 **MS. BENNETT:** At the break, we were not
2 certain whether OPC had any objections. There were
3 three documents that they could not find in the stack.
4 We are okay with it.

5 Additionally, there is an extra set. It is
6 not listed here. We are going to take it out. It's
7 staff's eighth set Number 84. We will take it out of
8 the stack. We admitted it with a prior witness.

9 **CHAIRMAN CARTER:** Okay. So what is our
10 subject description for 474?

11 **MS. BENNETT:** FPL's Responses to Various
12 Discovery. I'm sorry. Let me try that again.

13 **CHAIRMAN CARTER:** Try that again.

14 **MS. BENNETT:** Dismantlement and Depreciation
15 Discovery Responses.

16 **CHAIRMAN CARTER:** I like the one first better,
17 but that's okay. Give it to me again. Dismantling --

18 **MS. BENNETT:** Dismantlement and Depreciation
19 Discovery Responses.

20 **CHAIRMAN CARTER:** Okay.

21 (Exhibit Number 474 marked for
22 identification.)

23 **MS. BENNETT:** Then we are at 475.

24 **CHAIRMAN CARTER:** Okay. 475.

25 **MS. BENNETT:** Let me see if I can shorten this

1 title to Non-Investor Capital Sources.

2 **CHAIRMAN CARTER:** Non-Investor Capital
3 Sources. Okay.

4 (Exhibit Number 475 marked for
5 identification.)

6 **MS. BENNETT:** The next exhibit, 476.

7 **CHAIRMAN CARTER:** 476.

8 **MS. BENNETT:** Discovery Responses for GBRA.

9 **CHAIRMAN CARTER:** Discovery Responses for
10 GBRA.

11 (Exhibit Number 476 marked for
12 identification.)

13 **MS. BENNETT:** And I need to let the court
14 reporter and Commission staff know that -- I'm sorry,
15 and the Commission know that the questions and answers
16 to Number 66, we just included the attachment, but we
17 need to include the interrogatory and answer itself, in
18 addition. So that will be corrected in the official
19 record.

20 **CHAIRMAN CARTER:** Okay.

21 **MS. BENNETT:** 477.

22 **CHAIRMAN CARTER:** 477.

23 **MS. BENNETT:** Deposition Exhibits 2 through 5
24 for Witness Ousdahl.

25 **CHAIRMAN CARTER:** Okay.

1 (Exhibit Number 477 marked for
2 identification.)

3 **MS. BENNETT:** 478, Connect/Disconnect Service
4 Charge.

5 **CHAIRMAN CARTER:** Okay.

6 (Exhibit Number 478 marked for
7 identification.)

8 **MS. BENNETT:** 479, Removal Cost Account 355.

9 **CHAIRMAN CARTER:** Removal Account --

10 **MS. BENNETT:** Removal Cost Account 355.

11 **CHAIRMAN CARTER:** Okay.

12 (Exhibit Number 479 marked for
13 identification.)

14 **MS. BENNETT:** I will be -- as I cross-examine,
15 I have a couple more exhibits, but I'm not ready to
16 present those yet.

17 **CHAIRMAN CARTER:** Okay.

18 **MS. BENNETT:** But with this list, I am
19 wondering if the parties agree to the admission of these
20 exhibits, or if I need to introduce each one of them
21 through the witness.

22 **CHAIRMAN CARTER:** How about it, guys and
23 dolls, are there any objections?

24 **MR. BUTLER:** No objection from FPL.

25 **MR. BECK:** No objection from OPC.

1 **MS. GRIFFITHS:** No objections.

2 **CHAIRMAN CARTER:** Ms. Bradley?

3 **MS. BRADLEY:** No objections.

4 **CHAIRMAN CARTER:** Mr. Moyle?

5 **MR. MOYLE:** No objection.

6 **CHAIRMAN CARTER:** Mr. Wright?

7 **MR. WRIGHT:** No objections, Mr. Chairman.

8 **CHAIRMAN CARTER:** Okay. Show it done.

9 **MS. BENNETT:** Thank you very much.

10 **CHAIRMAN CARTER:** Does that include,
11 Ms. Bennett, that is number -- what number is that
12 inclusive of?

13 **MS. BENNETT:** It is 473 through 479.

14 (Exhibit Numbers 473 through 479 admitted into
15 the record.)

16 **CHAIRMAN CARTER:** Thank you. You may proceed.

17 **COMMISSIONER EDGAR:** Mr. Chairman, just for my
18 records, are those admitted at this time?

19 **CHAIRMAN CARTER:** Yes, they are, admitted into
20 evidence.

21 **COMMISSIONER EDGAR:** Thank you.

22 CROSS EXAMINATION

23 **BY MS. BENNETT:**

24 **Q.** Ms. Ousdahl, I'm not certain which attorney
25 was asking you questions about depreciation rates, and I

1 think I heard you say that depreciation rates in Florida
2 are tied to increases in base rates. Was that a correct
3 recollection?

4 **A.** I was asked a hypothetical about the effect of
5 changes in the rates on return, and I answered my
6 hypothetical making a statement that if they were linked
7 it would have no effect.

8 **Q.** Okay. But it is true in Florida that
9 depreciation studies are required at least once every
10 four years, correct?

11 **A.** That is true.

12 **Q.** And rate base -- or base rate proceedings are
13 not required every four years, are they?

14 **A.** No, they are not.

15 **Q.** The first thing I want to talk with you about
16 is in a prior discovery response staff asked that FPL
17 give updated escalation rates from the global insight
18 applied to the fossil dismantlement study. And FPL
19 provided us documents from the Fifth Set of Production
20 of Documents Numbers 25 and 26. Have you had an
21 opportunity to review those? They were not in the stack
22 that I provided you.

23 **A.** No, I haven't recently reviewed that.

24 **Q.** I am going to hand you a copy of FPL's
25 response. I have folded over the page that I want you

1 to look at. I think I folded it over.

2 And this is mostly a clarification question.
3 We asked for the most updated depreciation rates. On
4 the page that includes the global insight, formerly DRI
5 inflation rates, it is Hearing Exhibit 7348 at the
6 bottom of the page.

7 There are two different dates on this
8 document. One at the top says global insight, formerly
9 DRI inflation rates, August 2008. But at the bottom
10 there is an FPL notation that says FPL 155724-dismantle
11 13, February 09GIXLS. Do you see those?

12 **A.** I do.

13 **Q.** What is the corrected date for this document,
14 is it August 2008 or February 2009?

15 **A.** Well, I am going to make an assumption,
16 because I don't even have, you know, the written
17 response. I just have -- or the question, so I just
18 have the data. But it appears that the title says
19 global insight inflation rates August 2008. At the
20 bottom it looks to be an Excel file, title or timing.
21 So it was probably an Excel file generated or dated
22 February. So I am assuming these are the August 2008
23 rates. I can tell you the August 2008 rates were
24 included in our study that we filed as part of this
25 proceeding.

1 **Q.** Have you provided or have you updated the
2 acceleration rates? I didn't say that right, escalation
3 rates?

4 **A.** Escalation rates. Yes, I believe there was an
5 interrogatory that a party posed to us asking what the
6 impact was -- or a POD, I don't know which, during the
7 process of discovery, asking what the impact would be on
8 an update based on the spring rates, and I believe that
9 was provided. I don't have that with me.

10 **MS. BENNETT:** Could I ask, and I know this is
11 a dangerous term, but for a late-filed exhibit for that
12 updated escalation rates, because the POD that we have
13 in front of us is in response to asking for the updated
14 rates, so we need to have that updated escalation rate.

15 **CHAIRMAN CARTER:** Hang on a sec. Hang on a
16 sec.

17 Ms. Bradley, I'm always going to come to you
18 first on this issue.

19 **MS. BRADLEY:** I was afraid of that. Well,
20 again, I would ask if it is something that needs to be
21 explored that we be allowed an opportunity to
22 cross-examine the person or to file additional evidence
23 in opposition.

24 **CHAIRMAN CARTER:** Ms. Bennett.

25 Mr. Moyle. Wait. Mr. Moyle to be heard.

1 **MR. MOYLE:** FIPUG would object, and I think,
2 you know, I am not sure with respect to the specifics of
3 this, but for the idea to be consistent, you know, we
4 are at a 120.57 evidentiary hearing, and to the extent,
5 you know, we are going to get evidence beyond that to
6 support certain propositions, you know, I think it's
7 improper.

8 You know, the other discussion previously was
9 about the salary information, going and double-checking
10 some salary information. I don't think that is going to
11 help FIPUG's case at all, so I don't know if that was
12 officially made, that request, but the idea is, as I
13 understand it, that this is the proceeding to determine
14 disputed issues of fact, and the evidence should be here
15 today. Now, you know, we would maintain that objection.

16 **CHAIRMAN CARTER:** Mr. Wright, do you want to
17 be heard on this matter before I go further?

18 **MR. WRIGHT:** No, thank you, Mr. Chairman.

19 **CHAIRMAN CARTER:** A wise man. Ms. Bennett.

20 **MS. BENNETT:** The updated escalation --

21 **CHAIRMAN CARTER:** Do you really need it?
22 Who was that?

23 **MS. BENNETT:** That was me.

24 **CHAIRMAN CARTER:** Did I miss someone? Oh,
25 that was you? Wow. Are you a ventriloquist today?

1 **MS. BENNETT:** I am being told we need the most
2 recent escalation rates. We did request it through
3 discovery process. As we kind of walked through with
4 Ms. Ousdahl, it is not clear whether this document is
5 the updated escalation rates or not. We could enter it
6 into the record and then verify through a late-filed
7 exhibit that this is the correct and most up-to-date
8 escalation rates.

9 **CHAIRMAN CARTER:** Well, she is here --

10 **MS. BRADLEY:** Mr. Chair.

11 **CHAIRMAN CARTER:** Go ahead, Ms. Bradley.

12 **MS. BRADLEY:** Part of our problem is we
13 haven't seen what they are talking about filing, and
14 until we do so, it may be that we don't have any
15 objection, but if we do, we want to preserve our right
16 to explore further whatever we need to do.

17 **MS. BENNETT:** And perhaps since we might be
18 going to September 16th, we would have time for
19 Ms. Ousdahl to come back if she needs to.

20 **CHAIRMAN CARTER:** Oh, we will be done by -- we
21 will be done Saturday. What are you talking about?
22 Where is your sense of optimism?

23 **MS. BENNETT:** Okay. Maybe they can have it by
24 tomorrow.

25 **CHAIRMAN CARTER:** She didn't sound convincing

1 at all, did she?

2 Ms. Helton, a recommendation.

3 **MS. HELTON:** What I would like to do, Mr.
4 Chairman, is inquire of the company whether they would
5 be able to have the most recent escalation factors by
6 tomorrow if this is not, in fact, that.

7 **MR. BUTLER:** Well, I think it would be useful
8 if we could have a couple of moments to confer here and
9 see what we have. We are not sure what has already been
10 provided and what has not already been provided. We are
11 not anxious to have Ms. Ousdahl have to come back just
12 to deal with this updated sheet if it is something that
13 has already been provided. So I just want to be sure
14 that we know what, indeed, is in the production of
15 documents, so that would be our request.

16 **CHAIRMAN CARTER:** Okay. Let's do this.

17 **MS. HELTON:** Well, maybe, Mr. Chairman, while
18 they are looking at that, Ms. Bennett can continue with
19 her line of questioning, and we can come back to this.

20 **CHAIRMAN CARTER:** Yes, let's do that. Can you
21 just come back to that line of questioning later while
22 they see if they have got the updated information? Can
23 we do that?

24 **MS. BENNETT:** Sounds good to me.

25 **CHAIRMAN CARTER:** Okay. Let's proceed.

1 **MR. BUTLER:** That would be fine. The only
2 thing I would note is we may -- in fact, I know we will
3 want to confirm with the witness that our understanding
4 is consistent with hers before we have an to answer
5 that.

6 **CHAIRMAN CARTER:** Okay. We will take a
7 moment. If you have got it, we will take a moment and
8 allow you a chance to talk with the witness to make sure
9 it is the most updated information.

10 Okay. Ms. Bennett.

11 **BY MS. BENNETT:**

12 **Q.** The next item I want to talk to you about is
13 something we discussed at length in the deposition, and
14 that is adjustments, and adjustments to capital
15 structure once they are made to the rate base. First of
16 all, can you tell us a little bit about what I am
17 talking about about adjustments? Can you explain that
18 to the Commission?

19 **A.** Sure. The process that we need to follow here
20 in Florida involves development of a rate base, which is
21 really probably common in any regulatory ratemaking
22 setting, where you determine what your invested capital
23 is that you are going to recover through base rates, and
24 you look at additions or subtractions to working capital
25 to develop that total rate base.

1 In our case here in Florida, as we have
2 discussed this morning, there are a number of invested
3 capital items and working capital items that are
4 recovered outside of base rates and are being recovered
5 through clauses. There are also construction work in
6 progress balances that are removed from base rates, and
7 we earn a return on those, a non-cash return through
8 AFUDC. So once that rate base is developed for purposes
9 of setting base rates, we then must reconcile the
10 sources of funds that we are going to use to finance
11 that rate base for purposes of setting rates. And that
12 is what is happening.

13 I'm sure that we are going to have some
14 discussion on Schedule D-1a, and that schedule is all
15 about trying to take our total per books capital
16 structure, which includes all of our sources of funds
17 and reconcile that to our allowed rate base.

18 I just would add one other note. With that
19 starting point of company total per books, that is the
20 company's forecast of the proper weightings that we
21 believe this Commission should allow to develop our
22 overall return. So from my standpoint in adjusting, I
23 want to make sure I maintain those weightings that you
24 are going to determine as appropriate as they are then
25 applied in terms of a rate of return to overall rate

1 base.

2 Q. I have tried to make Mr. Maurey explain that
3 to me about three times, too. But, in our deposition we
4 had a lengthy review of if and how non-investor sources
5 of capital, such as deferred taxes, and investment tax
6 credits, and customer deposits can be identified for
7 regulatory treatment purposes. Do you recall?

8 A. Yes, I recall our discussion.

9 Q. And as I understand, FPL's position is that
10 those sources of non-investor income can't be identified
11 as a separate source for purposes of making pro rata
12 adjustments, is that correct?

13 A. Well, I wouldn't describe them as income. Our
14 position is as I just noted, once the Commission
15 determines what the proper weightings of equity and debt
16 are, we should maintain that overall weighted capital
17 structure as it is used to develop a return and as that
18 return is applied to rate base. So our method of pro
19 rata would preserve those weightings.

20 Q. Well, I think as you and I recall, we walked
21 through several prior Commission orders in which the
22 Commission did make pro rata adjustments over investor
23 sources of capital. I think I used income the first
24 time incorrectly. From investor sources of capital from
25 the capital structure, is that correct? Do you recall

1 those orders that we walked through?

2 **A.** You had asked me to review some orders the
3 evening before. I did so, and I made a couple of
4 discussion points on the record -- in the deposition as
5 to their irrelevance to the FPL situation.

6 **Q.** Okay. Understanding that FPL's position is
7 different than some of the prior Commission decisions, I
8 want us to go ahead and walk through those D schedules
9 together. And I think I have it in the third stack,
10 which has been identified and entered into the record as
11 Exhibit 475. So the big stack to your left.

12 **A.** I will look for it. I would note, I disagree
13 with you that our position is inconsistent with previous
14 Commission decisions. Now, give me a little more
15 direction on --

16 **Q.** It is the one that says discovery responses
17 and MFRs for non-investor capital sources, tax credits,
18 affiliate operations. That is the cover page. It is
19 underneath the two huge stacks.

20 **A.** About this size? Okay, I think I've got it.
21 Yes. Yes. Thank you.

22 **Q.** And before we start walking through the D-1
23 schedules, I have a couple of preliminary questions.
24 Would you agree, based on the company's petition for the
25 projected 2010 test year, that the annual revenue

1 requirement associated with 100 basis points change in
2 ROE is 133.597 million?

3 **A.** That is what this interrogatory says, yes.

4 **Q.** And you sponsored that interrogatory, correct?

5 **A.** It may have been me or Armando -- Witness
6 Pimentel.

7 **Q.** Would you agree, based on the company's
8 petition for the projected 2011 test year, that the
9 annual revenue requirement associated with 100 basis
10 points change in ROE is 139.535 million?

11 **A.** Yes. I still think these are reasonable
12 estimates, but they may have changed slightly since the
13 introduction of the adjustments on KO-16.

14 **Q.** Okay. I am going to ask you to turn to MFR
15 Schedule D-1b, and that is included in FPL's Response to
16 Staff's Ninth Set of Interrogatories Number 115, which
17 is in that packet. Let me know when you are there.

18 **A.** I'm there.

19 **Q.** What does MFR Schedule D-1b show?

20 **A.** D-1b provides the specific item-by-item
21 support for all of the adjustments in Columns 3 and 4 of
22 D-1a, the specific adjustments that we are ordered to
23 make by the Commission and the pro rata adjustments we
24 make for all other items we must remove from capital
25 structure.

1 **Q.** And do you have your MFR Schedule C-22. I
2 don't believe it is in the package.

3 **A.** I'm sure I can get C-22.

4 **MR. BUTLER:** We will have to get one. I am
5 going to need to get my copy, as well, so if you want to
6 hold on a moment.

7 (Off the record.)

8 **BY MS. BENNETT:**

9 **Q.** And you have that in front of you,
10 Ms. Ousdahl?

11 **A.** I do.

12 **Q.** What does MFR Schedule C-22 show?

13 **A.** It is the detail around the development of the
14 taxes, both current and deferred for the current rates
15 for the test year. I am looking at 2010. I'm not sure
16 which year you wanted me to look at.

17 **Q.** 2010 is fine. It is kind of a general
18 explanation to begin with. Could you please provide an
19 example for us taking a line on MFR Schedule C-22 and
20 tying it back to D-1b?

21 **A.** No. I don't understand what you are asking me
22 to do. C-22 shows the tax activity, tax provisioning
23 for the year 2010 under current rates. D-1b is
24 adjusting proposed rate base, and these are balance
25 sheet amounts on D-1b that we are adjusting.

1 **Q.** Okay. All right. Then let's just turn to
2 Page 3 of 6 of Schedule D-1b, FPL's Response to Staff's
3 Ninth Set of Interrogatories, and just take a look at
4 Line 10, named accounts receivable associated costs.

5 **A.** Okay. I'm there.

6 **Q.** Were there any investment tax credits
7 available when this investment was made?

8 **A.** This is not an investment. This is accounts
9 receivable from associated companies. It is a balance
10 sheet item, an asset. It is a receivable on our balance
11 sheet that represents dollars that are going to come to
12 us from one of our family of companies. And, no, to
13 answer your question, there are no deferred taxes
14 associated with that.

15 **Q.** Okay. And then on Page 3 of Schedule D-1b,
16 Line 11, accounts receivable tax refund, were there any
17 investment tax credits available when this investment
18 was made?

19 **A.** Well, this is a tax refund associated with any
20 number of years. There would be any number of items
21 that might be included in that tax refund. I couldn't
22 tell you.

23 **Q.** So, it's a maybe?

24 **A.** It could be anything. I mean, when we settle
25 out issues with the IRS, they generally involve multiple

1 years and multiple issues. They are not run off. So we
2 have recorded a receivable for probable settlement
3 amounts. They may have been settled, that we are
4 awaiting cash receipt of, and they could involve any
5 number of issues that may or may not include deferred
6 tax items.

7 Q. Okay. How about Line 16, pole attachments and
8 rents receivable, were there any investment tax credits
9 available when this investment was made?

10 A. I do not believe so.

11 Q. Okay. Look at Line 5 named accumulated
12 deferred retirement benefits. That's Page 4.

13 A. Oh, a different page.

14 Q. Were there any investment tax credits
15 available when this investment was made?

16 A. No ITCs, no.

17 Q. Okay.

18 A. There could well be deferred taxes. On most
19 benefit items there are.

20 Q. And also on Page 4 there is a Line 9 named
21 gain on sale of emission allowance. Any investment tax
22 credits available when this investment was made?

23 A. No investment tax credits. There likely would
24 be deferred tax timing differences.

25 Q. Okay. The same question for 13, pole

1 attachments, rents payable. Any investment tax credits
2 available when this investment was made?

3 **A.** No.

4 **Q.** Okay. And let's go to Line 14 named SJRPP
5 accelerated recovery. Any investment tax credits
6 available when this investment was made?

7 **A.** No.

8 **Q.** Do you have available in front of you
9 Interrogatory 137? I believe that is in your stack.

10 **A.** Any idea where?

11 **MR. WRIGHT:** Madam Chairman.

12 **COMMISSIONER EDGAR:** Yes, sir.

13 **MR. WRIGHT:** Might I just ask if that is
14 within one of the numbered exhibits, if I could know
15 which exhibit number it is. I would like to try to find
16 it.

17 **MR. BUTLER:** It looks to me like it is 475.
18 It's Item 4, is that right, Staff's Ninth Set of
19 Interrogatories 137. It would be non-investor capital
20 sources.

21 **MS. BENNETT:** Oh, yes, I'm sorry. It is in
22 that stack.

23 **COMMISSIONER EDGAR:** Mr. Wright, does that
24 help?

25 **MR. WRIGHT:** Yes, Madam Chairman. Thank you

1 very much.

2 **THE WITNESS:** Has everyone found the document
3 but me? I apologize, I don't know what I am supposed to
4 be looking at.

5 **MS. BENNETT:** You are looking for an
6 interrogatory response, Staff's Ninth Set of
7 Interrogatories Number 137. It should be in that stack
8 that we were looking through that has Schedule D-1b.

9 **COMMISSIONER EDGAR:** Okay. Mr. Butler will
10 help the witness find the document so that everybody can
11 be looking at the same thing.

12 **THE WITNESS:** Okay. I'm there. I apologize.
13 I've got a lot of paper.

14 **COMMISSIONER EDGAR:** That's okay, we all do.
15 Okay. Ms. Bennett.

16 **MS. BENNETT:** There are so many documents
17 here.

18 **BY MS. BENNETT:**

19 **Q.** And I also want to have you look at your KO-16
20 at the same time as we are looking at 137, because I
21 think a lot of the information from the economic
22 stimulus bill is included in your KO-16. Are you with
23 me?

24 **A.** Uh-huh.

25 **Q.** Good. Would you agree that the economic

1 stimulus provides a significant reduction in revenue
2 requirements in base rates associated with bonus
3 depreciation?

4 **A.** Yes. Due to the timing of our 2010 test year,
5 it provided great advantages to lower rates.

6 **Q.** And I believe that your Exhibit KO-16 reflects
7 those reductions, but I want to walk us through it and
8 make sure that we understand where the reductions are
9 made. Is that correct?

10 **A.** It is correct that KO-16 reflects the
11 reduction in revenue requirements associated with our
12 estimate of bonus depreciation on accumulated deferred
13 taxes.

14 **Q.** Would you agree that the economic stimulus
15 money reduces the revenue requirement by approximately
16 40 million in 2010 and 36 million in 2011?

17 **A.** Yes.

18 **Q.** Did you just say that? And would you agree
19 that FPL proposes to grant traditional -- or traditional
20 ITC benefits from the stimulus bill is removed from rate
21 base and placed into the environmental cost-recovery
22 clause for solar projects?

23 **A.** Right. If I might just explain, and, you
24 know, it may not be traditional ITC, though it will be
25 accounted for as traditional ITC. It will probably be

1 the convertible. But what we deliberated on in removing
2 that was a judgment that the Commission would prefer
3 that those ITC benefits track to the solar investments
4 themselves. And so we went ahead and made that
5 proactive adjustment to move that out, so that it would
6 track recovery through the clause.

7 **Q.** Would you agree that the grant or ITC benefits
8 from the stimulus bill is removed from rate base and
9 placed into -- I'm sorry. I just asked that question.

10 Would you agree that FPL intends to give the
11 significant credit benefits back to FPL customers in the
12 environmental cost-recovery clause?

13 **A.** Could you clarify? Are you asking about the
14 ITC benefits themselves?

15 **Q.** Yes, I am.

16 **A.** Yes. We intend to treat it in accordance with
17 the rule, which would be that we would record the
18 benefit. Whether it is traditional ITCs or these
19 convertibles, we would record the benefit as unamortized
20 ITCs on the balance sheet, which is the movement we are
21 making here. And then those would flow back to
22 ratepayers over the booked depreciable life of those
23 investments, as is required by the IRS regulations. So
24 we are proposing that treatment, which we are required
25 to do so.

1 Q. Okay. And would you agree that FPL intends to
2 only --

3 **COMMISSIONER EDGAR:** Ms. Bennett, could I ask
4 you to hold?

5 **MS. BENNETT:** Sure.

6 **COMMISSIONER EDGAR:** I'm sorry. Commissioner
7 Skop, I think I saw you want to jump in.

8 **COMMISSIONER SKOP:** Yes. Thank you, Madam
9 Chair. Hold on for a second. I'm trying to find my
10 piece of paper. With respect to the line of questioning
11 Ms. Bennett just asked on the investment tax credits
12 pertaining to the solar plans which this Commission has
13 approved, why would it not be appropriate for -- in the
14 best -- not only appropriate, but in the best interest
15 of ratepayers for FPL to make the election for a
16 convertible investment tax credit that would immediately
17 reduce the cost of the qualified project by
18 approximately 30 percent pursuant to the regulations
19 that have been promulgated, and that would basically,
20 subject to check, significantly reduce the estimated
21 cost of the plants that are \$728 million by
22 approximately, subject to check, 284 million.

23 Again, I don't have my exact math before me.
24 It would seem to me that on the time value of money
25 alone, whether it be put through the rate base or put

1 through the clause, taking that timely reduction to what
2 is passed through versus allowing it to be amortized and
3 consistent with future recovery, it seems to me that the
4 most appropriate best thing to do would be to take the
5 convertible investment tax credit.

6 And if there is something I am missing, please
7 explain it to me. But my interest is looking out for
8 the ratepayer here, and if Uncle Sam is willing to cut
9 you guys a check within 30 days for 30 percent of the
10 qualified project cost, it seems to me that that would
11 be the appropriate thing to do, not just put it off into
12 the future.

13 **THE WITNESS:** I will be happy to try to
14 explain. The way the federal government views the
15 incentive around investment tax credits is they intend
16 to stimulate investment. And the IRS regulations that
17 prohibit that immediate flow back are fashioned around
18 the notion that if the companies are not receiving any
19 of that incentive, they may be much less -- look much
20 less favorably toward making those investments
21 themselves.

22 So, the IRS steps in and makes a preservation
23 of those savings via their regulations that require the
24 flow back over the life as the asset is placed into
25 service. And, Commissioner, that is identical to what

1 goes on in traditional ITC. And I am also sure you are
2 aware in traditional ITC it is -- to the extent the
3 companies have taxable income, it is as though we have
4 been cut a check, because it reduces our tax bill. So,
5 really from an economic perspective, a ratemaking
6 perspective, and from the perspective of the customers'
7 rates, this is no different.

8 **COMMISSIONER SKOP:** Okay. Well, let me
9 further qualify that now that I have been able to do
10 some quick math. Assuming, subject to check, that the
11 qualified cost of the project is referenced on Page 9 of
12 the 10-K, and, also, I think Page 7 of someone else's
13 testimony, it was \$728 million, and subject to check,
14 30 percent of that cost would be 218.4 million. So it
15 would seem to me that if there were a methodology to
16 immediately reduce the amount that was sought to be
17 recovered from consumers in a realtime manner, that
18 would be the appropriate thing to do.

19 I mean, the government, by virtue of the
20 convertible investment tax credit to which I believe
21 these projects would readily qualify for, would serve to
22 do that. Now, that to me would make a significant
23 difference if this were to be put into a rate base item
24 rather than clause, to the extent that if you put
25 100 percent of the qualified project cost into the rate

1 base, you theoretically would be overrecovering on that
2 amount, looking at time value of money and such it would
3 seem, versus putting a lesser amount in the rate base.
4 And on a clause recovery, I don't know why you just
5 wouldn't seek -- if the idea is to pass that entire
6 amount through a clause in the beginning of the year or
7 what have you, it seems to me that appropriately
8 reducing that money on the front end makes it more
9 affordable for the consumer.

10 So unless I'm missing something there, please
11 explain. I don't want to get caught up in tax
12 accounting mumbo-jumbo. I want to get caught up in how
13 can we make things more affordable for the ratepayer.
14 And if you have this opportunity to leverage making that
15 election, why would you not make the election that is
16 most favorable for the ratepayer?

17 **THE WITNESS:** Commissioner, from the
18 standpoint of the company, I can certainly understand
19 your urgent, you know, desire, and we share that to get
20 benefits to customers as they can be provided. However,
21 we are simply restricted. Much like the IRS considers,
22 you know, the sanctions that would be levied on a
23 normalization violation around accelerated depreciation
24 in ratemaking, they view this similarly. And thus it is
25 just to my knowledge not anything we can manipulate.

1 **COMMISSIONER SKOP:** Okay. Well, I'm not
2 asking anyone to manipulate anything. To my
3 understanding there is probably three sets of books.
4 There is the financial books, there is the tax books,
5 and the regulatory accounting treatment books. And what
6 I am concerned about is what I have -- and this
7 Commission has jurisdiction over was regulatory
8 accounting treatment, which is what effects the consumer
9 in their pockets. It would seem to me that given the
10 fact that the government has afforded companies to make
11 a conscious election whether to take a convertible
12 investment tax credit versus a traditional ITC, it would
13 seem to me that you had that election, so you have an
14 option. And it would seem to me that the only prudent
15 course of action would be to make the election to the
16 extent that it provides the least cost to the ratepayers
17 in the near term.

18 And if I'm wrong, try and convince me I'm
19 wrong, because I am read up on this a little bit. I'm
20 not an accountant and I'm not a CPA, but, again, it
21 seems to me that if you get immediate cash back from the
22 federal government by making the application within, I
23 think it is 30 or 60 days, whatever it is, but it is
24 near realtime, then why would you not just basically
25 float the money and get AFUDC, or whatever it would be

1 until the government cut you the check for 30 percent of
2 the qualified project cost, but only seek recovery of
3 the 70 percent instead of the full enchilada? It just
4 seems to be questionable why that election would not be
5 made, because it seems to me in the best interest of the
6 ratepayer.

7 **MR. BUTLER:** Madam Chairman, may I suggest
8 Witness Pimentel is prepared and I think would probably
9 be in a better position to have this discussion with
10 Commissioner Skop, if it is okay to defer that to
11 Mr. Pimentel.

12 **COMMISSIONER SKOP:** That's fine. I mean, it
13 is a discussion I look forward to, because I have been
14 trying to get the answer to that simple question,
15 because I have heard conflicting testimony from multiple
16 FPL witnesses. Some are saying, yes, that is what we
17 are doing. Others are saying, no, that is not what we
18 are doing, and we need to get to the bottom of that.

19 **MR. BUTLER:** Understood.

20 **COMMISSIONER EDGAR:** Ms. Bennett.

21 **BY MS. BENNETT:**

22 **Q.** I want to -- along the line of questioning of
23 Commissioner Skop, the Smart Grid funds from the
24 stimulus, I think I have heard another witness state
25 that you were going to use those to defray future costs

1 and that none of the AMI metering that is currently in
2 rate base is going to be defrayed by the stimulus if you
3 are given the \$200 million grant. Is that correct?

4 **A.** That is the testimony I have heard over these
5 last many days, yes.

6 **Q.** In that same packet, I would like for you to
7 look at Interrogatory Number 143 as you talk to me about
8 the New England, FPL's New England Division.

9 **A.** I'm there.

10 **Q.** And I think we also have a deposition exhibit
11 attached, Deposition Exhibit Number 1. In your
12 deposition we discussed the affiliate of FPL, FPL NED,
13 is that correct?

14 **A.** Yes.

15 **Q.** And you agreed that FPL New England Division
16 is a non-utility -- a non-Florida utility investment
17 that does not indirectly or directly benefit Florida
18 ratepayers, is that correct?

19 **A.** It's a utility investment that is wholesale,
20 and thus not impacting the retail customer here in
21 Florida. It is an investment held outside of the state.

22 **Q.** And you would agree that Florida ratepayers
23 are not responsible for any of the costs incurred on
24 behalf of FPL NED?

25 **A.** I do.

1 **Q.** And you informed us that FPL was transferring
2 FPL NED to a separate corporate entity, correct?

3 **A.** That's correct.

4 **Q.** I would like for you to review Deposition
5 Exhibit 1, which is in that stack of papers. It is the
6 last page.

7 **A.** I'm there.

8 **Q.** And give the Commission a time frame for the
9 transfer of ownership?

10 **A.** I cannot. I have no other insight than what
11 is on this page. And the page lays out, you know, the
12 proposed dates for filing with these agencies and third
13 parties, and then it lists a number of filings that have
14 to be made by the ISO in New Hampshire for which we
15 cannot provide time lines. But, it does note at the
16 bottom that we, you know, are hopeful that we will have
17 a target date of June 1st, 2010 for a completed
18 transfer.

19 **Q.** And I think that is what you had agreed to
20 provide was a target date and target time frames in your
21 deposition. Would you agree that you are not familiar
22 with the accounting for the acquisition and the amount
23 of deferred taxes created when FPL made the investment
24 in FPL NED?

25 **A.** I have not researched the accounting for the

1 acquisition of any date, that's correct.

2 Q. Would you agree that you do not know if
3 investment tax credits were available to FPL for FPL
4 NED?

5 A. I don't understand the question. Are you
6 asking me --

7 Q. Do you know if investment tax credits were
8 available to FPL for FPL NED?

9 A. Oh. No, I don't know specifically, but I
10 don't think that was available for the purchase of that
11 business.

12 MS. BENNETT: Okay. I am going to be handing
13 out another exhibit and I would like for it to be given
14 an exhibit number. It is Ms. Ousdahl's Late-Filed
15 Deposition Exhibit Number 6, and I would ask that it be
16 given Number 480.

17 COMMISSIONER EDGAR: 480. And, I'm sorry,
18 Ms. Bennett, tell me the title again, please.

19 MS. BENNETT: Let's call it Late-Filed
20 Deposition Exhibit 6.

21 COMMISSIONER EDGAR: Thank you. And that is
22 being distributed?

23 MS. BENNETT: And with that is -- and I don't
24 want this next one marked yet, because we will be
25 introducing it through Mr. Pimentel.

1 (Exhibit Number 480 marked for
2 identification.)

3 **COMMISSIONER EDGAR:** So, Ms. Bennett, the
4 second document labeled Pimentel Deposition Exhibit 4 is
5 for cross-examination now and perhaps to be marked
6 later?

7 **MS. BENNETT:** Correct.

8 **COMMISSIONER EDGAR:** Okay. Thank you.

9 **BY MS. BENNETT:**

10 **Q.** And just to start the witness thinking, these
11 two exhibits seem to -- there seems to be some
12 discrepancies between them, between your Late-Filed
13 Exhibit 6 and Mr. Pimentel's Exhibit 4. And I am going
14 to ask you to kind of walk through and tell us which one
15 we should rely upon. And, specifically, I would like
16 for you to explain the differences between the two
17 representations on the company's overall cost of capital
18 as they appear on yours versus Mr. Pimentel's.

19 **MR. BUTLER:** I'm sorry. Which of the FPL
20 overall cost of capital are you referring to, the middle
21 one, the as adjusted, or --

22 **MS. BENNETT:** The FPL 2010 cost of capital as
23 adjusted, which is the middle one.

24 **THE WITNESS:** I am struggling to see the
25 difference. The 2010 is identical for the adjusted

1 revised 7.85 percent return, overall return.

2 **BY MS. BENNETT:**

3 Q. I am being told it is the component amounts
4 that are different.

5 A. I don't see where.

6 **MR. BUTLER:** Can you point out one of the
7 components that is different and maybe speed it along?
8 Other than the different order, they all look to be the
9 same numbers to me.

10 **CHAIRMAN CARTER:** Just take a moment. Just
11 take a moment.

12 **MS. BENNETT:** Let's scratch that line of
13 questions. We're okay.

14 **CHAIRMAN CARTER:** Okay.

15 **MS. BENNETT:** I think the conclusion is that
16 they are the same, and 4 and 6 are representative of the
17 same numbers.

18 Next I want to refer you to the next stack of
19 documents. It's very small.

20 **MR. BUTLER:** When you say next, do you mean
21 the exhibit that was identified as 476?

22 **CHAIRMAN CARTER:** What is the cover page on
23 it?

24 **MS. BENNETT:** 476, discovery responses for the
25 generation base rate, or GBRA, my favorite term.

1 **BY MS. BENNETT:**

2 Q. I just have a couple of questions about these
3 exhibits or these interrogatory responses. I am going
4 to start with --

5 A. I'm not sure -- my exhibit numbers are not
6 marked, so I struggle a little bit in keeping up with
7 you.

8 Q. Okay.

9 A. I do have discovery responses for GBRA,
10 staff --

11 Q. Okay. That's it.

12 A. I just don't have an exhibit number on any of
13 mine, so it is a challenge.

14 Q. I am going to first ask you about 66,
15 Attachment 1.

16 A. Well, I have no -- I have no interrogatory. I
17 have an attachment.

18 Q. I am going to ask you questions from the
19 attachment. We are going to include the interrogatory,
20 but --

21 A. I'm not so sure this is mine. But, okay. I
22 will do my best.

23 **MR. BUTLER:** Ms. Bennett, I think in the
24 interest of completeness, if we are going to ask about
25 this -- I didn't realize you were actually going to come

1 to this one that, you know, we had identified the
2 concern to you earlier. I would like Ms. Ousdahl to
3 have the interrogatory question and answer that this is
4 an attachment to.

5 **MS. BENNETT:** Okay. And I believe you have
6 copies of those.

7 **CHAIRMAN CARTER:** Hang on a second. Mr.
8 Wiseman, see what Mr. Mendiola started, and he is not
9 even here today, about the issue of completeness. Isn't
10 that always the way it is?

11 Ms. Bennett.

12 **MR. BUTLER:** We actually have copies that we
13 can hand out of the interrogatory answer with the
14 attachment. So, hopefully, that will speed it along.

15 **MS. BENNETT:** And for clarification purposes,
16 this 476 was the one we identified as we had the
17 attachment, but we did not have the question and answer.
18 What Mr. Leon is handing out is the question and answer,
19 and the answer refers to Attachment 1. Staff just had
20 specific questions about Attachment 1, so --

21 **MR. WRIGHT:** Mr. Chairman.

22 **CHAIRMAN CARTER:** Mr. Wright.

23 **MR. WRIGHT:** Just so I am clear in terms of
24 the exhibit that is coming into the record, can I
25 shuffle the question and answer into Exhibit 476 ahead

1 of the attachment?

2 **CHAIRMAN CARTER:** I think -- yes, I think that
3 would be appropriate.

4 **MR. WRIGHT:** Thank you.

5 **MS. BENNETT:** That is our intention.

6 **MR. BUTLER:** Fine with me.

7 **CHAIRMAN CARTER:** Okay. Ms. Bennett.

8 **BY MS. BENNETT:**

9 **Q.** Did you sponsor this exhibit?

10 **A.** I don't know, but I will certainly attempt to
11 answer the questions.

12 **Q.** All right.

13 **A.** I see -- I do at least now know what we are
14 looking at, so thank you.

15 **Q.** Okay. And if this is -- if you are not the
16 appropriate witness, I would just appreciate you
17 referring me to the appropriate witness, if we can't get
18 the information.

19 I want you to look at the table in Attachment
20 1 of your other response, and this table shows the
21 calculation of FPL's earning if the GBRA mechanism had
22 not been in effect during the term of the 2005
23 settlement agreement for the years 2007 and 2008, is
24 that correct?

25 **A.** Yes.

1 **Q.** Can you confirm that the figures represented
2 on Attachment 1 show the ROE difference if the GBRA
3 mechanism had not been in effect in 2007 and 2008, and
4 that it is between 76 and 95 basis points?

5 **A.** For both years?

6 **Q.** Yes.

7 **MR. BUTLER:** Could you just point out where
8 you are seeing the 76 and 95 basis points?

9 **THE WITNESS:** I see it. There is the 76, yes.
10 I'm following. Okay. Yes.

11 **BY MS. BENNETT:**

12 **Q.** You said the answer is yes?

13 **A.** Yes. This purports to show, and appears to
14 show the impact on the exclusion of GBRA for 2007, and
15 that would reduce return on equity by .76 percent,
16 76 basis points, and 2008 by 95 from 1083 to 988.

17 **Q.** Thank you. And then I have just a couple of
18 questions on the Attachment 1 of FPL's Interrogatory 70.
19 And I want you to look at Page 2 of Attachment 1. And,
20 again, if this is not something that you are familiar
21 with, if you could point me to the correct witness, I
22 would appreciate it.

23 **A.** No, I am familiar with this.

24 **Q.** Okay. Page 2 of Attachment 1 to FPL's
25 response, it is new plant recovery comparison. The

1 figures show that the capital costs and fixed O&M costs
2 for the West County 3 differ from traditional rate
3 treatment as compared to the GBRA treatment, is that
4 correct?

5 **A.** Very slightly.

6 **Q.** Can you explain why the capital costs are more
7 under traditional rate treatment?

8 **A.** I am suspecting -- let me take just a second
9 to read the footnote. Just one second.

10 The GBRA column on the far right ties
11 specifically back to need; whereas, the very slightly
12 different column that is under the traditional heading
13 would have been a view given our updated costs for West
14 County 3. So there may have been slight differences in
15 O&M, plant, et cetera, but in total they certainly don't
16 amount to anything when it comes to total revenue
17 requirements.

18 **Q.** Can you explain why the fixed O&M costs are
19 more under GBRA treatment?

20 **A.** As I said, the column on the right is just
21 pointing right back to the need determination amounts.
22 So the column on the -- further to the left is showing
23 what our more current estimates might bring to the table
24 today, very slight differences.

25 **CHAIRMAN CARTER:** One second. Commissioner

1 Skop.

2 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
3 Ms. Ousdahl, with respect to the question that was just
4 asked on West County 3, I believe in the need
5 determination, subject to check, that the estimated cost
6 was \$864.7 million, and then looking at South Florida
7 Hospital's Second Set of Interrogatories Interrogatory
8 Number 94, Page 1 of 1, it stated that the estimated
9 capital cost for the West County Energy Center Unit 3 is
10 now 864.9 million. So has there been a slight increase
11 over and above what was projected in the need
12 determination?

13 **THE WITNESS:** Yes, I think there has been,
14 based on the current estimate. And there is an MFR
15 filed, too, that I thought maybe I had with me. Yes.
16 It would be MFR B-13, I think shows the numbers you are
17 referring to. If you look at both the other production,
18 the plant piece and then the transmission piece, the
19 need determination value is 864.7. The current estimate
20 is 864.9.

21 **COMMISSIONER SKOP:** Okay. And in relation to
22 a question that I had not asked you, but asked another
23 witness, your understanding that should GBRA be used for
24 this unit, the dollar amount that was identified by FPL
25 in the need determination would be the base level amount

1 that would be the first year system revenue requirement,
2 not the actual cost, is that correct?

3 **THE WITNESS:** That is correct. We can only
4 recover through GBRA the need determination capital
5 values subject to true-up only if they are lower than
6 need determination estimate.

7 **COMMISSIONER SKOP:** Thank you.

8 **CHAIRMAN CARTER:** Ms. Bennett.

9 **BY MS. BENNETT:**

10 **Q.** Ms. Ousdahl, back to the famous stack. The
11 very first set of documents is FPL's discovery
12 responses. It is not the thickest stack, but the next
13 to the thickest stack, if that helps. I will be asking
14 you a few questions from different interrogatories in
15 here, and you may remember the answers without looking
16 at them, but the first set is on charitable
17 contributions.

18 **MR. BUTLER:** I'm sorry. This is what you had
19 marked as 473, is that right?

20 **MS. BENNETT:** That's correct, it's 473.

21 **MR. BUTLER:** Let me be sure that Ms. Ousdahl
22 has that.

23 **CHAIRMAN CARTER:** Okay.

24 **MS. BENNETT:** And, specifically, I'll be
25 asking about the Responses to Staff's 11th Set of

1 Interrogatories, 200 to 206.

2 **CHAIRMAN CARTER:** That's a lot of paper, isn't
3 it?

4 **MS. BENNETT:** I'm sorry, I killed a couple of
5 trees.

6 **CHAIRMAN CARTER:** Yes. You stimulated the
7 economy is what you did with all of this paper.

8 **MS. BENNETT:** Did I tell you my grandfather
9 was a woodcutter?

10 **CHAIRMAN CARTER:** Really? How much wood could
11 a woodcutter cut if a woodcutter cut all day? Never
12 mind. I need a life, I know that.

13 **BY MS. BENNETT:**

14 **Q.** Are you there?

15 **A.** I have the right stack. I'm sorry, I didn't
16 know which interrogatory you wanted me to look at.

17 **Q.** We are going to start with Number 202. And
18 according to that interrogatory, FPL made 57 charitable
19 contribution payments totalling 1,989,832 during 2008,
20 is that correct?

21 **A.** That is correct.

22 **Q.** Were any of these payments recorded in the
23 operating accounts that would normally be recovered from
24 ratepayers? I think that is sometimes referred to as
25 above-the-line.

1 **A.** No, they were not.

2 **Q.** How were these payments treated in the monthly
3 surveillance report filed with the Commission's Division
4 of Economic Regulation?

5 **A.** They should have been excluded.

6 **Q.** So it would have been below-the-line?

7 **A.** Yes.

8 **Q.** Okay. If these expenses are recorded
9 below-the-line, they are not treated as if recovered
10 from ratepayers, but are recovered from the stockholders
11 by reducing the profit available to the stockholders, is
12 that correct?

13 **A.** That is correct.

14 **Q.** Next, I want you to turn to Interrogatory
15 Number 200. Did FPL include the cost of the FPL
16 historical museum in the 2010 and 2011 projected test
17 years?

18 **A.** We included our costs to support the museum
19 for accounting and administrative tasks, yes.

20 **Q.** And what were the amounts included in 2010 and
21 2011 projected test years? Start with 2010.

22 **A.** Off the top of my head, I think it was around
23 \$60,000 for 2010, and I do not recall 2011. It is
24 probably on that order. Do you have it here?

25 **Q.** I believe it is response to Interrogatory 200?

1 **A.** No, I don't see the amount.

2 **MR. BUTLER:** I'm not seeing a dollar amount.

3 **THE WITNESS:** There is no dollar amount, but I
4 am flipping. It looks like there are -- no, those are
5 historical.

6 **BY MS. BENNETT:**

7 **Q.** Okay. Let's go on to the next question. It
8 was 60,000 in 2010, and there is an amount for 2011 near
9 that same amount, 60,000?

10 **A.** It should be.

11 **Q.** Could you explain how the FPL historical
12 museum benefits the ratepayers of FPL?

13 **A.** Well, we have tried to describe its purpose
14 here in the response to 200, and it is essentially, you
15 know, what I might characterize as a bit of
16 a mini-museum, both in terms of the history of the area
17 in which we have operated and the history of the
18 company. And the artifacts reside in both the Juno
19 Beach offices and the Miami offices and have for quite
20 sometime, and it is made available to the public in
21 certain special events. So we feel it is an appropriate
22 archiving activity and serves the public good.

23 **Q.** Why do you feel that paying the cost -- or why
24 does FPL feel that paying the cost of the historical
25 museum would be any different than paying a contribution

1 to a privately owned historical museum in FPL's service
2 area?

3 **A.** Well, it is very closely related to our
4 company's operation. You know, it is something that
5 archives the activities and the progress our company has
6 made in the community. And it, you know, has not, from
7 our perspective, been the same as contributing to an
8 outside party for their not-for-profit participation.

9 **Q.** Does the public have to pay to come visit the
10 FPL historical museum?

11 **A.** No, it does not.

12 **Q.** Does the uniform system of accounts adopted by
13 the Commission require that charitable contributions be
14 recorded below-the-line?

15 **A.** They do. It does.

16 **Q.** Let's talk about -- during the service
17 hearings we heard a lot about FPL employees volunteering
18 in different charitable organizations. Does FPL allow
19 its employees to perform volunteer work during working
20 hours for the employees who volunteer?

21 **A.** No. My understanding is that volunteer
22 activities have to be conducted on the employees' time.
23 It is strongly promoted in our company. We feel it is
24 very, very important to support the community, and there
25 are many activities for which the company would sponsor

1 events and encourage employee participation in those
2 events.

3 Q. But they don't do that during working hours,
4 is that correct?

5 A. That would be correct.

6 Q. Ms. Ousdahl, did FPL include any charitable
7 contributions in the revenue requirements for the 2010
8 and 2011 test years?

9 A. We did not.

10 Q. I would like for you to -- you have your C
11 schedule with you. Turn to Schedule C-10. 2009 MFR
12 Schedule C-10.

13 A. C-10. Okay. Which year?

14 Q. 2009.

15 A. Okay.

16 Q. Can you explain what the MFR Schedule
17 C-10 shows?

18 A. It includes our projection of rate case
19 expenses for this proceeding, for the conduct of this
20 proceeding.

21 Q. Okay. I am going to walk us through some of
22 the items on this and have you explain who they are and
23 what services they are performing for the rate case for
24 FPL. First of all, Line 2 in Column 1 shows the Brattle
25 Group as one of the vendors providing services. And

1 what was the cost for that vendor, including travel?

2 A. Well, the estimated cost here is \$130,000.

3 Q. And who was the witness from the Brattle
4 Group?

5 A. I believe it is Witness Hanser.

6 Q. What about Minsky's (phonetic) Consulting?

7 A. It was -- Minsky's Consulting is an individual
8 that is aiding us in our development of the HR portion
9 of our case. Human resources, I'm sorry.

10 Q. Did that individual appear as a witness?

11 A. No.

12 Q. Did he provide documents that became exhibits
13 to this proceeding?

14 A. I do not know.

15 Q. And what was the cost for this service?

16 A. Estimated to be 180,000.

17 Q. I think we heard from the next witness, Towers
18 and Perrin -- Towers Perrin, was that Mr. --

19 A. Meischeid.

20 Q. -- Meischeid. Thank you. Was that his
21 services that are included on Line 4?

22 A. As I understand it, yes.

23 Q. And the cost for Mr. Meischeid was?

24 A. Estimated to be \$65,000.

25 Q. Okay. Is that just for his time for the rate

1 case or does that include the -- I think FPL subscribes
2 or receives a survey from Tower and Perrins. Is that
3 included in that \$65,000 cost?

4 **A.** I don't know which survey you are referring
5 to, so it would be very hard for me to answer. This
6 would include any incremental costs we incurred through
7 his support in the conduct of the case. If you are
8 referring to a survey that we already participate in, I
9 would imagine, no, it would not.

10 **Q.** Okay. What about the Line 5, ABSG Consulting,
11 who are they?

12 **A.** That was the work performed by Witness Harris
13 around the storm reserve estimates.

14 **Q.** And the Gannett Fleming in Line 6?

15 **A.** Witness Clarke presented our depreciation
16 study.

17 **Q.** And I want to confirm it was 270,000 for ABSG,
18 is that correct?

19 **A.** That is the estimate shown on C-10.

20 **Q.** And one 150,000 for Gannett Fleming?

21 **A.** That is correct.

22 **Q.** And the services that Mr. Harris provided,
23 could you explain what those were?

24 **A.** Well, he presented testimony in the analysis
25 as to the need -- well, as to the impact of potential

1 storms in our service territory.

2 Q. On Line 7, financial concepts and
3 applications. What witness was that?

4 A. That would be Witness Avera.

5 Q. And his cost or the estimated cost was
6 160,000, is that correct?

7 A. That is correct.

8 Q. And his services for FPL in the rate case,
9 what were they?

10 A. Support of the return on equity.

11 Q. Concentric Energy Advisors appears on Line 8
12 at a cost of 300,000. Who are they and what did they
13 perform for the rate case?

14 A. Witness Reed, and he is providing support for
15 the benchmarking results and for GBRA.

16 Q. What years do the amounts we just discussed
17 concerning the 2000 MFR schedules represent?

18 A. I'm sorry, could you repeat the question?

19 Q. Sure. What years do the amounts that we just
20 discussed concerning the 2009 MFR Schedule
21 C-10 represent?

22 A. When you say what years, do you mean in which
23 years are we incurring these costs?

24 Q. Yes.

25 A. Well, the planning for the case began in late

1 '08, and I'm sure it varies per individual or per
2 advisor, but the company has engaged in activity in the
3 development of this case since the end of last year, or
4 fall of last year. And it will do so all the way
5 through the final determination and rate setting.

6 Q. Will it include 2010?

7 A. There may be. I would imagine it would be
8 very limited.

9 Q. And what about 2011?

10 A. No, I would not believe so.

11 Q. Does Schedule C-10 show a total for outside
12 consultants of \$1,255,000, plus an additional 265,000 in
13 legal services?

14 A. It does.

15 Q. Is the total rate case expense FPL is
16 requesting 3,657,000?

17 A. It is.

18 Q. Do you know how much of that has been spent to
19 date?

20 A. I don't.

21 **COMMISSIONER EDGAR:** May I ask who would, Mr.
22 Butler?

23 **MR. BUTLER:** One moment. Let me check.

24 I don't think we have a witness who is in any
25 better position than Ms. Ousdahl to give the specifics

1 on what has been spent to date. I mean, we hesitate to
2 do this because of the sensitivity of late-filed
3 exhibits. We could provide an exhibit that would show
4 it, but I don't think we would have anybody who is in a
5 position to just, on our witness list, to provide it and
6 certainly not today.

7 **COMMISSIONER EDGAR:** I think it would be very
8 important for the Commission to know that information.

9 Mr. Chairman, whatever is the best way to
10 handle it is what I would ask for.

11 **MS. BENNETT:** Might I suggest that if we
12 continue, at a break maybe they could provide it and
13 answer the question.

14 **COMMISSIONER EDGAR:** It is fine with me for
15 that to come up later today or for there to be
16 discussion amongst the attorneys.

17 **CHAIRMAN CARTER:** So long as whatever is
18 provided is provided to all the parties, so that we are
19 all on the same page.

20 **MR. BUTLER:** We have what may be a useful
21 solution here.

22 **CHAIRMAN CARTER:** Great.

23 **MR. BUTLER:** It is well outside the scope of
24 his testimony, but we are going to have Mr. Davis, who
25 is the company's Chief Accounting Officer appear on the

1 subject of the depreciation reserve surplus. We could
2 have the information available at the time that he would
3 testify. He could sponsor the answer, and then would be
4 available certainly to answer questions about the
5 information that is provided if people had questions on
6 the actual expenditures.

7 **COMMISSIONER EDGAR:** That sounds fine to me if
8 that works for our staff.

9 **MS. BENNETT:** That works.

10 **MR. MOYLE:** Can I just inquire, because, I
11 mean, I don't know whether --

12 **CHAIRMAN CARTER:** Mr. Moyle.

13 **MR. MOYLE:** -- we will have an objection to
14 the late-filed exhibit coming in or not, but as to the
15 relevancy, I understand the question simply is what has
16 been spent to date on the rate case as compared to what
17 is to be spent in the future, is that right?

18 **MS. BENNETT:** Actually, I think the question
19 was of the amount that has been requested, how much has
20 been spent, not how much more is being spent.

21 **COMMISSIONER EDGAR:** Mr. Moyle thinks my
22 questions are irrelevant.

23 **MR. MOYLE:** No. I'm sorry.

24 **CHAIRMAN CARTER:** That's what he said. I
25 tried to waive him off, but he wouldn't look at me.

1 **MR. MOYLE:** I'm sorry. I'm sorry. I just --
2 sorry. I withdraw the objection.

3 **COMMISSIONER EDGAR:** Sometimes I think your
4 questions are, too.

5 **MR. MOYLE:** Touché.

6 **CHAIRMAN CARTER:** So Witness Davis will be
7 ready for that, Mr. Butler, is that right?

8 **MR. BUTLER:** That's right, Mr. Chairman.

9 **CHAIRMAN CARTER:** Okay. So, Staff, just make
10 a note to where Mr. Davis comes up that we can go down
11 that line.

12 Okay. You may proceed.

13 **BY MS. BENNETT:**

14 **Q.** If FPL were filing a rate case based on the
15 2010 test year only, and without requested increase
16 based on a 2011 projected test year, and without the
17 GBRA, would the rate case expense be less?

18 **A.** I honestly don't know.

19 **Q.** Okay. FPL is requesting an amortization
20 period for rate case expense of three years, is that
21 correct?

22 **A.** We are.

23 **Q.** How many years -- oh, I know that answer.

24 FPL is requesting an increase effective
25 January 1, 2010, and another increase effective

1 January 1, 2011, and then the GBRA is expected to
2 produce an increase effective June of 2011, is that
3 correct?

4 A. That is correct.

5 Q. If the company amortizes its rate case expense
6 over three years, the expense would be fully amortized
7 before the last increase, the GBRA increase has been in
8 effect for a full 12 months, is that correct?

9 A. It would. Well, it would be -- I'm sorry, it
10 would be amortized through 2012, and GBRA will be
11 beginning in June of '11, and its first year will be up
12 in May of 2012, so it would be consistent.

13 Q. Wouldn't there be a six-month lag?

14 A. Yes, but in the same general time frame.

15 Q. Okay. In the big stack, not the biggest
16 stack, but the next -- Exhibit 473, which is FPL's
17 discovery responses, there is a set of interrogatories,
18 Number 35, do you see that in there?

19 A. Does it have a title that I can look at the
20 cover page and maybe find it faster?

21 Q. I tell you what, let me hand -- I've got a
22 video copy -- video copy, boy, that dates me. I have a
23 copy.

24 **CHAIRMAN CARTER:** Hey, I still like disco, so,
25 you know, it is not so bad. Although I don't do it

1 anymore.

2 **MS. BENNETT:** It will be quicker than trying
3 to find it in your stack. I am going to have one handed
4 to Mr. Butler and then one to you.

5 **BY MS. BENNETT:**

6 **Q.** And this deals with exempt employees that are
7 salaried employees. And my question to you is would you
8 explain why salaried employees are projected to be paid
9 450,000 in overtime for work on this rate case as shown
10 on Staff's Fourth Set of Interrogatories Interrogatory
11 Number 35, Item A?

12 **A.** May I take just a minute to digest this?

13 **Q.** Sure.

14 **MR. BUTLER:** I would note for the record that
15 this, I don't think, is an interrogatory answer that
16 Ms. Ousdahl has sponsored. It is certainly fine to ask
17 her a question about it, but that is why she needs some
18 time to review it.

19 **CHAIRMAN CARTER:** That's fine.

20 **MS. BENNETT:** And would that be Ms. Slattery
21 that answers?

22 **THE WITNESS:** You know, I think I would feel
23 more comfortable handing this to Witness Slattery. She
24 is the HR representative responsible for development of
25 compensation policies. And I can give you an opinion,

1 but it would not be the company's probably -- you know,
2 it wouldn't be the company's policy, it would be my
3 opinion.

4 **BY MS. BENNETT:**

5 Q. And it wouldn't have anything to do with
6 working on Saturday on the rate case?

7 A. It has a lot do with that, but I think it
8 would be more appropriate for everyone if she responded.

9 Q. Okay. I am going to leave -- I'm going to
10 leave this with you because there is some information
11 dealing with the rate case expense, and so I want you to
12 go ahead and look at the attachment that talks about the
13 rate case expense. Item C, are the amounts that were
14 included on MFR Schedule C-10 for 2009 included in Item
15 C of Interrogatory Number 35?

16 A. Yes. It certainly appears that in Item C,
17 contractor and professionals, a subset of that would
18 include these expenses that we discussed just a moment
19 ago, the witnesses, and outside consulting firms, and
20 legal.

21 Q. Can you explain why the amount shown in Item C
22 on Interrogatory Number 35 is larger than Schedule C-10?

23 A. Yes. It includes other contract resources
24 that aren't itemized in terms of, you know, outside
25 consultants, attorneys, engineers, or other consultants.

1 The C-10 definition, at least in our understanding,
2 required us to breakdown sort of the professional
3 services. What Item C would include would be other
4 contract resources that we might have hired, folks that
5 may just be running copy machines, compiling massive
6 amounts of paper, you know, that sort of thing. We
7 can't staff this effort with the folks we have in place.
8 We have had to secure additional resources.

9 Q. So, for instance, the rent space for \$42,000,
10 which is listed on Item F, that is a rate case expense.
11 Can you explain that one?

12 A. I cannot.

13 Q. That would be Ms. Slattery?

14 A. I doubt if she could, either.

15 **CHAIRMAN CARTER:** Then who? I beat you to it.

16 **MS. BENNETT:** Yes.

17 **BY MS. BENNETT:**

18 Q. There are several questions on this that we
19 have for, you know, the hotel lodging expenses, business
20 meals, cellular telephone expenses, also known as cell
21 phone these days.

22 **CHAIRMAN CARTER:** Yes.

23 **BY MS. BENNETT:**

24 Q. Is there a witness that would be better able
25 to answer this? I think you said Ms. Slattery answered

1 some of it.

2 **A.** Well, we talked about Ms. Slattery providing
3 only the information as to the policy. You asked why it
4 was appropriate for overtime pay to be utilized for
5 exempt employees, so that was a policy question that I
6 thought should be deferred to her. The estimates, I
7 don't know. Bob Barrett also sponsored the rate case
8 schedule with me. Perhaps he has a better insight as to
9 some of these other estimates. But, you know, rent I am
10 clear on, but hotel and lodging I am certainly familiar
11 with as I am camped out, too. So I guess it kind of
12 depends on what your question might be.

13 **Q.** All right. Let's go one at a time, then. And
14 Item B show that the company projects 108,000 for
15 business meals, and 198,000 for hotel lodging, and
16 108,000 for air travel for rate case expense. Is that
17 correct?

18 **A.** That is what our estimate shows, that is
19 correct.

20 **Q.** And your actuals for that to date?

21 **A.** Well, we have noted for you that we don't have
22 the actuals in our hands, and we were going to try to
23 provide those from Witness Davis -- through Witness
24 Davis.

25 **Q.** Okay.

1 A. Maybe we should clarify. If you want Witness
2 Davis to break out the actuals in all of these
3 categories that would be a different view.

4 Q. I think that would be helpful if Mr. Davis
5 could do that by providing us the actuals to date for
6 all of the items listed on Interrogatory Number 35.

7 All right. Then let's turn to your MFR
8 Schedule C-11, which is, I think, showing bad debt
9 factor.

10 A. I don't have C-11.

11 Q. Bear with me, I am almost finished.

12 A. Is C-11 in my stack, or do I need to --

13 Q. You need to retrieve it. You need to go ahead
14 and pull yours.

15 A. I don't have C-11. It may have been sponsored
16 by Witness Santos, and that may be why I don't have it
17 in my backup book, if it's bad debt related, because we
18 are flipping my book and there is no C-11. It is not my
19 MFR.

20 **MR. BUTLER:** C-11 is sponsored by Ms. Santos.

21 **MS. BENNETT:** All right. Thank you.

22 That takes care of about three pages, and tell
23 Ms. Santos to get ready.

24 **BY MS. BENNETT:**

25 Q. Next I am going to ask you -- in Mr. Clarke's

1 direct testimony he identified each account that may be
2 part of the advent of the Smart Grid. And I believe you
3 sponsored the response to Interrogatory Number 108,
4 which is Staff's Eighth Interrogatory. And you stated
5 that the only Smart Grid related dollars that had been
6 included in the current forecast are for the AMI meter
7 technology, is that correct?

8 **A.** I don't have that interrogatory in front of
9 me, so --

10 **MR. BUTLER:** Is that in one of your packages,
11 Ms. Bennett?

12 **MS. BENNETT:** It is not.

13 **MR. BUTLER:** Do you have a copy?

14 **BY MS. BENNETT:**

15 **Q.** Well, let's just talk about Smart Grid dollars
16 in the current forecast. Are they just the AMI meter
17 technology?

18 **MR. BUTLER:** Are you asking about the
19 forecast?

20 **MS. BENNETT:** Yes.

21 **THE WITNESS:** I am not the forecast witness.
22 I'm not the witness on AMI.

23 **MS. BENNETT:** And that is Mr. Barrett?

24 **MR. BUTLER:** Yes, Mr. Barrett would be the
25 forecast. And, of course, specifically on AMI related

1 questions, Ms. Santos covers those.

2 **MS. BENNETT:** Okay.

3 **CHAIRMAN CARTER:** Keep in mind -- excuse me
4 for interrupting you, but keep in mind, as we say the
5 things that either Ms. Santos or Ms. Slattery will be
6 responsible for, let's make sure that when they do they
7 do come up that don't have to go through this that they
8 didn't know anything about it, all right?

9 **MR. BUTLER:** Certainly.

10 **CHAIRMAN CARTER:** That will make the process
11 go a lot smoother. And that would be fair to all the
12 parties, too, because if we are down to Santos and
13 Slattery, then by then Ms. Ousdahl -- did I say that
14 right, Ousdahl?

15 **THE WITNESS:** Ousdahl.

16 **CHAIRMAN CARTER:** Ms. Ousdahl will be gone.
17 And I don't want us to go back to a standpoint to where
18 we say that would be better answered by Ms. Ousdahl. I
19 really don't want us to do that, okay?

20 **MR. BUTLER:** Understood.

21 **CHAIRMAN CARTER:** So, kind of take good notes
22 on those questions that we are saying we are going to go
23 to either Mr. Barrett, Ms. Slattery, or Ms. Santos,
24 okay?

25 **MS. BENNETT:** And I just want to clarify

1 before I pass this one off to Ms. Santos.

2 **BY MS. BENNETT:**

3 Q. There is some discussion of actions taken
4 where bad debt is being moved to the fuel clause. Is
5 that you or is that Ms. Santos?

6 A. Yes. The company adjustment for movement of
7 the portion of bad debt expense to clause would be my
8 testimony.

9 Q. Okay.

10 **CHAIRMAN CARTER:** Take a moment. Take a
11 moment.

12 **BY MS. BENNETT:**

13 Q. Okay. Can you explain FPL's proposal to move
14 the bad debt factor over to the fuel clause, please?

15 A. Sure. What we realized in the course of doing
16 the analysis for the base rate case is that we continue
17 to have 100 percent of our bad debt write-offs being
18 recorded as a base rate item. And, certainly, we could
19 have filed the case that way, but it made a lot of sense
20 to try to align the cost associated with the revenue
21 with the revenue dollars themselves.

22 So, clearly, when you have an uncollectible
23 expense, it's a rise -- the source of the uncollectible
24 expense is revenue and a portion of our revenue are
25 being received through base rates and a portion through

1 clause. So it made sense for the company to propose
2 that we realign those two buckets of cost and include in
3 this base rate filing only the estimated portion of
4 uncollectible expense that would relate to base rate
5 revenue, and then we would realign the remaining portion
6 through the clause venue.

7 Q. But is the bad debt factor consistent with
8 EPL's customer growth rate? In other words, do they
9 both reflect the same view of the economic conditions in
10 2010?

11 A. Well, we made a number of adjustments in KO-16
12 to reflect the updated revenue forecast in all those
13 factors. So, yes, we took that into account through the
14 KO-16 adjustments.

15 Q. And Ms. Santos discussed a number of actions
16 the company was taking to control bad debt expense.
17 Were you here when she discussed that?

18 A. Not specifically. I know generally.

19 Q. Do those actions vary if the revenue involved
20 is associated with fuel, those actions that Ms. Santos
21 discussed?

22 A. No. When a customer receives a bill and
23 declines to pay the bill, that bill is going to include
24 both base rate costs and clause related -- I'm sorry,
25 base rate revenue and clause related revenue. So our

1 collection activities benefit both. If we are able to
2 collect an additional dollar of revenue, it is going to
3 include both the clause piece and the base piece.

4 Q. My understanding is FPL is projecting an
5 increase in employees in 2010, is that correct?

6 A. I don't know.

7 Q. Okay. You have been designated as answering a
8 couple of questions about aviation and the allocation of
9 aviation rates. I think they keep funneling it to the
10 finance and accounting people. Can you explain how the
11 allocation of the charges for the aviation is made
12 between FPL and FPL Group?

13 A. Yes, I can. What we do is when a traveler
14 flies in any of the entities on one of the corporate
15 aircraft, we bill to that entity for which that
16 individual is conducting business. We bill the variable
17 portion of that trip. I think Witness Bennett discussed
18 how the variable portion is derived, and it is basically
19 a cost per statute mile based on the actual aircraft
20 flown, because it differs primarily due to the varying
21 cost of fuel and fuel usage.

22 So we have an immediate impact. From an
23 entity standpoint, they are seeing the variable cost of
24 their trips flown. But what we now do, as of the end of
25 the 2008, is we then look for all fixed costs and all

1 remaining costs at the occupied seat miles of travel
2 between FPL and all other entities. And we assign all
3 of the costs for the aviation operation, which total
4 about 14 million for 2010, we assign those on the basis
5 of relative occupied seat miles. So for 2010 and the
6 \$14 million estimated cost of our operation, FPL
7 customers will bear only about \$7 million of that cost,
8 about 50 percent.

9 Q. And the remaining 50 percent approximately is
10 charged to affiliates for 2010, is that correct?

11 A. It is.

12 Q. We have heard testimony that certain
13 executives are permitted to take a company plane, and we
14 have also heard that the employee must reimburse the
15 company for use by paying the cost of a first class
16 ticket on a commercial plane, is that correct?

17 A. I would want to be a bit more specific, and I
18 have not heard all of this testimony. But, generally
19 speaking, for a corporate fleet such as ours, you cannot
20 be in compliance with FAA and potentially IRS rules and
21 take reimbursement in. So to the extent we need to
22 facilitate reimbursement for participation in outside
23 boards, and I believe that was discussed by Witness
24 Bennett, we have developed time share agreements. It is
25 sort of the industry standard for corporate aviation,

1 and those agreements facilitate the ability to provide
2 for reimbursement. So it is under very limited use. It
3 is primarily for those three individuals who are members
4 of outside boards and have a need to use the corporate
5 aircraft, and then seek reimbursement from those boards
6 for that travel. I think Witness Bennett also explained
7 that none of the costs of time share are borne by FPL
8 customers.

9 Q. Ms. Ousdahl, do you know if Mr. Olivera uses
10 the FPL helicopter to travel from his general place of
11 residence to his work location?

12 A. I do not.

13 MS. BENNETT: May I have just a minute?

14 CHAIRMAN CARTER: Absolutely.

15 MR. BUTLER: And may we have just a few
16 minutes?

17 CHAIRMAN CARTER: Absolutely. Okay,
18 everybody, let's do this, and we can include a break for
19 the court reporter in the process. Why don't we come
20 back at 4:10?

21 MR. BUTLER: Thank you.

22 (Off the record.)

23 CHAIRMAN CARTER: We are back on the record.
24 And when we took a break there was a -- I want to say
25 preliminary matter, but I will use that for lack of a

1 better term.

2 Ms. Bennett.

3 **MS. BENNETT:** We are finished with the
4 questions, and I have some great news for you, we don't
5 need a late-filed exhibit. At the break, Mr. Butler
6 showed us that the exhibit that we have in the record
7 does include the most recent escalation -- did I say
8 that right -- escalation factors. And so when I enter
9 that document into the record, which is part of the
10 composite exhibit, we will be good to go.

11 **CHAIRMAN CARTER:** Okay.

12 Commissioner Skop.

13 **COMMISSIONER SKOP:** Thank you, Mr. Chair.
14 When staff is done with their question, I have a couple
15 of lines of questioning for Ms. Ousdahl.

16 **CHAIRMAN CARTER:** Staff, are you completed?

17 **MS. BENNETT:** Yes, we are.

18 **CHAIRMAN CARTER:** Commissioner Skop.

19 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

20 Good afternoon, Ms. Ousdahl.

21 **THE WITNESS:** Good afternoon.

22 **COMMISSIONER SKOP:** On Page 1 of your prefiled
23 testimony it indicates on Line 14, continuing on to Line
24 15, that you are responsible for the regulatory
25 accounting function, is that correct?

1 **THE WITNESS:** I am responsible for financial
2 reporting, regulatory accounting, and the tax accounting
3 for FPL, that is correct.

4 **COMMISSIONER SKOP:** Okay. And I think in a
5 previous question to staff a lot of the discussion is
6 focused on aviation. And I believe that you responded
7 to a question that indicated for 2010 approximately
8 14 million was budgeted, and about 7 million of that
9 will be allocated to FPL, is that correct?

10 **THE WITNESS:** Well, FPL holds the cost of the
11 operation and about half of that would go out the door
12 to affiliates.

13 **COMMISSIONER SKOP:** Okay. Do you have a copy
14 of the compensation data that is confidential?

15 **THE WITNESS:** I'm not allowed to.

16 **COMMISSIONER SKOP:** Great. Okay. You would
17 agree, would you not, that aviation services are shared
18 by the executives of FPL Group, as well as FPL, as well
19 as NextEra Energy Resources, and perhaps other
20 affiliates, is that correct?

21 **THE WITNESS:** Yes, it serves the family of
22 companies.

23 **COMMISSIONER SKOP:** Okay. Do you know why, at
24 least for two specific functions the services provided
25 by those respective job functions, being chief pilot and

1 also senior director of aviation, why those -- if those
2 employees, and these are common services, why those two
3 respective salaries would be allocated 100 percent to
4 Florida Power and Light?

5 **THE WITNESS:** Commissioner, they are not. The
6 chief pilot's salary would be included in the aviation
7 operation budget, and in this forecast for 2010, along
8 with all the other costs of aviation, which I then am
9 moving out via this occupied seat miles affiliate
10 billing method.

11 **COMMISSIONER SKOP:** Okay. Well, with respect,
12 again, not getting into confidential information, at
13 least the documentation I have before me does not
14 indicate that, either that or I'm missing something.
15 So, I guess, who would be the appropriate witness?
16 Would it be Mr. --

17 **THE WITNESS:** I think you would have to talk
18 with Witness Slattery, then.

19 **COMMISSIONER SKOP:** Okay. Moving on. A prior
20 witness, and I apologize if I get his name incorrect,
21 but I think it is Meischeid.

22 **THE WITNESS:** Meischeid.

23 **COMMISSIONER SKOP:** Meischeid.

24 **THE WITNESS:** Yes.

25 **COMMISSIONER SKOP:** He indicated when FPL

1 retained him to perform a reasonable analysis as to
2 compensation data that FPL in terms of the merit
3 increases used approximately 2 percent for merit
4 increases for 2009, and that is what he used as the
5 basis for his evaluation. Would you generally agree
6 with that?

7 **THE WITNESS:** I will accept that. I did not
8 listen to his testimony.

9 **COMMISSIONER SKOP:** Okay. Do you know why the
10 actual filing contained in MFR C-35 representing the
11 year to year merit increases would be different from the
12 number that he was given to use for his reasonable
13 analysis?

14 **THE WITNESS:** Well, I can tell you a couple of
15 reasons. That is Witness Slattery's schedule, and she
16 can go into -- MFR, and she can go into a lot more
17 detail. But you are looking at total compensation I
18 believe on C-35 for each of those years, so that would
19 include increases beyond merit. It would include
20 increases or decreases associated with change in head
21 count. It would include overtime pay. It would include
22 any other compensation related items that may not track
23 to that budgeted merit increase.

24 **COMMISSIONER SKOP:** Okay. Do you generally
25 know what the -- for your fixed-wing aircraft fleet the

1 approximate total flight hours logged in 2008?

2 **THE WITNESS:** I do not.

3 **COMMISSIONER SKOP:** Okay. But you are
4 responsible for the regulatory accounting function for
5 aviation services?

6 **THE WITNESS:** I am responsible for determining
7 the best way to allocate the costs of that operation.
8 And what I do, Commissioner, when we deliberated on this
9 at the end of last year when we changed our method, we
10 spent a lot of time with the folks, and you all have
11 talked with Witness Bennett. We spent a lot of time
12 talking about the proper way to derive the allocation
13 and I relied to a great extent on their advice. They
14 are experts in the management of the aviation operation,
15 I am not. But their advice to me was that occupied seat
16 miles is an industry standard for determining sort of a
17 usage based measure, and it was through their advice
18 that we developed what we felt was a very good
19 allocation method.

20 **COMMISSIONER SKOP:** And that allocation method
21 for reverting -- or migrating to occupied seat miles,
22 that was adopted in what year?

23 **THE WITNESS:** At the very end of last year,
24 and it increased the attribution of billing out the door
25 from FPL to the affiliates significantly.

1 **COMMISSIONER SKOP:** Okay. Mr. Chair, just
2 based upon a lot of the questions that have arisen from
3 the aviation costs, which, you know, appear to be
4 substantial, as well as the concerns raised by the
5 intervening parties as to the allocation, I would
6 request that a late-filed exhibit be filed, and that
7 late-filed exhibit would include the flight logs and
8 passenger manifests for fixed-wing aircraft from 2006 to
9 present. And I think that that would allow our staff to
10 conduct a brief analysis as to the proper allocation of
11 those costs to ensure that they are being allocated in
12 the pass-through to the respective entities as staff
13 would feel appropriate. So I would like to ask for that
14 late-filed exhibit, please.

15 **MR. BUTLER:** We could provide it as a
16 late-filed exhibit, but we have provided that
17 information in discovery previously to staff. And I
18 just -- knowing the sensitivity of late-filed exhibits,
19 would it make sense to have us identify what the
20 discovery responses are so that --

21 **COMMISSIONER SKOP:** Well, I don't believe it
22 would be -- from the testimony I have heard and the
23 concerns raised by the intervenors, as well as the
24 concerns expressed by our staff relating to the personal
25 use of FPL or FPL Group aircraft by executives, and how

1 those costs are recovered and allocated, I think what I
2 would like to see, and I think that that would have
3 definitive ability to resolve some of the concerns that
4 have been expressed, would be the flight logs, including
5 passenger manifests for fixed-wing aircraft from 2006 to
6 present.

7 And I am pretty sure that if those exhibits
8 were previously filed, that some of the questions that
9 have arisen would not have arisen in light of the
10 discussion, the lengthy discussion that has been had as
11 to aviation related items. But it seems to me that
12 there has been a cost allocation and then there has been
13 a transition into how that cost is allocated, and there
14 is a lot of discussion about common services and how
15 they are allocated between the unregulated and regulated
16 entities, and I think that warrants a little bit closer
17 examination.

18 **MR. BUTLER:** Okay. We had provided 2007
19 forward. I'm sure we can provide 2006, as well. We
20 have provided that, but certainly no objection to
21 packaging it into a late-filed exhibit if that serves
22 the Commission's needs.

23 **COMMISSIONER SKOP:** Thank you. I think that
24 would -- and I don't believe the intervenors would
25 object. I think that that would allow them to review

1 the data. I don't want to speak for them, but at least
2 in terms of looking at the flights that have occurred
3 and how the various charges for whatever passenger seat
4 miles or however that is being allocated, I think it
5 warrants transparency in terms of some of the concerns I
6 have heard expressed, not only by the intervenors, but
7 also by our staff.

8 **CHAIRMAN CARTER:** Mr. Moyle.

9 **MR. MOYLE:** I think just to be consistent, we
10 would object to that. But to the extent that it is
11 provided, and we have a chance to look at it consistent
12 with some of these other things, you know, that concern
13 may be mitigated to the extent we can review the
14 information.

15 **CHAIRMAN CARTER:** Okay. A short title,
16 Commissioner?

17 **COMMISSIONER SKOP:** Fixed-Wing Flight Log and
18 Passenger Manifest for Fixed-Wing Aircraft, 2006 through
19 Present.

20 **MR. BUTLER:** Mr. Chairman.

21 **CHAIRMAN CARTER:** Yes, sir.

22 **MR. BUTLER:** Again, we don't object to
23 packaging that and providing it as a late-filed exhibit.
24 To Mr. Moyle's comments, other parties as well as staff
25 have had access to the discovery in which we have

1 provided that previously, and we would not agree that
2 further examination of witnesses who have already been
3 subjected to examination on that topic with the
4 discovery that had been available would be appropriate.

5 **CHAIRMAN CARTER:** Okay. The years,
6 Commissioner, was --

7 **COMMISSIONER SKOP:** Mr. Chair, it would be --
8 and the short title would be Flight Logs and Passenger
9 Manifests for Fixed-Wing Aircraft, 2006 through present.

10 **CHAIRMAN CARTER:** Okay.

11 **COMMISSIONER SKOP:** Thank you.

12 **CHAIRMAN CARTER:** All right. Anything further
13 from the bench?

14 Staff, had you completed your
15 cross-examination?

16 **MS. BENNETT:** We did.

17 **CHAIRMAN CARTER:** Okay. Redirect.

18 **MR. BUTLER:** Thank you, Mr. Chairman. Before
19 I do, Ms. Clark wants the opportunity to speak briefly
20 to schedule matters given the hour.

21 **CHAIRMAN CARTER:** Okay. Let's talk about the
22 schedule.

23 **MS. CLARK:** Thank you, Mr. Chairman. We have
24 some proposals with regard to how we proceed from here.
25 What we would suggest are two recommendations, one of

1 which is that we -- regarding finishing tonight and
2 going tomorrow, that we have an agreement that we would
3 not go past Witness Santos through tomorrow, so we can
4 give folks some opportunity to go ahead and travel home
5 for this long weekend, and that you would release the
6 rest of the witnesses from being available.

7 **CHAIRMAN CARTER:** Have you guys talked about
8 that, the intervenors?

9 **MS. CLARK:** The other --

10 **CHAIRMAN CARTER:** Hang on. Hang on.

11 Did you guys talk about that with Ms. --

12 **MS. CLARK:** No.

13 **MR. WRIGHT:** Mr. Chairman.

14 **CHAIRMAN CARTER:** Yes, Mr. Wright. There you
15 go. There you are.

16 **MR. WRIGHT:** Here I am. Thank you. We have
17 not discussed this, and as I indicated yesterday, all I
18 want to know is what the witness order is. We have
19 no -- we, the Retail Federation, have no objection to
20 the specific request that's on the table, i.e., that we
21 have an agreement, subject to the Commission's approval,
22 of course, not to go past Witness Santos tomorrow. I
23 just want to know are we keeping the same order of
24 witnesses? That is what I understand Ms. Clark to be
25 suggesting. I just want to know for sure.

1 **CHAIRMAN CARTER:** Ms. Clark.

2 **MS. CLARK:** Yes, Mr. Chairman, but I had an
3 alternative for consideration, as well.

4 **CHAIRMAN CARTER:** I guess in the Legislature
5 they deal with the amendment before they get back on the
6 main deal, so let's deal with the alternative and kick
7 that around first.

8 Ms. Clark.

9 **MS. CLARK:** The other idea would be to put
10 Mr. Avera on at 5:00 o'clock today, followed by
11 Mr. Pimentel, but the agreement would be that both of
12 them would be done at the close of business tomorrow.

13 **CHAIRMAN CARTER:** I think we've got a lot of
14 questions for Mr. Pimentel, so that probably wouldn't
15 work.

16 **MS. CLARK:** The other thing is we might be
17 able -- I still hold out hope we could stipulate Santos.
18 I have spoken to staff because of some items from Ms.
19 Ousdahl being referred to her, specifically the bad debt
20 and the rate case expense. We believe Mr. Davis could
21 take that up, and I think the Smart Grid was
22 Mr. Barrett. I understand with regard to the questions
23 on AMI that those are no longer necessary.

24 So, I know I have broached the subject of
25 stipulating Ms. Santos in. It is my understanding

1 that nobody -- I don't know quite how to put this. If
2 she is here, some folks have questions. If she isn't
3 here, they don't have questions.

4 **CHAIRMAN CARTER:** That is not the same as
5 stipulating, though. That's not the same.

6 **MS. CLARK:** But I just wanted to be clear as
7 to what their representations were.

8 **CHAIRMAN CARTER:** Ms. Bennett.

9 **MS. BENNETT:** I want to apologize to
10 Ms. Clark. I misspoke. I thought we didn't have many
11 questions for Ms. Santos, but my understanding is that
12 staff does have quite a few questions for Ms. Santos on
13 rebuttal, so we would not be willing to stipulate her.

14 **CHAIRMAN CARTER:** Okay. Let me kind of back
15 up first and start where we are going. As far as we
16 know, the order of witnesses, I think that is the one
17 thing that we do agree on, is that correct, this sheet
18 here that was given to me this morning, right?

19 **MR. BUTLER:** Yes.

20 **MR. WRIGHT:** Mr. Chairman, that is the order
21 that I have been working with. And since you have
22 recognized me, I'm just going to say we strongly object
23 to any suggestion of Dr. Avera being taken out of order
24 today. That was the point I wanted to make at the end
25 of the day yesterday.

1 **CHAIRMAN CARTER:** Okay.

2 **MR. WRIGHT:** Thank you.

3 **CHAIRMAN CARTER:** All right. Mr. Moyle.

4 **MR. MOYLE:** From FIPUG's standpoint, I think
5 Ms. Clark's suggestion of saying here is as far as we go
6 tomorrow is a good one. We support it, and it would
7 give everybody a road map as to where we are going to go
8 the rest of the day today and tomorrow. So I think it
9 is a good idea, and we would be willing to work within
10 that.

11 **CHAIRMAN CARTER:** The thing that I will tell
12 you is that we are going to break at 1:00 tomorrow
13 regardless of where we are.

14 **MR. MOYLE:** Yes. That's fine. We understand
15 that, but we are not going jumping around or beyond
16 that. I mean, I may not have to put on a coat and tie
17 tomorrow, because Ms. Kaufman --

18 **CHAIRMAN CARTER:** Oh, by the way, staff, in
19 case you are listening, tomorrow will be business
20 casual. That's not flip-flops or whatever you call
21 those things. That's not flip-flops.

22 **MR. MOYLE:** Was counsel included in that --
23 maybe not.

24 **MS. BENNETT:** The pregnant one says that's
25 what she wears, flip-flops.

1 **CHAIRMAN CARTER:** Well, you get the mommy
2 exception. Since you are a first-time mom, you get the
3 mommy exception there.

4 I do have -- it may be limited, but I do have
5 some persuasive abilities when I tell staff about their
6 dress code, but with you guys, I don't have any. So
7 just don't come here naked, you know.

8 **MR. BUTLER:** We'll work on that.

9 **CHAIRMAN CARTER:** Okay. I mean tomorrow. Do
10 that after you leave at 1:00 o'clock.

11 **COMMISSIONER EDGAR:** Mr. Chairman, moving on.

12 **CHAIRMAN CARTER:** Ms. Clark.

13 **MS. CLARK:** So I guess do we have consensus
14 that we would note not go past Ms. Santos tomorrow? And
15 I think we need to recognize, however, that that means
16 all of those other witnesses will have to be done by the
17 16th.

18 And with that in mind, Mr. Chairman, I would
19 like to ask humbly if we could remain flexible about
20 September 11th, which is the last --

21 **CHAIRMAN CARTER:** September 16th.

22 **MS. CLARK:** Okay, Mr. Chairman.

23 **CHAIRMAN CARTER:** That's the --

24 **MS. CLARK:** I was just going to suggest to the
25 extent that the hearing gets over, we might be able to

1 remain flexible to use that day, as well, on the
2 nuclear.

3 **COMMISSIONER ARGENZIANO:** Mr. Chair, I can
4 hardly hear her. I'm sorry.

5 **CHAIRMAN CARTER:** Ms. Clark, she wasn't
6 speaking up, Commissioner.

7 Let me chastise her properly.

8 **COMMISSIONER ARGENZIANO:** She has just got a
9 very soft voice and it is not coming through.

10 **CHAIRMAN CARTER:** Chris is going to raise her
11 volume, Commissioner.

12 **COMMISSIONER ARGENZIANO:** Okay. Thank you.

13 **CHAIRMAN CARTER:** Ms. Clark.

14 **MS. CLARK:** Okay. So I guess what I have is
15 the Santos agreement.

16 **CHAIRMAN CARTER:** No, you don't have the
17 Santos agreement.

18 **MS. CLARK:** No, no. I mean, to not go past
19 her.

20 **CHAIRMAN CARTER:** Oh, okay.

21 **MR. WRIGHT:** Mr. Chairman.

22 **CHAIRMAN CARTER:** Yes, sir, Mr. Wright.

23 **MR. WRIGHT:** To be clear, we have no objection
24 to that request, i.e., that we would not go past
25 Ms. Santos in the order shown on the latest list. That

1 is completely acceptable.

2 **CHAIRMAN CARTER:** Mr. Beck.

3 **MR. BECK:** Mr. Chairman, that's fine with us.
4 One thing Ms. Clark mentioned is that an agreement that
5 we would cover all the remaining witnesses in one day,
6 we can't agree to that. But we certainly agree to go no
7 further than Ms. Santos tomorrow.

8 **CHAIRMAN CARTER:** Okay. We will agree on what
9 we can agree on.

10 Mr. Wiseman.

11 **MR. WISEMAN:** I would echo Mr. Beck's
12 comments. We are fine with going through Santos
13 tomorrow, but I don't personally see how we will
14 possibly finish the remaining witnesses on the 16th, and
15 so I am just pointing that out. And to the extent that
16 FPL was suggesting that that is the last day that we are
17 going to squeeze all of those witnesses into that day, I
18 think that is problematic, because there are some very
19 important witnesses that remain on that list.

20 **CHAIRMAN CARTER:** Okay. It's good to hear all
21 of you all's opinion, and I will weigh those
22 accordingly, and we will work with you if we can work
23 with you. Let's cross that bridge when we get to it.

24 We may make progress tomorrow, and like you
25 say -- I tell you what, if we get to Santos tomorrow, we

1 will have done a good job, because right now we have got
2 Ousdahl on, and then we have Ender for direct and
3 rebuttal, then Deaton for direct and rebuttal, Morley
4 rebuttal, Barrett rebuttal, Slattery direct and
5 rebuttal, and there are some questions that have been
6 punted to Ms. Slattery, significant questions from both
7 staff and everyone else. So I don't know if we will
8 even get beyond Ms. Slattery tomorrow, if we get there.
9 That is just me thinking aloud.

10 **MS. CLARK:** Well, two things. We would
11 welcome proposals from the intervenors as to how we get
12 done by the 16th, so just to lay that on the table.

13 **CHAIRMAN CARTER:** Okay. You guys can, as the
14 guy on TV says, talk among yourselves. Anyway, let's
15 proceed. You were doing redirect.

16 **MS. CLARK:** Well, do we have your blessing
17 that we would just go through Santos tomorrow?

18 **CHAIRMAN CARTER:** Like I say, I don't -- I
19 don't see us getting beyond Ms. Slattery tomorrow. So,
20 yes, that would be fine.

21 **MS. CLARK:** Okay.

22 **CHAIRMAN CARTER:** I mean -- and I am an
23 eternal optimist, but I just don't see us getting,
24 because there are a lot of questions that have been
25 punted to Slattery from both -- when their witnesses

1 were cross-examined by the intervenors, and for staff,
2 and Commissioner Skop asked a question that I think was
3 kicked to Ms. Slattery. So, Ms. Slattery, you need to
4 eat a good dinner tonight and get some good rest.

5 **MS. CLARK:** Thank you, Mr. Chairman. We will
6 communicate that where we won't go past that. Thank
7 you.

8 **CHAIRMAN CARTER:** Okay. Redirect.

9 **MR. BUTLER:** Thank you, Mr. Chairman.

10 REDIRECT EXAMINATION

11 **BY MR. BUTLER:**

12 **Q.** Ms. Ousdahl, just a few redirect for you. You
13 were asked about the historic museum and the costs
14 associated with it. I believe that you mentioned that
15 one of the functions it serves is as an archive. Do you
16 have any examples in which the materials archived in the
17 historical museum have been useful to the company in its
18 business operations?

19 **A.** Yes, I do. Recently in preparation for the
20 modernizations of Riviera and Cape Canaveral, the photo
21 libraries were used out of the historical museum to
22 investigate how the shoreline had changed historically,
23 and it was utilized in some way by the engineering and
24 planning and permitting team for those projects. So
25 there have been business related uses quite recently

1 with materials from the historical museum.

2 Q. Thank you. You were asked by staff about
3 several items in the adjustment of FPL's rate base and
4 the reconciliation of capital structure to it earlier.
5 And I would like for you, please, just to describe to
6 the Commission why looking at individual items and the
7 extent to which they do or don't involve ITC or deferred
8 taxes is not appropriate in your view?

9 A. Yes. As I discussed with you all when we
10 began, I think, cross today, I think all parties have
11 agreed and the Commission has agreed historically that
12 we really cannot map specifically sources of capital to
13 rate base. And although we may take one or two of the
14 adjustment items and say, well, that didn't give rise to
15 deferred taxes or ITC, that is not the entire exercise
16 that has to be conducted. We have got to account for
17 \$3 billion worth of adjustments.

18 So, the pro rata method is a way to do that to
19 ensure that when you determine how much equity we should
20 have in our cap structure we preserve that. When you
21 determine for per books purposes how much deferred taxes
22 are properly projected, we preserve that. And then to
23 the extent invested capital is brought out of rate base
24 and is going to be recovered through other means,
25 through AFUDC accruals or a clause, we are going to

1 ensure that we have consistent returns.

2 It is a method that just ensures consistency,
3 no normalization violations, and the proper return will
4 be earned by the company overall. I might add, also, if
5 we take a specific identification approach and try to
6 reforecast our balance sheet, we are going to have a
7 heck of a time preparing a surveillance report that is
8 going to be objective versus subjective. And that is a
9 grave concern of our companies in this regard.

10 Q. Ms. Ousdahl, do you have any examples in which
11 doing an individual item-by-item adjustment for
12 the reconciliation of capital structure and rate base
13 would actually have the effect of reducing the amount of
14 deferred taxes and investment tax credit in the base
15 rate capital structure compared to doing it on a pro
16 rata basis?

17 A. Well, I have an example where using the pro
18 rata basis increases accumulated deferred taxes, and
19 thus provides additional cost-free capital to customers.
20 I mean, the key is pro rata is going to be consistent no
21 matter which way you go with these adjustments. And we
22 have on D-1b a liability associated with our St. Johns
23 River Power Park arrangement that we have to procure
24 power through that -- through that plant. That
25 liability has to get adjusted back into rates. And when

1 we adjusted that on a pro rata basis, although it has no
2 deferred taxes, we increased deferred taxes radically
3 associated with the method. So the biases work both
4 ways. Pro rata is not perfect, but it is consistent.

5 Q. Thank you. Let me ask you about the use of
6 decommissioning funds. This was a subject that was
7 discussed with you earlier. Does the Internal Revenue
8 Service also have requirements regarding the use of
9 decommissioning funds for purposes other than defined
10 decommissioning activities, as well as the NRC?

11 A. Well, I think I was crossed around the
12 possibility of withdrawing funds for use in purposes
13 other than strictly decommissioning. And we discussed
14 having to petition the NRC for that purpose, and the
15 possibility or remote possibility of being able to
16 receive that permission from the NRC. I neglected to
17 discuss that if we withdraw qualified funds, we would
18 likewise have to have approval from the IRS.

19 Q. You were asked by Mr. Moyle some questions
20 about the use of historic test years, do you recall
21 that?

22 A. I do.

23 Q. Okay. Does a historic test -- is the accuracy
24 of a historic test year with respect to the historic
25 period from which the data has been taken?

1 **A.** Would you repeat the question. I'm sorry,
2 John, or Mr. Butler.

3 **CHAIRMAN CARTER:** I thought it was just me.

4 **THE WITNESS:** It seemed to just end too soon.

5 **BY MR. BUTLER:**

6 **Q.** A confusing question, my apologies. If
7 historic data is used for the purpose of a test year --
8 I'm sorry, for test year ratemaking, it will relate to a
9 particular historic period, correct?

10 **A.** That is correct.

11 **Q.** Okay. Now, would it be true that the historic
12 information would be accurate for that particular
13 historic period from which the information is taken?

14 **A.** Yes, it would be an accurate representation
15 for that period.

16 **Q.** But would its accuracy with respect to the
17 historic period and for similar accuracy with respect to
18 its use in setting rates for future periods?

19 **A.** Not necessarily. It may have little or no
20 relevance to a future period in terms of the
21 reasonableness of overall costs.

22 **Q.** You were asked by Mr. Moyle also about the
23 development of specific impacts on customers' bills when
24 West County 3 goes into service through the GBRA
25 mechanism that FPL is proposing. Do you recall those

1 questions?

2 **A.** Yes.

3 **Q.** If you recall, FPL had not in discovery
4 responses provided a specific projection of what the
5 bill impact would be, do you recall that?

6 **A.** I do.

7 **Q.** Okay. Would you describe the process in
8 which, or through which the Commission -- FPL would
9 determine and the Commission would review the specific
10 bill adjustments that would occur as a result of adding
11 the cost for West County 3 through a GBRA mechanism?

12 **A.** Well, only generally. It's really Witness
13 Deaton's responsibility. But very simply speaking, we
14 would take the total revenue requirements from the need
15 determination, which have already been ascertained, we
16 have discussed that, and we would look at the next
17 12 months of projected revenue based on a forecast in
18 the fall before the prior period. And this is done in
19 the course of all sorts of projections in the fall along
20 the lines of clause recoveries. And then the rate is
21 simply constructed based on that next 12 months
22 forecasted revenue.

23 **Q.** Thank you. Do you have a copy available to
24 you of Exhibit 468 that was distributed to you by the
25 South Florida Hospital Association? This is the NEIL

1 2008 annual report.

2 **A.** I do.

3 **Q.** You were asked some questions on this exhibit
4 about some information that appears on Page 5 of it, do
5 you recall?

6 **A.** Yes.

7 **Q.** There is a section near the top of Page 5
8 entitled operating results. I would like for you to
9 read that, please.

10 **A.** Okay. In 2008, NEIL reported net losses of
11 504 million compared to 130 million of net earnings in
12 2007. The decrease was the result of higher
13 underwriting losses and lower investment returns
14 relative to 2007. These factors also resulted in a
15 comprehensive loss of 907 million in 2008 in comparison
16 to comprehensive earnings of 77 million in 2007.

17 **Q.** Do those operating results, are those part of
18 the information that FPL has used in projecting that it
19 would not be reasonable to expect to receive
20 policyholder distributions in 2010 and 2011?

21 **A.** Yes. It is described throughout the report.
22 It is the absolute factors that have resulted in NEIL
23 advising us that we should not expect a distribution.

24 **Q.** Okay. I would like to ask you, I think,
25 finally, to describe in a bit more detail the point that

1 has been raised by you in a response to South Florida
2 Hospital Association and some of the other attorneys
3 about the effect of a GBRA increase for a utility that
4 adds a plant. And I would like for you to discuss,
5 please, three different situations, a hypothetical in
6 which there is a utility that has a midpoint of
7 12.5 percent as its ROE, and then as two sensitivity
8 cases, the three cases in total. I would like for you
9 to describe the impact of adding plant through the GBRA
10 in the case where the utility is earning at the bottom
11 end of its range, which would be a return of
12 11.5 percent, the midpoint of 12.5 percent, and the
13 upper end which would be 13.5 percent.

14 **MR. MOYLE:** I think this is beyond
15 rehabilitating on redirect. It is asking a very broad
16 open-ended question, different ROEs. I don't think that
17 this is responding to a point that was brought up on
18 cross.

19 **CHAIRMAN CARTER:** To the objection,
20 Mr. Butler.

21 **MR. BUTLER:** Well, I think it is describing --
22 or responding exactly. There was a great deal of
23 discussion about the fact that granting a GBRA based
24 increase when the plant goes into service would have on
25 the utility's earnings at that point and whether it

1 would cause the utility to overearn, what it would do
2 with respect to the earnings that the utility would be
3 exposed to or would achieve at that point in time. And
4 I am only trying to give -- or have Ms. Ousdahl describe
5 three cases that pretty well define the boundaries of
6 the relevant inquiry that the utility would be earning
7 at the bottom of its allowed return, what would happen
8 if it was right at its midpoint of its return, and what
9 would happen if it was at the upper end of those returns
10 on its surveillance reports prior to the GBRA increase
11 going into effect, and what the impact of the GBRA
12 increase would be under those three circumstances.

13 **CHAIRMAN CARTER:** Ms. Helton, good afternoon.

14 **MS. HELTON:** Good afternoon, Mr. Chairman. I
15 can't remember who asked the questions. I do remember
16 the Hospital Association asking some, and there may have
17 been others who asked questions of Ms. Ousdahl about the
18 GBRA and what effect it has or would not have on the
19 company's earnings. So from what I have heard so far of
20 the hypothetical it seems appropriate to me.

21 **CHAIRMAN CARTER:** Okay. Objection overruled.
22 You may proceed.

23 **THE WITNESS:** Okay. We took three simple
24 examples to try to underscore my point that I had been
25 making that GBRA in and of itself is always going to

1 earn at the midpoint. And, essentially, in the three
2 examples where we have a rate base and an incremental
3 GBRA combined, it does just that. So, in the low case
4 scenario where we are earning, prior to GBRA being
5 implemented, at the low end of the range, 11-1/2, and we
6 bring in a relatively sized GBRA investment at 12-1/2,
7 it drives our combined earnings to 11.56, six basis
8 points higher than we were previously underearning.

9 So that is -- the point we are trying to make
10 here is that GBRA is only going to move you towards that
11 midpoint. If you are at 12-1/2 percent earnings in ROE
12 before you implement the GBRA, in the second example,
13 and you implement a GBRA with a 12-1/2 percent midpoint
14 ROE, you will continue to earn on a combined basis
15 12-1/2 percent.

16 Lastly, and this was the scenario most parties
17 are concerned with, if you have an overearnings
18 situation prior to implementing GBRA, and in this
19 hypothetical example you are earning 13-1/2 percent ROE,
20 and you combine an asset that is designed through GBRA
21 to earn at 12-1/2, you will bring down your overall ROE.
22 In this example, 13.44. So it is always going to try to
23 drive the return to the allowed midpoint.

24 **MR. BUTLER:** Thank you, Ms. Ousdahl. That is
25 all the redirect that I have.

1 **CHAIRMAN CARTER:** Exhibits. I think we start
2 on Page 41 of the staff's composite -- comprehensive
3 exhibit list, is that right for the direct? Is that 353
4 through 358? Mr. Butler, does that sound right to you?

5 **MR. BUTLER:** Yes. I have for rebuttal 353
6 through 358, and I would move those.

7 **CHAIRMAN CARTER:** Any objections? Without
8 objection, show it done.

9 (Exhibit Numbers 353 through 358 admitted into
10 the record.)

11 **MR. BUTLER:** And I would also have on direct
12 117 through 126.

13 **CHAIRMAN CARTER:** Okay. Let me flip over
14 there. Hang on. Let me flip over there, 117 through --

15 **MR. BUTLER:** 117 through 126 is what I have.

16 **CHAIRMAN CARTER:** Okay. Are there any
17 questions? Any objections? Without objection, show it
18 done.

19 (Exhibit Numbers 117 through 126 admitted into
20 the record.)

21 **CHAIRMAN CARTER:** Hang on before we go to the
22 back pages, guys. Just hold what you've got. Okay.
23 Let's go to the back pages now.

24 Ms. Griffiths, I think you have 466 through
25 468, is that correct?

1 **MS. GRIFFITHS:** That is correct.

2 **CHAIRMAN CARTER:** Okay. Are there any
3 objections?

4 **MR. BUTLER:** No.

5 **CHAIRMAN CARTER:** Okay. 466, 467, and 468 are
6 entered into the record.

7 (Exhibit Numbers 466, 467, and 468 admitted
8 into the record.)

9 **CHAIRMAN CARTER:** Mr. Moyle, you had 469, 470,
10 471, and 472.

11 **MR. MOYLE:** Yes, sir. We would like to move
12 them in.

13 **CHAIRMAN CARTER:** Are there any objections?
14 Without objection, show it done.

15 (Exhibit Numbers 469 through 472 admitted into
16 the record.)

17 **CHAIRMAN CARTER:** Staff, you have covered --
18 we have already entered in from 473 to 479. Those have
19 already been entered into evidence.

20 **MS. BENNETT:** I'm sorry, I would like to move
21 in 480.

22 **CHAIRMAN CARTER:** 480. Hang on. Is there any
23 objections to 480? Without objection, show it done.

24 (Exhibit Number 480 admitted into the record.)

25 **CHAIRMAN CARTER:** 481, that is the late-filed

1 that Commissioner Skop requested.

2 Commissioner Skop.

3 **COMMISSIONER SKOP:** Is that 481 or 482?

4 **MR. BUTLER:** I have it as 482.

5 **COMMISSIONER SKOP:** That's what I have.

6 **CHAIRMAN CARTER:** Did I miss one?

7 **MS. BENNETT:** I copied off Ms. Helton because
8 I was talking.

9 **CHAIRMAN CARTER:** Okay. With this witness
10 I've got starting with 466 with the South Florida Health
11 Care and Hospital Association, it is 466, 467, and 468.
12 Ms. Griffiths, is that correct with you?

13 **MS. GRIFFITHS:** That is correct.

14 **CHAIRMAN CARTER:** Okay. For FIPUG, I have
15 469, 470, 471, and 472. Mr. Moyle, is that correct?

16 **MR. MOYLE:** Yes, sir.

17 **CHAIRMAN CARTER:** Okay. Staff, you started
18 with 473, 474, 475, 476, 477, 478, and 479. Is that
19 correct?

20 **MS. BENNETT:** That's correct, and 480.

21 **CHAIRMAN CARTER:** And then 480 we just moved
22 on that. And I have 481 is the one requested by
23 Commissioner Skop. I don't have a 482.

24 **MS. BENNETT:** I don't have a 481 -- I mean, I
25 have the 481 that Commissioner Skop requested.

1 **COMMISSIONER SKOP:** Let me just -- if it is
2 481 and not 482, because, again, I double-checked with
3 staff and I thought I got the number. And me and
4 Mr. Butler seem to be having the same number. So I want
5 to make sure we get it straight. So 481 is the
6 late-filed exhibit which would be Flight Logs and
7 Passenger Manifests for Fixed-Wing Aircraft, 2006
8 through Present. And that is 481, correct?

9 **MS. BENNETT:** That is correct. And we will
10 look at the transcripts on Monday or Tuesday and make
11 sure that we have got all the exhibits in in case I
12 missed something.

13 **COMMISSIONER SKOP:** Thank you.

14 **CHAIRMAN CARTER:** Okay.

15 **MS. BRADLEY:** Mr. Chairman.

16 **CHAIRMAN CARTER:** Ms. Bradley.

17 **MS. BRADLEY:** Let me ask you about that since
18 there was some confusion about which exhibit that was,
19 but we still maintain our objection to 481 until after
20 we have seen it.

21 **CHAIRMAN CARTER:** Okay. No problem.

22 **MS. BRADLEY:** If that is the correct one.

23 **CHAIRMAN CARTER:** It is the correct one based
24 upon my list.

25 (Late-Filed Exhibit Number 481 marked for

1 identification.)

2 **MS. BRADLEY:** All right. Thank you, sir.

3 **MS. BENNETT:** And I have one more exhibit.

4 **CHAIRMAN CARTER:** Okay. You're recognized.

5 **MS. BENNETT:** It is on Staff's Comprehensive
6 Exhibit List Number 35. That is Comprehensive Exhibit
7 List 35, and it is Item 65, which was the 25 and 26. We
8 wanted the escalation factors, and we went back and
9 determined that that was indeed in that document. So we
10 would like that entered into the record at this time.

11 **CHAIRMAN CARTER:** Are there any objections?
12 Without objection, show it done.

13 (Exhibit 35 on Comprehensive Exhibit List,
14 Item 65, marked for identification and admitted into the
15 record.)

16 **MR. BUTLER:** Mr. Chairman.

17 **CHAIRMAN CARTER:** Mr. Butler.

18 **MR. BUTLER:** One other thing I just wanted to
19 note for the record, and, again, I want to emphasize
20 that we have no problem with providing Late-Filed
21 Exhibit 481 as described by Commissioner Skop, but we
22 had responded to discovery requests. It was OPC's
23 Second Request for Production of Documents Number 113,
24 and then it was a response to Staff's Sixth Request for
25 Production of Documents Number 59, that included this

1 type of log information. It's probably good to
2 consolidate it in one place, as Commissioner Skop has
3 requested, but to the comments that have been raised
4 about it being a late-filed exhibit, or new information,
5 or anything of that sort, this is stuff that has been
6 available to parties previously. And I just want to
7 make that clear.

8 **COMMISSIONER SKOP:** Mr. Chair, let me speak to
9 that concern.

10 **CHAIRMAN CARTER:** You're recognized.

11 **COMMISSIONER SKOP:** My concern, given the
12 substantial discussion, hours on length amongst me
13 asking multiple witnesses trying to get to a
14 straightforward question amongst hearing new changes in
15 allocation practices, notwithstanding staff's concerns,
16 again, I just want to see the data. Transparency in the
17 regulatory process is a good thing. And, you know, I
18 don't understand why Mr. Moyle would have an objection
19 or Ms. Bradley of trying to get to the bottom of how
20 costs are allocated.

21 So it seems to me -- I still request the
22 exhibit as a Commissioner. I would like it consolidated
23 in one thing. I don't want to have to go dig through
24 it. It may entail some of the information, it may not,
25 I don't know. And we can stop the proceeding, and I can

1 go look through the documents, or we could just
2 consolidate it and make it easier for all of us.

3 And I think, as often said, more information
4 is better. Again, it should not be objectionable to the
5 extent that it just shows the flights and allows people
6 to see how costs are allocated. So it just provides
7 information. It is not a matter of, per se, doing
8 anything that would cause for the denial or an inclusion
9 of cost. It just allows transparency into being able to
10 figure out how these costs are allocated, and we are
11 talking about millions of dollars there on those
12 aviation expenses. So, I would like to see the data,
13 and I would hope that the respective parties would
14 respect that.

15 **COMMISSIONER ARGENZIANO:** Mr. Chair.

16 **CHAIRMAN CARTER:** Commissioner Argenziano.

17 **COMMISSIONER ARGENZIANO:** I would like to ask
18 the -- I guess Mr. Moyle and Ms. Bradley what the
19 objection really is, because it seems -- it seems -- it
20 just doesn't seem -- I don't know why there would be an
21 objection, number one, and it seems that everyone would
22 want to have more information about this issue. So
23 could maybe they speak to the reason for the objection.
24 I don't think it is the obtaining of the information, is
25 it? Can you tell me?

1 **CHAIRMAN CARTER:** Ms. Bradley then Mr. Moyle.
2 Ms. Bradley.

3 **MS. BRADLEY:** To answer your question, we are
4 not concerned about you wanting to know everything you
5 can about these proceedings, but there were orders that
6 were issued, there are rules in place governing how this
7 is supposed to be carried out. And when we violate
8 those rules, it causes some due process problems.

9 When you bring in late-filed stuff, we never
10 know what it is going to look like, what information is
11 going to be in it, and to the extent it may need to be
12 responded to, or there is something we think is
13 incorrect, we have lost our opportunity to put on
14 testimony opposing it or correcting it. And that is why
15 we have objected to late-filed exhibits.

16 **CHAIRMAN CARTER:** First Mr. Moyle, and then I
17 will come to you, Commissioner.

18 Mr. Moyle.

19 **MR. MOYLE:** And let me answer it this way if I
20 can. To Ms. Bradley point, I mean, we have identified
21 issues, we have spent a lot of time identifying issues
22 in the case. Probably the better way to answer that is
23 to preview an objection I think that will be made
24 shortly with respect to an answer to an interrogatory
25 that I think is going to be offered that will talk about

1 a step increase. And I don't think there is anything in
2 the record at this point that talks about a step
3 increase for the West County.

4 I mean, you know, they have had opportunities
5 to raise it. It hasn't been raised. Okay. Now, if all
6 of a sudden here comes an interrogatory answer to say,
7 oh, GBRA may not work, 2011 may not work, let's do a
8 step increase. We are going to say, no, that is not
9 part of what is in front of us. We want to try to keep
10 the record clear of that.

11 And so the objection to be consistent is,
12 late-filed, we don't want to say, well, you are kind of
13 picking and choosing. I mean, I guess, probably I would
14 pick and choose. If it helps my client, I would let it
15 in; if it doesn't, I would keep it out. But that is
16 really the premise of the objection, and I'm trying to,
17 you know, keep a clean record.

18 **COMMISSIONER ARGENZIANO:** Mr. Moyle, I think
19 you got my attention. I understand. Thank you.

20 **CHAIRMAN CARTER:** Commissioner Skop.

21 **COMMISSIONER SKOP:** Thank you, Mr. Chair. And
22 like I said, we haven't heard from the other
23 intervenors, but, again, I see the argument. I
24 understand the argument. I believe it is separate and
25 distinct from some of the previous concerns that you

1 mentioned in your discussion.

2 This is just merely looking at data trying to
3 understand how costs are allocated. Again, we have
4 heard testimony that has stated that shared services are
5 common among unregulated and regulated entities. It is
6 hard to decipher what is going on there. This should
7 not prejudice your client in any way. If anything, it
8 provides transparency to better understand the cost
9 allocations.

10 So I would respectfully request, at least on
11 this, that at least from my perspective as a
12 Commissioner wanting to understand based upon testimony,
13 a concern that staff has expressed, concerns I have
14 heard the intervenors express. I would appreciate it if
15 you would indulge my desire to see that transparency,
16 because I don't see any way, form, or fashion that
17 looking at the allocated costs could be prejudicial to
18 your client to the extent that we all have an interest
19 in making sure costs are properly allocated.

20 And I don't know if Mr. Wright wants to
21 elaborate, or Mr. Beck, or whomever, Southern Hospitals.
22 But I could -- I could better understand the objection
23 if it were founded on a different topic, but, I mean,
24 this is just asking for information to see transparency
25 on something that seems to be pretty convoluted.

1 **MR. MOYLE:** And, Mr. Chairman, if I may.

2 **CHAIRMAN CARTER:** You may.

3 **MR. MOYLE:** I think the objection is
4 interposed largely for consistency. I don't see the
5 objection as preventing FPL from providing the
6 information to you and to the other parties. I am
7 simply indicating that when that information is provided
8 it will be a compilation of some sort. I think due
9 process suggests that I have an opportunity -- if it is
10 going to be admitted into the record. I mean, the
11 answers to discovery, they have not yet, as I understand
12 it, been offered, so I don't have a need. But now all
13 of a sudden it is going to be part of the evidence. I
14 would like to have an opportunity to see what it says
15 and to understand it to see if it supports the
16 allocation properly. It may support my client's view
17 maybe that the costs aren't allocated, but I just want
18 to see it, and then I could withdraw the objection at
19 that point in time.

20 **COMMISSIONER SKOP:** Very well. And, Mr.
21 Moyle, I do understand the due process objection. My
22 desire is to get the data. If the parties wish to, you
23 know, contemporaneously object to preserve the right to
24 waive that objection later, I am okay with that. But
25 just in substance, again, I'm trying to gain all the

1 information and facts necessary such that we can take a
2 better look at how these allocations are made between
3 the various regulated and unregulated entities. And it
4 is hard to discern because you have group executives
5 using the aircraft, you have other executives using it
6 for personal use, and the costs are substantial. So at
7 the end of the day, not only your clients, but the
8 ratepayers have a vested interest in making sure the
9 allocations are proper, and that costs that are sought
10 for recovery are prudently incurred. And, briefly if
11 Mr. Beck or Mr. Wright want to speak to that, I would
12 open the mike up, but --

13 **MR. BECK:** Commissioner, I agree with what
14 Mr. Moyle said was the basis for our objections on other
15 matters. You know, we have had another case where
16 things have come in at the last second and in our
17 opinion have changed the case. We want to preserve our
18 right. For the document you've requested, I think it is
19 highly unlikely we would have any objection, but we
20 would still like to preserve that right.

21 **CHAIRMAN CARTER:** Okay. Mr. Wright.

22 **MR. WRIGHT:** Two things briefly. I think
23 preserving the opportunity to examine on exhibits is
24 vouched safe to every party to an administrative
25 proceeding under Chapter 120. Having said that, I think

1 Commissioner Skop's point is exactly right. This is
2 data. To the extent that it is data, I can't imagine my
3 client objecting to it coming in. Our concern
4 generically speaking is that it might be data plus a
5 narrative explanation that could get us into trouble.

6 The only other thing I wanted to say is I
7 believe that Mr. Butler's suggestion that the mere fact
8 that the information has been available to us in the
9 boxes and boxes of discovery materials does not avail at
10 all in this case. There is a big difference between
11 something being furnished in discovery and something
12 being offered into the exhibits or evidence in the
13 docket. But having said that, if it comes in as data, I
14 can't imagine my client objecting to it or, frankly, the
15 rest of us. I think the procedural point is to preserve
16 the opportunity to examine about it.

17 **CHAIRMAN CARTER:** Okay. And consistent with
18 what I said before is that as it comes in everyone will
19 have an opportunity to look at it. It will be open and
20 transparent. So 481 will be a late-filed. We will get
21 that to all the parties and we can look it over. If
22 there is any objections at that point in time, no one
23 would be viewed as having waived their right to object.

24 Okay. Anything further for Ms. Ousdahl?

25 **MR. BUTLER:** Not from me. Thank you. May she

1 be excused?

2 **CHAIRMAN CARTER:** Have a good weekend.

3 **MR. BUTLER:** Thank you.

4 (Transcript continues in sequence with Volume
5 30.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

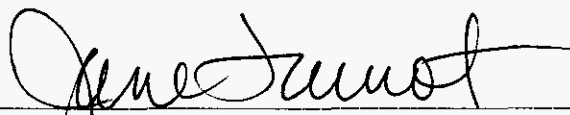
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED THIS 9th day of September, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732