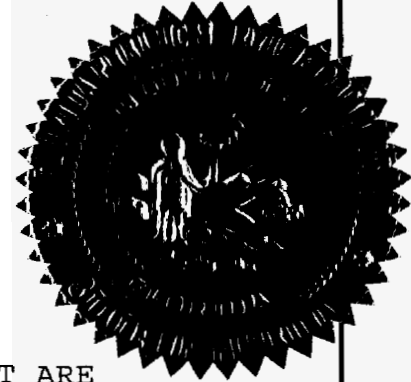


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 041272-EI

In the Matter of:

PETITION FOR APPROVAL OF STORM
COST RECOVERY CLAUSE FOR RECOVERY
OF EXTRAORDINARY EXPENDITURES
RELATED TO HURRICANES CHARLEY,
FRANCES, JEANNE, AND IVAN, BY
PROGRESS ENERGY FLORIDA, INC.



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THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

VOLUME 7

Page 663 through 867

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER CHARLES M. DAVIDSON
COMMISSIONER LISA POLAK EDGAR

DATE: Friday, April 1, 2005

TIME: Commenced at 9:35 a.m.

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

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

APPEARANCES: (As heretofore listed.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 03266 APR-4 03

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(Transcript continues in sequence from Volume 6.)

COMMISSIONER BAEZ: Go back on the record and reconvene the hearing. Good morning, everyone. We are on the last scheduled day for this hearing.

Ms. Brubaker, do we have anything preliminary at this point?

MS. BRUBAKER: Nothing that I'm aware of. However, just as kind of wrapping up a loose end, I believe Exhibit 49 hasn't been moved into the record yet. That was the late-filed for the --

COMMISSIONER BAEZ: Mr. Portuondo's late-filed?

MS. BRUBAKER: The updated calculated interest.

COMMISSIONER BAEZ: Okay. And in the interest of caution, we will show Exhibit 49 moved into the record without objection.

MR. WALLS: Commissioner.

COMMISSIONER BAEZ: Yes.

MR. WALLS: We're passing it out right now.

COMMISSIONER BAEZ: Oh, excellent. Timing is everything, I guess; right?

Thank you.

(Exhibit 49 admitted into the record.)

MS. BRUBAKER: And with that, staff is aware of no other preliminary matters that need to be addressed.

1 COMMISSIONER BAEZ: Great. Then if you will bear
2 with me a moment. All right. And before we get started, I
3 will remind you all to please turn off your electronic devices,
4 and no napping.

5 And I think the next witness I'm showing is
6 Mr. Majoros. Is everybody on that same page?

7 MR. MCGLOTHLIN: OPC calls Michael Majoros.

8 COMMISSIONER BAEZ: Thank you, Mr. McGlothlin.

9 Mr. Majoros, you were sworn previously; correct?

10 THE WITNESS: No, not --

11 COMMISSIONER BAEZ: You weren't, you weren't here
12 when we swore in all the witnesses?

13 THE WITNESS: No, I wasn't.

14 COMMISSIONER BAEZ: Then, please, let's take care of
15 that.

16 MICHAEL J. MAJOROS

17 was called as a witness on behalf of the Office of Public
18 Counsel and, having been duly sworn, testified as follows:

19 COMMISSIONER BAEZ: Thank you, sir.

20 DIRECT EXAMINATION

21 BY MR. MCGLOTHLIN:

22 Q Mr. Majoros, please state your name and business
23 address for the record.

24 A Michael J. Majoros, Jr., 1220 L Street, Northwest,
25 Washington, DC.

1 Q On behalf of the Office of Public Counsel,
2 Mr. Majoros, did you prepare and submit prefiled testimony in
3 this docket?

4 A Yes, I did.

5 Q Do you have any changes, corrections or additions to
6 the prefiled testimony to offer at this point?

7 A No, I don't.

8 Q Do you adopt the questions and answers contained in
9 the prefiled testimony as your testimony here today?

10 A Yes, I do.

11 MR. MCGLOTHLIN: I request that the prefiled
12 testimony of Mr. Majoros be inserted into the record at this
13 point as though read.

14 COMMISSIONER BAEZ: Without objection, show the
15 direct testimony of Michael J. Majoros entered into the record
16 as though read.

17 BY MR. MCGLOTHLIN:

18 Q Mr. Majoros, did you also prepare exhibits that were
19 attached to the prefiled testimony?

20 A Yes.

21 Q And I believe those have been identified in the
22 comprehensive witness list?

23 COMMISSIONER BAEZ: Mr. McGlothlin, just for the
24 record, I have them marked as Exhibits 29 through 37.

25 MR. MCGLOTHLIN: All right.

1 DIRECT TESTIMONY

2 OF

3 MICHAEL J. MAJOROS, JR.

4 DOCKET NO. 041272-EI

5

6 I. Introduction

7 Q. Please state your name, position and business address.

8 A. My name is Michael J. Majoros, Jr. I am Vice President of Snavely King Majoros
9 O'Connor & Lee, Inc. ("Snavely King"), an economic consulting firm located at
10 1220 L Street, N.W., Suite 410, Washington, D.C. 20005.

11 Q. Please describe Snavely King.

12 A. Snavely King was founded in 1970 to conduct research on a consulting basis into
13 the rates, revenues, costs and economic performance of regulated firms and
14 industries. The firm has a professional staff of 15 economists, accountants,
15 engineers and cost analysts. Most of its work involves the development,
16 preparation and presentation of expert witness testimony before Federal and
17 state regulatory agencies. Over the course of its 33-year history, members of the
18 firm have participated in more than 1,000 proceedings before almost all of the
19 state commissions and all Federal commissions that regulate utilities or
20 transportation industries.

21 Q. Have you prepared a summary of your qualifications and experience?

22 A. Yes. Appendix A is a summary of my qualifications and experience. It also
23 contains a tabulation of my appearances as an expert witness before state and
24 Federal regulatory agencies.

1 Q. At whose request are you appearing?

2 A. I am appearing on behalf of the Florida Office of Public Counsel ("OPC").

3 Q. What is the purpose of your testimony?

4 A. The Office of Public Counsel requested that I review Progress Energy Florida's
5 ("Progress", "PEF" or "the Company") proposed storm cost recovery claims; to
6 express an opinion regarding the reasonableness of Progress' claims; and, if
7 warranted, make alternative recommendations.

8 Q. Please summarize your testimony.

9 A. Progress Energy has requested authority to collect \$252 million from customers
10 as a Storm Cost Recovery Clause surcharge, over two years with interest. I will
11 show that PEF's proposal seeks to require customers to pay, through the storm
12 surcharge, O&M costs that are already covered through the base rates that
13 customers pay. I will also discuss certain principles of capitalization, retirement
14 and cost of removal accounting that should be applied to PEF's storm damage
15 request. Finally, I will demonstrate that in its request PEF fails to take into
16 account the 2002 stipulation that, OPC asserts, requires PEF to demonstrate
17 that expenses (including storm-related expenses) have caused its earned rate of
18 return on equity capital to fall to 10% before seeking to increase customers' rates
19 for any reason. I will quantify the impact of that omission. I will show that, once
20 adjustments have been made to recognize these considerations, the amount of
21 the negative balance in PEF's storm reserve is reduced from \$252 million to
22 approximately \$123 million.

23 Q. Do you have an exhibit which summarizes PEF's basic estimates?

24 A. Yes, Exhibit___(MJM-1) summarizes PEF's basic estimates.

1 **II. Approach to the Analysis**

2 **Q. Please describe the manner in which you approached your analysis of**
3 **PEF's request.**

4 **A. My basic approach is based upon recognition of the fact that casualty losses,**
5 **even catastrophic ones, are not a new phenomenon with respect to the proper**
6 **accounting principles that should be applied. The basic accounting rules that**
7 **govern the addition and subsequent depreciation of capital investments, as well**
8 **as the proper accounting treatment to be afforded operations and maintenance**
9 **expense, are not rendered inapplicable by the magnitude of the losses.**
10 **Essentially, the issue is not whether PEF will be allowed to recover prudently**
11 **incurred costs; rather, the questions are when PEF will recover those costs and**
12 **whether and to what extent PEF should be allowed to increase rates for the**
13 **purpose. While the nature of the catastrophe may well warrant the acceleration**
14 **of the period of recovery, care must be taken to ensure that the special**
15 **measures adopted to meet the circumstances do not require customers to pay**
16 **twice for the same costs, whether they are expense or capital.**

17 **Q. Given the magnitude of the storms, how can "normal" accounting**
18 **principles be applicable?**

19 **A. There is certainly no dispute regarding the extent of damage and the magnitude**
20 **of the dollars involved in restoration efforts. However, the situation should be**
21 **viewed in perspective. PEF contends the negative balance in its storm reserve**
22 **is \$252 million. The net book value of PEF's plant in service is roughly \$8 billion.**
23 **Over time, it has collected from customers at least \$528 million for the sole**
24 **purpose of defraying the costs of removing transmission and distribution assets**

1 as they are retired. This number is quantified in Exhibit ___(MJM-2), which
2 summarizes information provided by the Company.

3 PEF's net income for the twelve months ending July 2004 was \$325
4 million. As I will show later in my testimony, PEF could apply some \$100 million
5 of calendar year 2004 earnings to reduce the negative storm reserve balance
6 and still earn a healthy rate of return for the year. While the absolute damage
7 figures are large, and while I do not wish to diminish either the disruptions
8 caused by the storms or the tremendous efforts that were necessary to restore
9 service, the Commission should view the situation in context and not lose sight
10 of accounting principles applicable to casualty losses.

11 This objective is best met by reviewing PEF's proposal to ensure that only
12 extraordinary expenses that are incremental to those the utility would incur under
13 normal circumstances are charged to the storm reserve. I regard this as the
14 "overarching objective" of the analysis of PEF's proposal.

15 **Q. How did you implement this approach in your analysis?**

16 **A.** Upon being engaged by the Office of Public Counsel, I was pleased to learn that
17 OPC was already in the process of formulating, for purposes of its involvement in
18 the docket, a set of specific criteria designed to ensure that only extraordinary
19 expenses would be booked to the Storm Reserve. Having reviewed those
20 guidelines, I endorse them. However, I do have some reservations concerning
21 the expensing of any capital costs at all. Therefore, from my perspective, the
22 OPC's criteria are very generous to PEF. Where the available data allows me to
23 do so, I have recommended specific adjustments to the Commission. The OPC's
24 guidelines are:

1

2

OPC Storm Damage Guidelines

3

CAPITAL ADDITIONS:

4

5

A. All capital additions should be booked to plant in service at current book cost of materials and labor. Only additional, extraordinary capital-related expenses will be booked to the storm reserve.

6

7

8

9

B. All retirements resulting from 2004 storms should be booked based on existing, approved depreciation/retirement procedures.

10

11

12

C. The cost of removal expense related to the plant items that have been retired due to 2004 storm damage should be excluded from storm recovery expenses that are charged to the storm damage reserve account, and should instead be charged to the reserve for accumulated cost of removal.

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OPERATING AND MAINTENANCE EXPENSES:

19

20

D. All base salaries from all bargaining unit labor costs should be excluded from storm recovery expenses charged to the storm damage reserve account.

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E. Only those costs of materials and supplies that exceed the material and supplies expense anticipated under normal operations should be charged to the storm reserve.

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28

F. All insurance recoveries, less deductibles, should be eliminated from the storm recovery amounts.

29

30

31

G. The amount charged to the storm damage reserve account should exclude all expenses associated with the following activities:

32

33

1. Operating expenses and overheads for company-owned vehicles.

34

2. Storeroom expense.

35

3. Advertising expense.

36

4. Employee training expense.

37

5. Management overheads except for overtime when working on storms.

38

39

6. All other allocated expenses included in normal operations and existing budgets.

40

41

7. Labor costs associated with repairs and replacements that have been identified as job or work orders, but that have not yet been worked and that will be completed by existing, full time employees or regular, budgeted contract personnel.

42

43

44

- 1 8. Labor costs associated with any work or activity related to the storm
2 other than the jobs or work orders identified in (7) above that will be
3 completed by any employees as part of their regular job duties.
- 4 9. Call center activities should be excluded except for non-budgeted
5 overtime associated with the storm event.
- 6 10. No uncollectible expenses or lost revenues should be booked to the
7 storm reserve.
- 8 11. No expenses associated with cash advances made to employees
9 should be booked to the storm reserve.
- 10

11 **Q. Why are these principles important?**

12 A. First, the Commission has no rule in place that governs the matter. Next, the
13 sheer size and magnitude of 2004 storm events require specific direction for
14 accountants wading through thousands of bills. Ratepayers must be protected
15 from "double billing." The utility must not be allowed to make money from the
16 storm events. It is therefore imperative that the Commission direct the company
17 to follow specific accounting guidelines that it deems appropriate.

18 **III. Background**

19 **Q. Please explain the Storm Damage Reserve.**

20 A. In 1992 Florida suffered severe damage from Hurricane Andrew. As a result,
21 utilities found it difficult to procure reasonably priced commercial insurance for
22 storm damage to transmission and distribution facilities. They petitioned the
23 Commission to authorize self-insurance programs. The Commission authorized
24 PEF to self-insure for storm damage in Docket No. 930867-EI (Order No. PSC-
25 93-1522-FOF-EI, Issued October 15, 1993).

26 **Q. How does the Storm Damage Reserve work?**

27 A. PEF's Storm Damage Reserve is an unfunded account. It is increased by
28 annual accruals in amounts approved by the Commission and reduced by actual

1 storm damage costs charged to it. The annual accrual to the Storm Reserve was
2 initially set at \$3 million. The accrual was increased to \$6 million effective
3 January 1, 1994. (Direct Testimony of Javier Portuondo ("Portuondo Direct"), p.
4 5.) This accrual is debited to annual operating expense and credited to the
5 Storm Damage Reserve.

6 PEF's base rates are set to collect the \$6 million annual accrual, and PEF
7 does not transfer any of the resulting cash it collects into a separate physical
8 account. In the event of a "withdrawal" from the Storm Damage Reserve due to
9 actual storm damages, the Company uses cash on hand, or borrowed funds.
10 (Portuondo Direct, p. 6) However, PEF has given no indication that it
11 experienced any difficulty in paying storm damage-related bills as they came
12 due.

13 **Q. What is the balance in the Storm Damage Reserve?**

14 **A.** As of December 31, 2004, the Storm Damage Reserve had a balance of \$46.9
15 million. This is before any storm-related charges due to the four hurricanes in
16 2004. (Portuondo Direct, p. 9) If all of PEF's estimated Storm Damage Costs
17 were charged to the reserve, they would result in a negative balance of \$264.5
18 million, as shown in my Exhibit___(MJM-1) which is attached to my testimony.

19 **Q. How does PEF report and account for the Storm Damage Reserve?**

20 **A.** PEF accounts and reports the Storm Damage Reserve as a Regulatory Liability.

21 As stated in PEF's December 31, 2003 FERC Form 1:

22 7. Regulatory Matters

23 As a regulated entity, PEF is subject to the provisions
24 of SFAS No. 71, "Accounting for the Effects of Certain
25 Types of Regulation." Accordingly, PEF records
26

1 certain assets and liabilities resulting from the effects
2 of the ratemaking process, which would not be
3 recorded under GAAP for nonregulated entities.
4 (Florida Power Corporation, December 31, 2003
5 FERC Form 1 Report, pages 123.12 – 123.13.)
6

7 Conceptually, a Regulatory Liability is an amount owed to ratepayers until it is
8 spent on its intended purpose, as opposed to a Regulatory Asset which is an
9 amount assumed to be recoverable from ratepayers. (Statement of Financial
10 Accounting Standards No. 71, paragraphs 9 and 11.) Regulatory Liabilities are
11 grouped with Regulatory Assets on PEF's balance sheet.

12 **Q. Will you please summarize PEF's storm cost recovery proposal?**

13 **A.** Yes. In August and September, 2004, four hurricanes struck Florida in rapid
14 succession: Charley, Frances, Jeanne and Ivan. These hurricanes caused
15 significant damage and left many residents without power, thus causing PEF to
16 incur certain extraordinary costs.

17 On September 10, 2004 PEF filed a petition with the Commission,
18 requesting that it be authorized to establish a regulatory asset for storm damage
19 costs that exceed the \$44.4 million balance of the Storm Damage Reserve Fund.
20 By Orders issued and consummated October 8, 2004 and November 9, 2004,
21 the Commission found it unnecessary to create a separate regulatory asset
22 because Rule 25-6.0143, Florida Administrative Code, by directing that all costs
23 be charged to the storm reserve, enabled the utility to record a negative balance
24 and thereby defer recognition of the expense pending consideration of its
25 petition. (Docket No. 041272, November 18, 2004 Order Establishing Procedure
26 ("Procedure Order"), p. 1.) PEF also sought future recovery of reasonable and

1 prudently incurred storm damage costs in excess of its Storm Damage Reserve
2 Fund. (Procedure Order, p. 1.)

3 The Commission made its decision regarding PEF's request to establish a
4 regulatory asset with the understanding that PEF will continue booking amounts
5 consistent with its current accounting practice. The Commission noted that the
6 amounts are subject to its review and approval in the event that a subsequent
7 petition for recovery of storm-related damages was to be filed. (Procedure Order,
8 p. 1, emphasis added.)

9 On November 2, 2004, PEF petitioned the Commission to establish a
10 Storm Cost Recovery Clause to recover extraordinary hurricane related costs.
11 Specifically:

12 ...PEF requests the Commission to establish a Storm
13 Cost Recovery Clause that will allow PEF to recover
14 from its ratepayers over two years its reasonable
15 storm costs in excess of the balance in its storm
16 reserve. The clause should provide for the recovery
17 of the Company's storm-related Operation and
18 Maintenance (O&M) costs, including in part its costs
19 in excess of typical charges under normal operating
20 conditions for capital expenditures. As allocated to
21 the Company's retail jurisdiction, based on current
22 estimates, the total amount to be recovered is \$251.9
23 million. The \$251.9 million plus interest will be
24 recovered over two years in equal amounts, resulting
25 in the recovery of \$132.2 million in 2005 and \$128
26 million in 2006, based on a January 1, 2005 start
27 date. PEF's storm-related costs classified as capital
28 expenditures will not be recovered directly from
29 customers under the Storm Cost Recovery Clause.
30 Rather, the \$50.1 million in storm-related capital
31 expenditures allocated to the Company's retail
32 jurisdiction will be reported in surveillance reports and
33 absorbed in current rates until the Company's next
34 base rate adjustment.
35

1 Q. What is your opinion regarding PEF's proposed Storm Cost Recovery
2 Clause?

3 A. PEF has violated the principles that I delineated above in several respects. First,
4 PEF has improperly moved O&M expenses to the storm fund that customers
5 already bear through the base rates they pay. Second, PEF maintains in its
6 testimony that it will apply proper plant additions and cost of removal accounting
7 to capital replacements made necessary by storm damage. As of the filing of this
8 testimony PEF has failed to provide the necessary accounting documentation
9 that demonstrates its procedures are consistent with its testimony.

10 The effect of each failure is to require customers to pay the same costs
11 twice. Finally, and most significant in terms of the dollars involved, PEF has
12 failed to recognize the impact of a stipulation and order that, I am advised,
13 requires PEF's earnings to drop below 10 percent ROE before the Company
14 seeks to increase base rates. The effect of these failures and departures is to
15 overstate the costs that should be charged to the Storm Damage Reserve.

16 IV. Categories of Costs

17 Q. Does the Company describe the types of costs it proposes to transfer to
18 storm recovery?

19 A. Yes, they are summarized in the Direct Testimony of Javier Portuondo (page 10,
20 emphasis added):

21 The storm costs that would be recovered by the
22 clause include the Company's storm-related O&M
23 costs, net of the year-end balance in the Reserve,
24 and its incremental costs above those typically
25 incurred under normal operating conditions for capital
26 expenditures.
27

1 V. Operations and Maintenance Costs

2 Q. Turning first to PEF's proposed treatment of O&M expenses, what is your
3 basic objection?

4 A. By moving all expenses associated with the storm repair effort to the storm
5 reserve, without taking into account the normal level of expenditures funded by
6 base rates that customers pay, PEF effectively requires customers to pay to pay
7 twice for the same costs. I refer to the practice as "double dipping." The impact
8 can be seen in the effect of the practice on PEF's net income during the months
9 of the repair efforts. Again, base rates support a budgeted level of O&M
10 expense. By moving *all* such expenses to the storm reserve, PEF creates more
11 "head room" between budgeted expenses and budgeted base revenues than it
12 would expect if there were no storms. Ironically, the practical effect is to *increase*
13 PEF's net income for the period above the level it would have anticipated in the
14 absence of the storms. That PEF's profit margins would be increased as a result
15 of the storm-related accounting is the best evidence of the presence of "double
16 dipping."

17 Q. Do you have any indication that the Company is under budget on any of the
18 above costs?

19 A. Yes. The Company has provided several presentations and other documents
20 which compare budgeted expenses with actual expenses, or compare current
21 expenses with the previous year. Many of these indicate that O&M expenses are
22 under budget for the months during and following the hurricanes. These
23 documents actually indicate that this favorability of actual to budget is due to
24 costs shifting to the storm reserve.

1 For example, in response to Staff 1st Interrogatory, Question No. 7,
2 Progress provided a comparison of its non-recoverable O&M expenses for the
3 periods January through October 2004, and January through December 2003.
4 Exhibit___(MJM-3) shows the totals on a monthly basis. It is apparent that the
5 Company is averaging \$4.2 million less per month in non-recoverable O&M for
6 2004, than it did in 2003.

7 Furthermore, in a draft of the October 2004 presentation to the Monthly
8 Financial Review Meeting, [REDACTED] over budget is shown for
9 CMR O&M Total for the October 2004 year-to-date. With additional O&M costs,
10 this [REDACTED] (Response to OPC's 1st Production of
11 Documents Request, Question No. ⁵ 2, bates page PEF-SR-01118.) That same
12 document explains the [REDACTED] amount as [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] (bates page PEF-SR-01157.)

16 Q. Why does Mr. Portuondo's O&M proposal result in a double-dip?

17 A. When one carefully reads Mr. Portuondo's statement one realizes that he is
18 proposing that all of PEF's costs relating to the storms be charged to the
19 Reserve. This fails to recognize that PEF already budgeted for a certain amount
20 of costs and these "normal" cost levels are already being charged to ratepayers.

21 The Company confirms that this is the case in its response to FIPUG's 1st
22 Interrogatory, Question No. 7, which I have attached as Exhibit___(MJM-4).
23 There, when asked about the amount of budgeted O&M that is included in its
24 request for storm recovery, the Company stated: "PEF has not deducted its

1 budgeted O&M expenses from the extraordinary storm-related expenses it
2 proposes to recover in this case.”

3 Thus, Mr. Portuondo’s proposal would collect twice; once through base
4 rates and again through the Storm Damage Recovery Clause. This is not fair to
5 ratepayers and would unjustly enrich PEF’s management and shareholders.

6 **Q. How has PEF responded to the suggestion that it is engaging in double
7 recovery?**

8 A. As I understand it, based on responses during depositions, PEF’s position is that
9 the budgeted work has simply been postponed, to be “caught up” during
10 subsequent periods. (Portuondo Deposition, p. 19.)

11 **Q. Does this justify PEF’s proposal to shift all expenses to the storm fund?**

12 A. No. First, the rationale assumes the same projects that would have occupied
13 employees remain to be performed. Given the changes wrought by the storms
14 and the resulting repair/replacement projects, which may have either
15 accomplished the tasks or obviated the need for them, this is in my opinion an
16 unwarranted assumption. Even if some of the tasks have been shifted to future
17 periods, the flexibility of the budgeting process may easily accommodate them.
18 PEF should be required to demonstrate that it will incur financial harm as a
19 consequence of “catch-up” tasks following the completion of storm repairs. It has
20 failed to do so in this docket.

21 **Q. Why does PEF use this approach?**

22 A. PEF wants the customers to assume 100% of the risk of storm damage, a
23 concept that the Commission has rejected in the past. While PEF’s “double
24 dipping” approach might be appropriate for calculating tax losses and insurance

1 claims, it is absolutely wrong when seeking a rate increase from customers. The
2 Commission should implement strict accounting procedures for PEF to follow to
3 eliminate the increased rates that result when customer are required to pay twice
4 for the same expense.

5 **Q. What types of operations and maintenance ("O&M") costs does PEF**
6 **propose to recover through the Storm Recovery Clause?**

7 **A.** The types of O&M costs the Company proposes to recover are listed on pages
8 11-12 of Mr. Portuondo's testimony. They include:

- 9 • "Labor costs - including overtime or premium pay for
10 employees dedicated to repair activities such as line
11 crews, storeroom, engineering, and transportation
12 personnel, payroll loading for associated taxes,
13 administrative costs, and employee benefits."
- 14 • "Materials and supplies - all materials and supplies
15 (M&S) used for the temporary or permanent repair or
16 replacement of facilities, including a standard loading
17 factor to cover the administration of M&S inventories
18 and the cost of preparing, operating, and staffing
19 temporary staging facilities for materials and supplies
20 distribution."
- 21 • "Outside Services - including reimbursement costs to
22 other utilities and payment to subcontractors
23 dedicated to restoration activities."
- 24 • "Transportation costs - including operating costs, fuel
25 expense, and repair and maintenance of Company
26 fleet or rented vehicles."
- 27 • "Damage assessment costs - including surveys,
28 helicopter line patrols, and operation of assessment
29 and control facilities."
- 30 • "Costs associated with the rental or operation and
31 maintenance of any equipment used in direct support
32 of restoration activities such as communication
33 equipment, office equipment, computer equipment,
34 etc."
- 35 • "Costs associated with injuries and damages to
36 personnel or their property as a direct result of
37 restoration activities."

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- “Costs of temporary housing for restoration crews and support personnel and their related subsistence costs.”
- “Storm preparation costs - including information costs and training for Company employees.”
- “Fuel and related costs for back-up generators.”
- “Costs of customer service personnel, phone center personnel, and other division personnel dedicated to customer service needs and locating and prioritizing areas of damage.”
- “Special advertising and media costs associated with customer information, public education or safety.”
- “Special employee assistance - including cost of cash advances, housing or subsistence for employees and families to expedite their return to work.”
- “Identifiable bad debt write-offs due to storm damage.”
- “Any other appropriate cost directly related to storm damage and restoration activities.”

Q. Does OPC propose to eliminate all of these expenses?

A. Absolutely not. Millions of dollars were spent for thousands of workers who cleared the storm damage, and replaced damaged plant. The labor costs, meals, and lodging for these outside crews and their vehicles are clearly extraordinary storm expenses and should be booked to the storm reserved. By the same token, the basic wages and vehicle cost of the company’s employee work force and vehicle fleet have been paid for through basic rates and should be excluded from being charged to the storm reserve.

PEF readily admits that if an employee worked on the storm, the basic wages plus any overtime would be charged to the storm fund. No basic PEF salary or other expenses should be charged to the storm fund.

Mr. Portuondo, in his deposition clearly explained that if the President, a salaried employee, worked on the storm that part of his salary would be charged

1 to the storm fund. Ratepayers will pay \$21,000 toward his salary through the
2 storm surcharge for doing work that we clearly expect to be included in his base
3 salary. See Exhibit___(MJM-6).

4 **Q. Doesn't the Company claim that its accounting procedures were approved**
5 **by the Commission?**

6 A. The Company claims that the Commission approved its procedures in 1995, but
7 a careful reading of the orders issued during that time frame shows that the
8 Commission approved the establishment of the storm reserve itself and
9 expressed its intent to engage in rulemaking and workshops regarding
10 procedures. That never happened.

11 Progress admits that it has booked its expenses for all hurricanes since
12 that time based on its "double dipping" procedures. The Company has never
13 received approval for any of the expenses it has booked to the storm reserve
14 since 1995.

15 **Q. Did the Commission specifically state in Order No. PSC-93-1522-FOF-EI**
16 **that any and all direct costs relating to storm damage recovery were**
17 **recoverable from customers via a surcharge?**

18 A. No. In response to the Company's request to create a regulatory asset for storm
19 damage that exceeds the reserve, the Order states, "This Commission already
20 has a rule in place to govern the use of Account 228.1, Accumulated Provision
21 for Property Insurance. Rule 25-6.0143(4)(b), Florida Administrative Code,
22 provides that "...each and every loss or cost which is covered by the account
23 shall be charged to that account and shall not be charged directly to expenses.
24 Charges shall be made to accumulated provision accounts regardless of the

1 balance in those accounts.” (Docket No. 930867-EI, Order No. PSC-93-1522-
2 FOF-EI, Issued October 15, 1993, p. 4 and 5.) However, the Order then goes on
3 to state the following:

4 If FPC experiences significant storm related damage,
5 it can petition for appropriate regulatory action. In the
6 past, this Commission has allowed recovery of
7 prudent expenses and has allowed amortization of
8 storm damage expense. Extraordinary events such
9 as hurricanes have not caused utilities to earn less
10 than a fair rate of return. FPC shall be allowed to
11 defer storm damage loss over the amount in the
12 reserve until we act on any petition filed by the
13 Company.

14
15 No prior approval will be given for the recovery of
16 costs to repair and restore T&D facilities in excess of
17 the Reserve balance. However, we will expeditiously
18 review any petition for deferral, amortization or
19 recovery of prudently incurred costs in excess of the
20 reserve.
21

22 While I am not offering a legal opinion, I believe this means that the Commission
23 may disallow certain costs, it may adjust amortization amounts, and it is not
24 required to approve any surcharges.

25 **Q. Why do you believe that the Company should not be allowed to recover**
26 **“each and every cost” relating to storm damage recovery through a**
27 **surcharge?**

28 **A.** The circumstances in this case are very different from those previously
29 experienced. When Progress petitioned for self-insurance, the Company’s
30 average annual storm loss had been \$1.4 million over the past 10 years. (Order
31 No. PSC-93-1522-FOF-EI, p. 2) Progress has been accruing \$6 million per year
32 in its Storm Damage Reserve Fund since 1994 and currently has a balance of

1 \$46.9 million, which the company has used for working capital for the past 10
2 years. Customers have never been asked to pay more for storm expenses.
3 Now, the Company is faced with \$252 million in storm-related O&M expenses,
4 net of the reserve, and it wants ratepayers to pay for all of them, separately and
5 above what ratepayers are already paying to cover the day-to-day operations of
6 the Company. The Commission ruled that the Company could petition for
7 recovery – but did not guarantee that it would provide recovery through means
8 that would not affect earnings. Clearly, the Commission deliberately retained its
9 ability to view a request in light of all relevant circumstances and tailor its
10 response accordingly.

11 **Q. Do you believe that the past recoveries for Hurricanes Erin, Floyd, and**
12 **Gabrielle should have bearing on this case?**

13 A. No. For those hurricanes, the balance in the storm reserve was not exceeded,
14 ratepayers were not asked to pay additional amounts, and the Commission was
15 not involved, so the Company was allowed to recover at will. (Response to
16 FIPUG's 1st Interrogatory, Question No. 23.) See Exhibit___(MJM-5). In this
17 case, the Company is asking ratepayers to kick in \$252 million, plus interest,
18 over two years, in addition to the \$6 million they are already paying per year for
19 storm damage recovery.

20 **Q. Do you disagree with the recovery of all of PEF's proposed O&M costs?**

21 A. As I stated earlier many expenses identified by the Company are truly
22 extraordinary in nature. I believe the amounts approved for recovery should not
23 include normal levels of expenses as measured by the budget. I have the
24 following specific disagreements:

- 1 • Base Salaries – PEF proposes to charge the full labor costs associated
2 with storm recovery efforts to the Storm Damage Reserve. This includes
3 normal base salaries, which are already included in the Company’s annual
4 budget. The ratepayers are paying for these salaries through base rates.
5 They should not be required to pay for them twice. Based on the
6 Company’s response to Staff’s 1st Interrogatory, Question No. 11, I have
7 calculated this amount to be \$5.46 million. See Exhibit___(MJM-6). This
8 amount includes regular pay for both Bargaining Unit and Non-Exempt
9 employees, both for PEF and the service company, and includes sweeps
10 work.
- 11 • Salaries of Exempt Management – These salaries are also included in the
12 budget, and paid for through base rates. They should be removed from
13 the storm damage claim. Based on the Company’s response to Staff’s 1st
14 Interrogatory, Question No. 11, I have calculated this amount to be \$6.4
15 million. See Exhibit___(MJM-6). This amount includes regular pay for
16 both PEF and the service company Exempt personnel.
- 17 • Vehicle Expense – Progress has provided an itemization of the
18 \$3,393,913 in company-owned vehicle related expenses included in its
19 claim in its response to Staff’s 1st Interrogatory, Question No. 12. The
20 related expenses included \$909 thousand for depreciation, \$702 thousand
21 for fuel, \$1.6 million in maintenance and \$222 thousand in overhead.
22 Although Company vehicles have been used in the storm recovery effort,
23 these vehicles have already been included in the annual budget. The
24 depreciation of the vehicles would be the same, regardless of whether

1 they are used for storm damage recovery, or used in the regular course of
2 business. The same is essentially true for vehicle overhead,
3 maintenance, etc. Subsequently, all operating costs, repair and
4 maintenance of the Company's fleet should be eliminated from the
5 recovery claim. The only extraordinary cost that the Company has
6 incurred relating to storm recovery is the incremental cost of fuel, due to
7 longer daily operations. As such, I recommend that the PEF be allowed to
8 recover one-half (1/2) of the fuel expense included in its storm damage
9 claim, or \$350,898. This adjustment is based on the assumption that
10 vehicles were in use 16 hours per day during storm restoration, rather
11 than the normal 8 hours per day. The adjustment related to vehicle
12 expense should be a removal of \$3,043,015 from the storm damage claim.
13 See Exhibit___(MJM-7).

- 14 • Tree Trimming – Tree trimming expense should be limited to the amounts
15 which exceed PEF's normal budget. The tree trimming budget variance
16 appears to be \$3.9 million. (January 24, 2005 Deposition of Mark V.
17 Wimberly ("Wimberly Deposition"), p. 62.) This amount should be
18 excluded from the Company's claim.
- 19 • Call Center Expense – Call center expenses for the storm recovery should
20 be limited to the call overloads created by the storms. I do not have
21 sufficient information to make an adjustment for call center expense at this
22 time.
- 23 • Uncollectible Expense – PEF proposes to charge an estimated amount of
24 "storm related" uncollectible expense to the storm damage reserve. This

1 amount is speculative, and unlike other types of expenses which will
2 ultimately be trued-up, uncollectible expense is likely to remain
3 speculative. There is no way to determine if a customer's account must
4 be written off due specifically due to the storm, or for other reasons. Also,
5 PEF has failed to demonstrate the actual amount of uncollectible expense
6 it may have incurred due to the storms. Furthermore, the storm reserve
7 should be limited to the costs of repairing damage to the system.
8 Uncollectible expense is unrelated to repairing damage and restoring
9 service, unlike the majority of the Company's other claimed storm-related
10 costs. The uncollectible expense included in the Company's claim should
11 be removed. This adjustment results in the removal of \$2.25 million from
12 the storm damage claim. See Wimberly Exhibit__(MVW-1), page 15.

13 **Q. Do you have an exhibit which summarizes the O&M expense adjustments**
14 **you discuss above?**

15 **A. Yes, these expense adjustments are summarized on Exhibit__(MJM-8).**

16 **Q. Now that the storms have passed and operations have returned to normal,**
17 **does the Company plan to continue to charge costs in the Storm Reserve,**
18 **related to these hurricanes?**

19 **A. Yes, PEF plans to charge any work still remaining related to the storms to the**
20 **Reserve. This is work that was identified during the "sweeps", but not yet**
21 **complete. The Company has estimated that this work will be completed during**
22 **the first quarter of 2005.**

23 **Q. Do you agree with this practice?**

1 A. Once normal operations have resumed, outside contractors have been sent
2 home, and employees are back to working a normal workweek, any remaining
3 storm-recovery activities should be performed in the normal course of business
4 and should not be booked to the storm account. PEF should be required to
5 demonstrate that it has incurred extraordinary expense before it is allowed to
6 receive extraordinary recovery.

7 **VI. Capital Costs**

8 **Q. How does the Company plan to handle capital costs relating to storm
9 damage repair?**

10 A. According to Mr. Portuondo's testimony, "Only those capital expenditures above
11 the level of what would have been incurred under normal operating conditions,
12 whether related to labor or materials, will be classified as O&M and charged to
13 the Storm Damage Reserve."

14 **Q. How does the Company plan to handle plant replacements?**

15 A. As Mr. Portuondo explains at page 13 of his Direct Testimony, "To explain further
16 the accounting treatment for capital expenditures that are not charged to storm-
17 related O&M costs, the book value of capital investments that have been retired
18 due to storm damage will be charged against the accumulated depreciation
19 reserve. New storm-related capital expenditures will be added to plant in service
20 in an amount equal to the capital expenditure that would have been incurred
21 using a standard cost approach under normal operating conditions."

22 **Q. Has the Company stated the amount of capital costs it expects to incur?**

23 A. Progress states that it has incurred \$54.9 million (system) in capital expenditures,
24 or \$54.4 (retail). (Portuondo Testimony, p. 13.) In other words, this is the amount

1 of total capital costs which PEF has designated as storm-related, which it will
2 record to its regulated rate base and depreciate.

3 **Q. Does the \$54 million include cost of removal?**

4 A. PEF claims that "the quantification of the \$54 million will include the cost of
5 removal estimate for the investments being retired." (January 24, 2005
6 Deposition of Javier J. Portuondo ("Portuondo Deposition"), p. 46.) I am not
7 certain that this is the case. The Commission should make certain by requiring
8 the Company to produce its cost of removal accounting entries. The cost of
9 removal reserve for transmission and distribution facilities is \$528 million (See
10 Exhibit__(MJM-2). The Commission needs to ensure, as a minimum, that the
11 average cost of removal expense has been deducted from the storm expenses
12 and credited to the large cost of removal reserve being held for that purpose.

13 **Q. What is the total amount of the capital costs that PEF designates as storm-
14 related?**

15 A. PEF designates \$127.5 million (retail) as storm-related capital costs.

16 **Q. What is the source of that number?**

17 A. That is the amount that PEF estimates will be capitalized for income tax
18 purposes as shown on Mr. Wimberly's Exhibit__(MVW-1).

19 **Q. How much of the \$127.5 million capital cost does PEF propose to charge to
20 the Storm Damage Reserve as O&M expense?**

21 A. PEF proposes to charge \$73.1 million or 57 percent of what it designates as
22 storm-related capital costs as O&M expense to the Storm Damage Reserve and
23 collect it via the Storm Damage Recovery Clause.

1 Q. Can you determine, based on the information provided, whether the
2 Company has followed the appropriate accounting procedures with respect
3 to capital items?

4 A. With the reservation as discussed earlier about expensing capital, it appears that
5 PEF and I may agree conceptually as to the appropriate accounting treatment.
6 However, to ensure that PEF is implementing the correct procedure, it will be
7 necessary to review the actual accounting entries. At the time this testimony is
8 being finalized, PEF has not provided those entries. Therefore, I wish to reserve
9 the opportunity to supplement this testimony if warranted by additional
10 information.

11 Q. Do you have any additional comments about PEF's depreciation rates and
12 cost of removal?

13 A. Yes, the Commission should consider whether or not it is appropriate to continue
14 to charge ratepayers for future cost of removal if those funds are not available
15 when needed.

16 VII. PEF's Failure to Apply 2004 Earnings Above 10% ROE to Reduce the
17 Negative Balance in its Storm Reserve

18
19 Q. Are PEF's service rates subject to a "rate plan"?

20 A. Yes. PEF's service rates are subject to a rate plan established as the result of a
21 settlement in 2002. The rate plan contains a 10 percent return on equity
22 threshold that PEF must satisfy before seeking to increase rates.

23 Q. What is OPC's position regarding this rate plan and the interplay with the
24 Storm Damage Reserve?

1 A. I am advised that OPC's position is that the stipulation effectively requires PEF to
2 apply 2004 earnings above 10 percent ROE to reduce the negative balance
3 before seeking to increase customers' rates for the purpose.

4 **Q. Does any other OPC witness address this issue?**

5 A. Yes. While OPC's primary position is based on a legal argument, in his
6 testimony Mr. James A. Rothschild explains that, in view of the risk appropriately
7 borne by PEF and in view of current economic factors, in his opinion the 10
8 percent criterion would be a reasonable way to share the risk even if there were
9 no stipulation. Given what I have been advised is the legal effect of the
10 stipulation, and in light of Mr. Rothschild's opinion, I will identify the size of the
11 adjustment that would be needed to apply the 10 percent criterion.

12 **Q. Do you expect PEF to earn more than 10 percent ROE in 2004?**

13 A. Yes.

14 **Q. Has the Company performed any calculations demonstrating this?**

15 A. Yes. Progress performed this calculation in response to FIPUG's 1st
16 Interrogatory, Question No. 5. The Company determined that it could absorb
17 \$113.9 million of the system storm expenses, and still earn a 10 percent return
18 on equity. This translates to \$108.4 million in retail jurisdiction storm expenses.

19 **Q. What do you recommend?**

20 A. As shown on Exhibit___(MJM-8), I recommend that PEF reduce the double-
21 dipping expenses charged to the Storm Damage Reserve by \$21 million and
22 then implement the 10% threshold. In other words, once the correct Storm
23 Damage expenses are determined, the first \$113.9 million (system) of those
24 expenses should be retained as 2004 expenses, rather than being charged to the

1 Storm Damage Reserve. Ultimately, PEF's retail storm charges are reduced to
2 \$123.3 million retail. I recommend the Commission emphasize its approval of a
3 surcharge is limited to the specific 2004 events, and does not authorize PEF to
4 charge future amounts of storm-related costs to the reserve without specific
5 Commission approval.

6 **VIII. Summary**

7 **Q. Please summarize your recommendations.**

8 A. In this case, PEF has claimed that storm-related costs have resulted in a
9 negative storm reserve balance of \$252 million, which PEF wants to collect from
10 customers over a period of two years. However, this amount should be reduced
11 to remove O&M and potential capital costs that should not have been charged to
12 the storm reserve to begin with. To date I have estimated about \$21 million
13 (system) of those types of expenses. In addition to these reductions, PEF should
14 apply 2004 earnings of \$113.9 million (system), whether to satisfy the legal
15 requirement of the 2002 ratemaking stipulation or to implement the
16 recommendation of James Rothschild to reflect an appropriate sharing of storm-
17 related risks.

18 **Q. Does this conclude your testimony?**

19 A. Yes, it does.

1 BY MR. McGLOTHLIN:

2 Q Mr. Majoros, have you prepared a summary of your
3 testimony?

4 A Yes, I have.

5 Q Would you proceed with the summary, please.

6 A Yes. In August and September 2004 four hurricanes
7 struck Florida in rapid succession. These hurricanes caused
8 significant damage and left many residents without power, thus
9 causing Progress Energy to incur certain extraordinary costs.
10 As a result, Progress Energy transferred several millions of
11 dollars from its normal operating and maintenance expense and
12 capital accounts to its Storm Damage Reserve, thus creating a
13 large deficiency in that reserve. It proposes to collect that
14 deficiency from ratepayers by way of a two-year surcharge.

15 The Office of Public Counsel asked me to review
16 Progress Energy's storm recovery claims and express an opinion
17 regarding whether they're reasonable and, if warranted, to make
18 alternative recommendations.

19 As I state at Page 4 of my testimony, only
20 extraordinary expenses that are incremental to those that the
21 utility would incur under normal circumstances should be
22 charged to the storm reserve. This is the overarching
23 objective of my analysis.

24 I have reviewed, adopted and endorsed a set of
25 principles that OPC formulated for the purpose, purposes of its

1 involvement in this proceeding. However, I do have some
2 reservations about the expensing of any capital, even the
3 incremental costs to which these principles agree. And from
4 that perspective, I consider OPC's criteria to be generous to
5 Progress Energy.

6 Based upon my review and analysis, Progress Energy's
7 claim of a \$252 million Storm Damage Reserve deficiency is not
8 reasonable. My testimony shows that Progress Energy would
9 require customers to pay operation and maintenance costs that
10 are already covered by base rates that customers pay.

11 Progress Energy's calculated Storm Damage Reserve
12 deficiency also includes a significant portion of the capital
13 cost expenditures that would normally be added to plant and/or
14 charged to its accumulated cost of removal reserve.

15 I have identified several individual adjustments to
16 Progress Energy's storm charges. These amount to about
17 8 percent of the company's total request. In my opinion, they
18 are valid adjustments, but clearly not the majority of my
19 quantifications. It is the principles that are important.

20 I also quantify the OPC's position concerning the
21 proper application of a 2002 stipulation requiring Progress
22 Energy to absorb a sufficient amount of expenses to achieve a
23 10 percent return on equity. This quantification constitutes a
24 majority of the monetary value of my adjustment to Progress
25 Energy's proposal.

1 Based on my analysis, the Storm Damage Reserve
2 deficiency is \$123 million, rather than Progress Energy's
3 \$252 million quantification.

4 Notwithstanding these adjustments, I am not proposing
5 any disallowance of any of Progress Energy's storm costs as
6 long as they are prudent. As I stated at Page 3 of my
7 testimony, the issue is not whether Progress Energy will be
8 allowed to recover prudently incurred costs, rather the
9 questions are when Progress Energy will or even has recovered
10 those costs and what, and to what extent Progress Energy should
11 be allowed to increase rates for that purpose.

12 While the nature of the catastrophe may well warrant
13 acceleration of the period of recovery, care must be taken to
14 ensure that the special measures adopted to meet the
15 circumstances do not require customers to pay twice for the
16 same costs, whether they're expense or capital. And yet that
17 is exactly what Progress Energy is proposing. It is proposing
18 to shift millions of dollars of O&M expense from normal
19 operations to the Storm Damage Reserve and then to charge those
20 dollars to customers as a surcharge. This treatment actually
21 results in Progress Energy making money on hurricanes and a
22 double recovery of the normal expenses it is already collecting
23 from its customers. Hard as this may be to believe, a simple
24 set of basic accounting T accounts will bear this out.

25 In my opinion, this is one of the most troubling

1 aspects of Progress Energy's proposal. It is actually
2 proposing to make money on hurricanes. That is because it is
3 proposing to increase its operating income in a nonrate case
4 year by shifting normal O&M expenses to the storm reserve, thus
5 increasing its net income, and then charging those expenses
6 again to ratepayers by way of the surcharge. They will collect
7 the expenses twice.

8 The replacement cost concept may work well with
9 insurance policies, but it is ill-suited for public utility
10 customers because it results in requiring customers to pay
11 twice for normal costs.

12 As I stated earlier, the majority of the difference
13 between my quantification and Progress Energy's is the result
14 of OPC's interpretation of the 10 percent issue from the 2002
15 settlement and Mr. Rothschild's testimony regarding who should
16 bear risks. This rationale -- the rationale for that is
17 provided by OPC and Mr. Rothschild.

18 In addition to what I've already discussed, my
19 testimony includes the issues of retirements and cost of
20 removal. Progress Energy has identified \$127.5 million on a
21 retail basis of capital costs associated with the hurricanes.
22 It proposes to charge \$73.1 million of those capital costs by
23 way of a storm damage surcharge to ratepayers over two years.
24 It proposes to capitalize to rate base \$48 million. Progress
25 Energy claims that the \$48 million includes the cost of removal

1 relating to the retirements resulting from the hurricanes.

2 As I stated at Pages 23 and 24 of my testimony, at
3 the time I wrote my testimony I had not seen the cost of
4 removal entries. I stated at Page 23 that the Commission needs
5 to ensure at a minimum that the average cost of removal expense
6 has been deducted from the storm expenses and credited to the
7 large cost of removal reserve being held for that purpose.

8 At Pages 3 and 23 of my testimony and in my
9 Exhibit MJM-2 I have also identified and discussed a
10 \$528 million reserve that Progress Energy has already charged
11 to and collected from its customers for the sole purpose of
12 defraying the cost of removing transmission and distribution
13 assets.

14 The OPC's principles are geared to ensuring that at a
15 minimum the cost of removal resulting from the storms is
16 charged to the \$528 million cost of removal reserve rather than
17 the Storm Damage Reserve. But I am not yet convinced that we
18 have identified all of these removal costs. On the other hand,
19 whatever they are, I am certain they will be substantially less
20 than the \$528 million balance in the T&D removal reserve.

21 My adjustments combined with the requirement to
22 absorb enough expenses to earn a 10 percent return on equity
23 result in a storm loss deficiency of \$123.3 million. This is
24 much more reasonable than Progress Energy's \$252 million. And,
25 again, I am not proposing disallowance of any costs. I am

1 focusing on the storm reserve deficiency. My proposal allows
2 Progress Energy to recover all of its prudent costs, plus a
3 10 percent return on equity.

4 MR. McGLOTHLIN: Thank you. We tender the witness.

5 COMMISSIONER BAEZ: Thank you. Mr. McWhirter.

6 MR. McWHIRTER: Mr. Majoros --

7 COMMISSIONER BAEZ: Mr. McWhirter, can you use the
8 microphone a little better?

9 MR. McWHIRTER: Oh, I'm sorry.

10 CROSS EXAMINATION

11 BY MR. McWHIRTER:

12 Q I understand you're a certified public accountant.

13 A I have passed the exam, yes. I don't practice as a
14 CPA. I don't audit financial statements.

15 Q When did you, when did you pass the exam?

16 A 1976 or '78. Back in the '70s.

17 Q Back in the '70s? And then you were a consultant to
18 the Justice Department? What did you do for them?

19 A As part of my career in the public utility field, I
20 have provided some consultation to the Justice Department on
21 environmental matters.

22 Q And you were a legislative auditor. What did you do
23 in that function?

24 A I was a legislative auditor for the state of
25 Maryland. That was one of the part-time jobs I had while I was

1 attending college.

2 Q And then you indicate that Snavely King has been
3 involved in over 1,000 rate regulatory matters. What, what
4 kind of matters are those principally?

5 A Public utility, telecommunications, transportation.

6 Q And your firm contains just CPAs or what does --

7 A No. No. We have engineers, MBAs, economists and a
8 CPA.

9 COMMISSIONER DEASON: Mr. McWhirter, are you
10 challenging the qualifications of this witness?

11 MR. McWHIRTER: Well, I just want to be sure he's
12 qualified, Commissioner Deason.

13 COMMISSIONER DEASON: Well, I think he's already
14 filed it in his prefiled testimony, sir.

15 MR. McWHIRTER: All right. Well, I'll move on then.

16 BY MR. McWHIRTER:

17 Q Did you find anything in the evidence presented by
18 Progress Energy or its witnesses -- were you here for most of
19 the testimony when the witnesses testified, especially
20 Mr. Portuondo?

21 A Yes.

22 Q Did you find anything that would indicate that normal
23 O&M expenses are not being included in storm damage?

24 MR. WALLS: I'm going to object to the line of
25 questioning. This is not related to his direct testimony at

1 all. Is this new direct?

2 MR. McWHIRTER: No, sir. What we found in his
3 testimony was his principal complaint was that normal O&M
4 expenses were being included in your storm damage. And I was
5 asking him if he found any indication anywhere that they were
6 not being included.

7 COMMISSIONER BAEZ: I'll allow the question.

8 MR. McWHIRTER: And that's the tenor of the question.

9 THE WITNESS: No. No, I haven't.

10 BY MR. McWHIRTER:

11 Q So Progress openly admits that it's charging normal
12 expenses to storm damage.

13 A What it openly admits is that it has not reduced any
14 of its charges to the Storm Damage Reserve for any normal
15 operating expense or budgeted expenses. So, you know, it's my
16 understanding that 100 percent of the costs during the storms,
17 regardless of whether they were normal levels or extraordinary
18 levels, 100 percent of all of those costs were credited to
19 operating expenses and debited to the storm reserve.

20 Q Progress Energy classifies its, its cost recovery
21 program as self-insurance. And having read the testimony and
22 listened to it, it occurred to me that a more appropriate
23 application, and I haven't really totally refined it yet, would
24 be captive customers insurance plus plan. But I don't think
25 that's necessarily an appropriate definition.

1 What would you class -- how would you classify this
2 self-insurance? Could you give it a name?

3 A Double-dipping.

4 COMMISSIONER DAVIDSON: Mr. McWhirter, just as one
5 Commissioner, this sort of ongoing editorializing is not really
6 helping me. It's -- you know, ask your cross questions.

7 MR. McWHIRTER: All right, sir.

8 BY MR. McWHIRTER:

9 Q Let me be more specific. Progress Energy, you say,
10 has claimed \$252 million that customers should pay for its
11 storm damage. And how much have you said the customers, retail
12 customers should be required to pay in your testimony?

13 A \$123.3 million.

14 Q Now Mr. Portuondo testified that there were
15 essentially two mechanisms for recovery: One is through base
16 rates, which is a historic method, and the other is through a
17 newly created cost recovery clause. It occurs to me that both
18 of those mechanisms have a continuing nature to them, and this
19 storm damage, as Mr. Portuondo has told us, is a one-time
20 unusual event.

21 Is there any other method of recovery in your opinion
22 that could be utilized to impose upon the retail customers this
23 \$123 million charge?

24 MR. McGLOTHLIN: I'm going to object to that
25 question. As Mr. Majoros stated, his limited role is to

1 quantify the amount of the deficiency. He has not addressed
2 recovery mechanisms. It's beyond the scope of his testimony.

3 COMMISSIONER BAEZ: Mr. McWhirter, you're in a,
4 you're in a unique situation. You've got the company objecting
5 to your questioning and now you've got OPC objecting to your
6 questioning. I think I'm going to sustain --

7 MR. McWHIRTER: I think I'm actually doing okay, Mr.
8 Chairman.

9 COMMISSIONER BAEZ: I didn't say you weren't doing
10 okay. I said you're in a unique situation. I'm going to
11 sustain the objection. I think you're getting a little bit
12 wide of his testimony or the scope of his testimony.

13 MR. McWHIRTER: I'll defer asking any further
14 questions under the circumstances, if everybody is objecting to
15 them.

16 COMMISSIONER BAEZ: Well, you -- that's your right, I
17 guess. If you have no further questions then -- Mr. Wright?

18 MR. WRIGHT: No questions, Mr. Chairman. Thank you.

19 COMMISSIONER BAEZ: Mr. Twomey?

20 MR. TWOMEY: No, sir.

21 MS. RODAN: No questions.

22 COMMISSIONER BAEZ: Mr. Walls, to you.

23 CROSS EXAMINATION

24 BY MR. WALLS:

25 Q Mr. Majoros, good morning.

1 A Good morning. Before we start, I would like to say
2 that my characterization as double-dipping was -- I
3 overreached. I would consider the company's program to be
4 self-insurance. I have some problems with certain of the
5 accounting aspects, and that's what my testimony is about.

6 Q Thank you, Mr. Majoros.

7 Mr. Majoros, as I understand then, you agree that as
8 long as the company incurs the cost of providing electric
9 services and those costs were reasonably and prudently
10 incurred, the company is entitled to recover those costs from
11 its customers; right?

12 A Usually that's -- you're entitled an opportunity to
13 recover those costs. But as I said, I'm going to make sure
14 that -- and my answer is, yes, and I'm not proposing to deny
15 any recovery.

16 Q Okay. And you would agree with me that the level of
17 costs incurred as a result of any hurricane from season to
18 season is going to vary; right?

19 A I assume --

20 MR. MCGLOTHLIN: I'm sorry. I couldn't hear the
21 question.

22 BY MR. WALLS:

23 Q I asked him if he would agree with me that the level
24 of costs incurred as a result of any hurricane from season to
25 season is going to vary.

1 A I assume that the level of any cost is going to vary
2 from season to season.

3 Q And you agree that hurricane costs will vary
4 dependent on the intensity of a particular hurricane; right?

5 A Well, I guess it, you know, where the, you know, the
6 path of the hurricane, all of those things come into
7 consideration. If you have a Category 1 hurricane versus a
8 Category 5 hurricane going over the same path, I guess I'd
9 assume that the Category 5 would result in more damage and thus
10 more costs.

11 Q Okay. And you would agree with me that the 2004
12 hurricane season was unprecedented; right?

13 A Yes.

14 Q And as I understand from your summary of your
15 testimony, you don't dispute the fact that the hurricane damage
16 caused severe damage to the company's transmission and
17 distribution system.

18 A I didn't hear one of the words you said.

19 Q I'm sorry. I said, as I understood from your
20 summary, you don't challenge the fact that the 2004 hurricane
21 season caused severe damage to the company's transmission and
22 distribution system.

23 A That is correct. I agree.

24 Q And you would also agree with me that as a logical
25 matter the company lost some revenues during the course of the

1 2004 hurricanes when powers -- when power was out and not
2 provided to customers that they'll never regain.

3 A They may have. But you and I discussed that in the
4 deposition, and, first of all, I was wondering -- because I
5 think I said in the deposition that I don't recall seeing a
6 claim for lost revenues in this case, number one. And then I
7 went back to the internal management presentations, budget
8 presentations, and discovered that during the time of the
9 hurricanes Progress Energy was achieving positive revenue
10 variances. So I'm not sure that's even an issue in this case.
11 It's not an issue addressed in my testimony.

12 Q Okay. And you understand the company is not asking
13 to recover its revenues that it lost during the hurricane
14 season; right?

15 A It's my understanding the company has not made a
16 claim, so I don't, I don't, you know, I can't respond to it.

17 Q Okay. And just one other preliminary matter. You
18 didn't physically review or inspect the condition of the
19 transmission and distribution system of the company either
20 prior to or after the hurricanes; right?

21 A That is correct.

22 Q Okay. Turning to the development of your testimony.

23 A Pardon me?

24 Q Turning to the development of your testimony.

25 A Yes.

1 Q I believe you referred to the fact that you were
2 provided some OPC guidelines, and they're identified on Page 5
3 of your direct testimony.

4 A Yes.

5 Q And as I understand, those were guidelines that OPC
6 gave you; right?

7 A In one -- yes.

8 Q And you did not independently develop any of these
9 guidelines; correct?

10 A That is correct.

11 Q Okay. And you just simply adopted what OPC provided
12 you; right?

13 A I reviewed those guidelines and I endorsed those
14 guidelines.

15 Q And as I understand, the guidelines that were
16 provided to you by OPC are not based on any accounting
17 guidelines. They're specific to storm or hurricane cost
18 accounting; correct?

19 A Well, your, your question assumes that there is some
20 guidelines relating to hurricane damage. And I told you during
21 the deposition that I'm not aware of any codification of
22 official GAP or regulatory accounting principles that deal
23 specifically with hurricanes.

24 Q Right. And you also told me the Uniform System of
25 Accounts doesn't provide any specific guidelines to deal with

1 hurricane storm damage; correct?

2 A To the best of my knowledge, it does not.

3 COMMISSIONER BAEZ: Mr. Majoros, I'm having trouble
4 hearing you.

5 THE WITNESS: Sorry.

6 BY MR. WALLS:

7 Q Now as I understand, you also incorporated some of
8 the Commission's orders in your testimony; correct?

9 A Yes. I referred to them in my testimony to provide
10 some perspective about what I was talking about in this case.

11 Q And you didn't personally perform any independent
12 research regarding those orders; right?

13 A Independent research?

14 Q Yes.

15 A Well, the ones that I've identified I read. I don't
16 know what, what you mean by independent research.

17 Q You didn't personally go out and do any research to
18 find any orders other than the ones that were provided to you
19 by OPC; correct?

20 A I don't think so. But as I told you during the
21 deposition, you know, I wouldn't, I wouldn't be surprised that
22 I told my assistant to look on the Web site and see if there
23 was any, anything we ought to read.

24 Q But as I understand, you didn't personally do that?

25 A Not personally, no.

1 Q And if we could turn to Page 16 of your testimony.
2 Do you see where you addressed the question, "Doesn't the
3 company claim that its accounting procedures were approved by
4 the Commission?"

5 A Yes.

6 Q And your response refers to a review of 1995
7 Commission orders that you claim say where the Commission
8 expressed an intent to engage in rulemaking and workshops
9 regarding procedures, and because that never happened, you
10 suggest that there was no approval by the Commission; correct?

11 A That's what I say there.

12 Q But that's not what the Commission actually said in
13 that '95 order, is it, Mr. Majoros?

14 A I'm not, I'm not sure. We went through this in the
15 deposition.

16 I'd just like to say, before we start, start down
17 this path, that I was merely trying to provide a background for
18 the primary aspects of my testimony here.

19 Yesterday Mr. Portuondo summarized it in about one or
20 two sentences when he said that the company had filed these,
21 this plan. The Commission, I guess, accepted the plan but did
22 not object to anything in the plan and then closed the record.
23 So that's my understanding of all of the, the background.

24 Q And so you don't dispute that?

25 A No.

1 Q Okay. You eliminated quite a few questions,
2 Mr. Majoros.

3 A I was toying with striking that paragraph in my
4 testimony.

5 Q And so you understand that the company's position
6 that, is that there was an accounting procedure in place for
7 these storms prior to the storms occurring?

8 A Yes.

9 Q Okay. And you would agree with me that that
10 procedure is represented by a study that the company filed with
11 the Commission in '94.

12 A I believe, yes. And I'd just like to clarify another
13 thing. I said I thought I had -- when we -- on the deposition
14 I said I thought I had seen that study. I had not seen that
15 study.

16 Q Okay. So you hadn't seen it prior to preparing your
17 testimony?

18 A I had seen a Florida Power & Light study, but not the
19 Progress study.

20 Q And by -- when you say you hadn't seen it, you hadn't
21 seen it prior to preparing your testimony; right?

22 A Yes. That's correct. I have seen it now.

23 Q And you don't dispute the fact, as I understand it
24 now, that the Commission required the company to submit that
25 study listing the type of expenses that it would charge to the

1 storm reserve; right?

2 A I don't dispute that. No.

3 Q And you also don't dispute the fact that the company
4 is handling its storm costs in this case in a manner consistent
5 with that study; right?

6 A Well, I'm not sure. As -- I'm not sure. I don't
7 have the study in front of me. But if you remember, I told you
8 I was -- the study seemed to suggest that there would be
9 somehow a debit or a credit, which was an exact opposite to
10 what's going on in this case. I don't know all of the details
11 of that study. That study is irrelevant to me because what's
12 relevant to me is what's going on in this case.

13 If that study, if that study is something that would
14 enable the company to make money on hurricanes, as you're
15 suggesting, then I disagree with the entire study. But that's
16 irrelevant because we're in this case now in my opinion.

17 Q And, well, Mr. Majoros, my question was simply you do
18 not dispute the fact that the company is handling its storm
19 costs in this case in a manner consistent with that study.

20 A Oh, I don't know that for a fact.

21 Q Do you recall -- do you have your deposition in front
22 of you?

23 A Yes, I do.

24 Q Okay. Could you turn to Page 86, Lines 10 through
25 17? I asked you this question, you gave the following answer.

1 "Well, it's been demonstrated here, hasn't it, that
2 what Progress Energy is doing is consistent with the study it
3 filed with the Commission 12 years ago; right?"

4 Answer, "Yes. But I say that it's my opinion, and
5 it's a nonlegal opinion, that even if the orders in this case
6 don't preapprove this treatment, they don't accept it and they
7 don't specifically reject it. If they did, we wouldn't need
8 this hearing."

9 Is that correct?

10 A That's what I said.

11 Q Okay.

12 A But, remember, I was looking at that study for the
13 first time. For some reason I assumed that I had seen it, but
14 I had not.

15 Q Okay. Well, you also had looked at the study in
16 comparison to what you reviewed as to what the company had done
17 in this case; right?

18 A Pardon me?

19 Q You have reviewed what the company's charges to the
20 storm reserve have been in this case; right?

21 A I have reviewed the company's testimony and the
22 descriptions of what it has done in this case. I've attempted
23 to review the charges, but I haven't been able to review all
24 the charges. But that study is irrelevant to my review in this
25 case.

1 Q Well, I understand you didn't consider it. But you
2 didn't dispute that the company followed the study.

3 A I said I can't say that for a fact.

4 Q Okay. Mr. Majoros, you don't dispute the fact that
5 the company followed that study with respect to the prior
6 storms in the last 12 years, such as Hurricanes Erin, Floyd and
7 Gabrielle; correct?

8 A Let's say I assume that they did.

9 Q Okay. And you acknowledge that the Commission as a
10 matter of regular course reviews the reports and costs of the
11 company that are submitted; right?

12 A Well, I don't know exactly what the -- I mean, as I
13 said, I agree to that. I assume the Commission reviews those
14 reports. But the, the problem is -- it's not a problem. I
15 guess the Commission was pretty prescient (phonetic) in setting
16 the amount of the provision. But the prior storms in the last
17 ten or 12 years have never caused the Storm Damage Reserve to
18 become deficient. And, in fact, it has grown to \$46 or
19 \$49 million regardless of those storms.

20 So, you know, I assume the Commission set the
21 provision. Apparently some reports came in and the Commission
22 probably thought it's doing a pretty good job because that
23 mechanism resolved the hurricane problems that you had. But
24 this -- 2004 is different.

25 Q We also reviewed the FP&L study in your deposition

1 and you were familiar with that; correct?

2 A I have read that, yes.

3 Q And you have no reason to dispute the fact that the
4 Commission has found FP&L's study to be adequate; correct?

5 A Did I say that in the deposition? I have no reason
6 to dispute that. No.

7 Q And you agree with me that what the company is doing,
8 PEF, with respect to accounting for its actual 2004 hurricane
9 costs to the reserve under its study is similar to what Florida
10 Power & Light is doing under its study; correct?

11 MR. MCGLOTHLIN: Could I ask for clarification? Are
12 you referring to O&M only or O&M and capital in your question?

13 MR. WALLS: O&M only.

14 THE WITNESS: Yes.

15 BY MR. WALLS:

16 Q And you also would not dispute with me the fact that
17 with respect to that actual restoration cost approach in FP&L's
18 study that the Commission has stated that this methodology is
19 consistent with the manner in which replacement cost insurance
20 works; correct?

21 A They may have said that, but this is inconsistent
22 with my understanding of the way replacement cost policies work
23 because I don't think insurance companies pay twice.

24 Q Mr. Majoros, let's turn to another issue. You would
25 agree with me that the company's base rates were not set to

1 cover the costs of the 2004 hurricane season; correct?

2 A Not specifically, no. On the other hand, you know,
3 we had some discussion about that too.

4 The base rates do have a provision for storm damages.
5 That probably never anticipated a storm season with four very
6 significant hurricanes.

7 On the other hand, the base rates do anticipate storm
8 damages. That's why, that's why we have the accrual and
9 reserve approach that we're -- that's being used.

10 Q And, Mr. Majoros, you wouldn't dispute with me that
11 the restoration work that was required as a result of the 2004
12 hurricanes was a massive undertaking?

13 A I would not dispute that.

14 Q And you would agree with me that the company's
15 accountants need direction in order to handle the sheer
16 magnitude of the bills from those hurricanes; correct?

17 A Yes.

18 Q And you would also agree with me that directions to
19 the company's personnel in the field during a hurricane should
20 be simple; correct?

21 A Yes.

22 Q And you also agree with me that the accounting
23 approach to storm costs that the company is proposing in this
24 case is a simple accounting approach; correct?

25 A The accounting approach? It is very simple,

1 especially to an accountant. And that's why I said earlier all
2 that one has to do from an accounting perspective is put what
3 they're telling you down into a set of T accounts, recognize
4 that the company is already recovering revenues for normal
5 costs, already recovering revenues for normal costs. And if
6 you go through the transaction with those T accounts, you will
7 demonstrate to yourself that the company is making money on the
8 hurricane, its proposal results in making money on hurricanes.

9 Q Mr. Majoros --

10 A And it is simple, in my opinion.

11 Q Mr. Majoros, you were asked to review the company's
12 storm cost recovery claims in this matter and express an
13 opinion regarding those; right?

14 A That's correct.

15 Q Okay. Let's look at Page 13 of your testimony. Do
16 you see the Q and A that begins at Line 6 and continues down to
17 Line 20? There's two questions there, two answers.

18 A That's correct.

19 Q Okay. And you started off by responding to -- well,
20 let me read the question.

21 You start off by answering the question, "How has PEF
22 responded to the suggestion that it is engaging in double
23 recovery"; correct?

24 A Uh-huh.

25 Q And you referred to the catch-up work there; right?

1 A I say, "As I understand it, based on responses during
2 depositions, Progress Energy's position is that the budgeted
3 work has simply been postponed to be caught up during
4 subsequent periods."

5 Q And in the next Q and A you give your response to
6 that catch-up work; correct?

7 A No. I give my response to that as a rationale for
8 shifting normal expenses into the storm reserve.

9 Q Well, beginning at Page 13 in the section Lines 12
10 through 20, the gist of your opinion in your first assumption
11 there is that some of the tasks that the company had budgeted
12 for in 2004 with respect to its distribution and transmission
13 systems had been eliminated by the 2004 storm work; is that
14 correct?

15 A I don't see that on Page 13.

16 What I say on Page 13, starting at Line 12, is,
17 "First, the rationale assumes the same projects that would have
18 occupied employees remain to be performed. Given the changes
19 wrought by the storms and the resulting repair replacement
20 projects, which may have either accomplished the tasks or
21 obviated the need for them, this is, in my opinion, an
22 unwarranted assumption."

23 Q Okay. Well, that's the assumption.

24 A "Even if some of the tasks have been shifted to the
25 future periods, the flexibility of the budgeting process may

1 easily accommodate them. Progress Energy should be required to
2 demonstrate that it will incur financial harm as a consequence
3 of the catch-up tasks following the completion of storm
4 repairs. It has failed to do so in this docket."

5 Q Well, let's focus on your first assumption in your
6 answer. And with respect to that, I want to first make it
7 clear that you had not asked for anything in this docket, in
8 this proceeding from anyone that you were not provided;
9 correct?

10 A Well, you asked me that during the deposition and I
11 think I agreed. But, you know, some -- I went back and there
12 were probably others. But one of the things I wanted to see,
13 and this, this was a response to OPC's third set of
14 interrogatories to the company, and the response came in around
15 January 19th, 2005. And question 23 asks to --

16 COMMISSIONER BAEZ: Mr. Majoros, can you -- thank
17 you.

18 THE WITNESS: Question 23 asked you to describe in
19 detail whether and to what extent the company had charged costs
20 of removing damaged plant or destroyed during the hurricanes to
21 the accumulated depreciation reserve.

22 And the answer -- and there were several aspects of
23 the question. But the answer was, when the final costs are
24 determined, they will record the charge. But I didn't have the
25 charge.

1 And then also in question 26 I was asking for the,
2 the actual retirements that resulted, plant retirements that
3 resulted from the storm, and they were not provided either. So
4 I did not have that.

5 I have subsequently been provided with that in
6 response to a, a late-filed exhibit by Mr. Portuondo and
7 result, as a result of his deposition. And had I had that
8 information, I would have put some more in my testimony.

9 BY MR. WALLS:

10 Q Now, Mr. Majoros, let's go back to your deposition,
11 Page 32, Lines 6 through 13. I asked the following question,
12 you gave the following answer at the time of your deposition,
13 which was after your testimony had been filed.

14 "Now with respect to the preparation of your
15 testimony in this docket, did you ask for anything that you
16 were not provided?"

17 Mr. McGlothlin objected and asked for a
18 clarification. "Was that OPC or asked of Progress Energy?"

19 I responded, question, "Anyone."

20 Answer, "Not, not that I recall, nothing specific."

21 Did I read that accurately?

22 A That's right. I don't have an infallible memory.

23 Q Now you have never accounted for regulatory costs as
24 a result of a hurricane or severe storm; isn't that correct?

25 COMMISSIONER BAEZ: Mr. Walls, can you repeat that

1 question?

2 THE WITNESS: I'm not trying to -- that question --

3 COMMISSIONER BAEZ: I'm sorry, Mr. Majoros. I didn't
4 hear your question.

5 BY MR. WALLS:

6 Q My question was, you've never actually accounted for
7 regulatory costs as a result of a hurricane or severe storm;
8 isn't that right?

9 A I have, as I told you during the deposition, I have
10 never been employed as an accountant by a public utility. But
11 your question uses phrases which demonstrates a certain amount
12 of -- a lack of understanding of what's going on here.

13 I mean, when you use the phrase "regulatory costs,"
14 what do you mean?

15 Q Mr. Majoros, if you could turn to Page 6 of your
16 deposition, Lines 10 through 14.

17 A Uh-huh.

18 Q I asked you the following question, you gave the
19 following answer.

20 "Have you ever accounted for regulatory costs as a
21 result of a hurricane or severe storm?"

22 Answer, "Have I ever accounted for them?"

23 Question, "Yes."

24 Answer, "No."

25 Is that the response you gave at that time?

1 A That's right.

2 Q And that was accurate at the time, wasn't it?

3 A It's still accurate.

4 Q Okay. Now you've also not been responsible for
5 maintenance or the preparation of budgets for maintenance for
6 an electric transmission, transmission or distribution system;
7 correct?

8 A Correct.

9 Q And, in fact, you don't specifically know how those
10 maintenance programs are set up and budgeted; correct?

11 A I know they exist.

12 Q Okay. And you don't specifically know, for example,
13 how the company arrives at its budget for pole replacement, do
14 you?

15 A Pole replacements are typically a, a, a blanket work
16 order. Now the budgets -- I don't know how they arrive at the
17 specific dollars, but here's what I do know based upon -- you
18 know, I've been doing this for 23 years. Part of my expertise
19 is depreciation, and to understand all that flow you have to
20 understand how some costs get into the books.

21 And here's what I know. When poles are, when they're
22 budgeted out as a project, a pole replacement, the total
23 project cost is estimated in that potential work order or
24 whatever document it's called, and then a portion of that total
25 project cost is assigned to cost of removal. And typically,

1 typically based upon what I have seen in other jurisdictions,
2 and I believe this is true for this jurisdiction as well, the
3 amount of cost of removal of the new project cost that is
4 assigned to cost of removal is about 8 to 9 percent.

5 Now, how the company, the logistics of how they
6 assign the outside plant people to go out and do the pole
7 replacement and pole inspection and pole maintenance projects,
8 I'm not entirely -- I'm not familiar with that. I don't know
9 that, but I do know some aspects of it. And I do know that
10 this company and all electric utilities have pole maintenance
11 programs that they regularly do.

12 Q Mr. Majoros, you would agree with me that you don't
13 know how the company arrives at its budgets for any other kind
14 of maintenance or capital project associated with its
15 transmission or distribution system, do you?

16 A No, not the details. But I'm telling you I do know
17 that aspect of it that I just described.

18 Q And you've never acted as a consultant or testified
19 in any matter involving storm-related costs prior to this one;
20 right?

21 A That is correct.

22 Q And you cannot specifically identify for me any
23 repair or replacement project that the company had in place
24 that was eliminated because of the storms, can you?

25 A No.

1 Q Okay. Now, Mr. Majoros, isn't it reasonable to
2 assume that when the company sends employees to work on
3 hurricane-related work, those employees are leaving behind
4 other work they're going to have to come back and do; correct?

5 A They may.

6 Q Okay. And if employees were supposed to work on
7 items when they were pulled away and assigned to hurricane
8 restoration work, it's reasonable to assume that they will have
9 to complete that work that they were pulled away from; right?

10 A Well, you know, we talked about this in the, in the
11 transcript, and I said -- we just discussed pole maintenance,
12 pole maintenance, pole replacement projects, that are programs,
13 they're programs, they're annual programs. And some of that
14 work -- I mean, you said, I think you used the phrase "common
15 sense." It is common sense to me that some of the work done
16 during the hurricane restoration was already budgeted for.

17 Q Mr. Majoros, getting to your comments in your
18 testimony about the alleged budget flexibility, you have not
19 endeavored in this case to demonstrate whether the company has
20 any flexibility in its transmission or distribution budgets to
21 account for the catch-up work that has to be performed due to
22 the 2004 hurricanes; is that correct?

23 A I assume your, the budget is flexible. I don't know
24 if I have to prove that. And I don't have any -- I have not
25 offered any proof of that assumption on my part.

1 Q Okay. And you have also not gone back to the
2 company's budgets and tried to figure out what was actually
3 budgeted for the certain categories of work that you identify
4 in your testimony; correct?

5 A Well, I did try to do that. That's how I arrived at
6 the specific adjustments that I'm recommending.

7 Q Mr. Majoros, if you could turn to Page 102 of your
8 deposition, Lines 1 through 7, where I asked the following
9 question, you gave the following answer.

10 Question, "So you haven't gone back to the budgets
11 and tried to figure out what was actually in the budgets for
12 any of these items; correct?"

13 Answer, "No. These have all -- these amounts have
14 come from responses to data requests, and one of them, the tree
15 trimming, is in response to Mr. Wimberly's deposition."

16 Did I read that accurately?

17 A Yes.

18 Q And that was your response at the time; right?

19 A That was my response, yes.

20 Q Okay. Now with respect to some of these categories
21 that you have identified in your testimony, would you agree
22 with me, for example, with respect to vehicle expenses that
23 were contributed to or charged to and because they were used
24 during the hurricanes, that the company was using the vehicles
25 around the clock and, as a result, there was a lot more use

1 placed on those vehicles than there would be under normal
2 operating conditions; is that correct?

3 A Yes.

4 Q And you would also agree with me that vehicle
5 maintenance costs may have been higher because of their
6 constant use during the storms; correct?

7 A Yes, they may have been.

8 Q And you would agree with me that the goal during the
9 hurricane restoration process is to get service restored back
10 as quickly and safely as possible.

11 A That is correct.

12 Q And that might mean that you would put up poles and
13 lines and not fix everything that were on those poles and lines
14 in order to move along and get additional poles and lines up to
15 restore service; correct?

16 A Yes.

17 Q Okay. And as a result of that, you would agree that
18 there would be some facilities or equipment that was damaged by
19 the hurricanes that would still have to be fixed after service
20 is restored; correct?

21 A Yes.

22 Q And you don't dispute the fact that PEF has to go out
23 after service is restored and make sure all of its equipment is
24 working properly, do you?

25 A No.

Q Now with respect to your deduction of \$3.9 million
2 for a budget variance in October 2004 for tree trimming, you're
3 aware that Mr. Wimberly's testimony, he has reported that PEF's
4 budget in December 2004 was unfavorable by \$2.8 million due to
5 makeup tree trimming work being done; correct?

6 A That's correct.

7 Q And since you only had budget variance numbers
8 through October 2004 when you prepared your testimony, you
9 would agree you may have to adjust and update your numbers to
10 account for the updated numbers for tree trimming through
11 December 2004; correct?

12 A Yes.

13 Q Okay. Now turning to your opinion regarding the work
14 that the company had to do as a result of the hurricanes,
15 you're aware that Mr. Wimberly has testified that PEF has
16 estimated the cost of the catch-up work due to the 2004
17 hurricanes will be in excess of \$25 million to the company;
18 correct?

19 A That's what he has said. There's no support provided
20 for that. And, furthermore, it's my position, as we just went
21 through in my testimony, the company, if they want this
22 catch-up work -- I don't know -- it's not part of the claim.
23 But if this catch-up work is causing harm, they ought to file
24 something to demonstrate that.

25 Q Well, Mr. Majoros, you would agree with me that you

1 have no basis to dispute the accuracy of Mr. Wimberly's
2 testimony in that regard; correct?

3 A I do dispute the accuracy.

4 Q If you would turn to Page 100 of your deposition,
5 Lines 8 through 12. I asked you the following question and you
6 gave the following answer.

7 Question, "Mr. Majoros, as you sit here today, do you
8 have any reason to dispute the accuracy of Mr. Wimberly's
9 testimony in his rebuttal testimony about makeup work?"

10 Answer, "I have no reason to dispute that the company
11 has made that estimate."

12 Did I read that accurately?

13 A That's -- but that's not the question. You asked
14 about the accuracy, and I do dispute the accuracy. Would you
15 like to know why?

16 Q Mr. Majoros --

17 A Yes, sir.

18 Q -- in your deposition and today you've said numerous
19 times that the company is attempting to make money off the 2004
20 hurricanes; correct?

21 A That's correct.

22 Q And you're relying on reports on variances to the
23 company's budgets as of a point in time of October of 2004;
24 correct?

25 A To say that the company is making money on

1 hurricanes? No, I'm not relying on those to make that
2 statement. It's purely a debit and credit function.

3 Q Well, Mr. Majoros, isn't it true that what you're
4 relying on to show reports on variances from the budget is at a
5 point in time in October 2004? That's correct, isn't it?

6 A Yes.

7 Q Okay. And you cannot tell me how much money that you
8 said this company has made off the hurricanes because you
9 haven't quantified that; isn't that right?

10 A That's right.

11 MR. WALLS: I have no further questions for
12 Mr. Majoros. Oh, just one more. I'm sorry. I forgot.

13 BY MR. WALLS:

14 Q Mr. Majoros, isn't it true that 100 percent of your
15 time is spent preparing testimony in public utility and other
16 regulatory proceedings?

17 A Well, 100 percent of my time is involved in
18 regulatory work.

19 Q Mr. Majoros, if you could turn to Page 5, Lines
20 10 through 12 of your testimony, I mean, your deposition, where
21 I asked you the following question, you gave the following
22 answer.

23 Question, "About how much of your time percentagewise
24 is involved in preparing testimony?"

25 Answer, "About 100 percent."

1 A That's what I said. That was wrong. I would say,
2 you know, I mean, actually preparing testimony, probably
3 50 percent of my time. But all of my work relates to
4 regulatory proceedings.

5 MR. WALLS: I have no further questions.

6 THE WITNESS: I guess that one was off the top of my
7 head.

8 MR. WALLS: I have no further questions for
9 Mr. Majoros.

10 COMMISSIONER BAEZ: Commissioners, any questions?

11 Mr. McGlothlin, redirect?

12 COMMISSIONER DEASON: I'm sorry, Mr. Chairman. I did
13 have one question.

14 COMMISSIONER BAEZ: Go ahead, Commissioner.

15 COMMISSIONER DEASON: Mr. Majoros, I was -- in the
16 section of your testimony where you're making recommendations
17 on certain categories of costs or expenses that have been
18 charged to the reserve, you refer to tree trimming, and you
19 make a distinction between what was in the budget and the
20 variance and you identify a number of \$3.9 million.

21 THE WITNESS: Yes, sir.

22 COMMISSIONER DEASON: This is Page 20 of your
23 prefiled testimony.

24 THE WITNESS: Yes.

25 COMMISSIONER DEASON: Is that the -- I just had

1 difficulty understanding, what is the amount that you're
2 recommending be the adjustment? Is the 3.9 the variance and
3 you're recommending it be allowed, or that that is the amount
4 of the adjustment you're recommending?

5 THE WITNESS: That's the amount of the adjustment
6 that I'm recommending. But as Mr. Walls pointed out and
7 Mr. Wimberly pointed out, that turned in -- that was a positive
8 variance. And my goal was to try and eliminate the normal --
9 this was my goal, to try and eliminate from the charges to the
10 Storm Damage Reserve the normal tree trimming expenses. And
11 this was -- essentially this was the only number I could find,
12 and it came out of a deposition and that's what I, I used.

13 COMMISSIONER DEASON: Well, you refer to it as the
14 variance. I thought that was the amount that expenses exceeded
15 the budget. And it would seem to me that if that's the amount
16 that exceeded the budget, that must be incremental and that
17 would be the amount to be allowed. But you're identifying that
18 as the amount of the adjustment. So I may be misunderstanding
19 your testimony.

20 THE WITNESS: Well, I think I misunderstood when I
21 was preparing this because it was a positive variance. So I
22 think the budget exceeded the actual by 3.9.

23 COMMISSIONER DEASON: The budget exceeded the actual?

24 THE WITNESS: Yes, sir. And now Mr. Wimberly says
25 the budget has turned negative by 2.8. So as far -- I don't

1 think that the adjustment should be to go the other way. It
2 should probably go to zero, this adjustment.

3 COMMISSIONER DEASON: Okay. Thank you for that
4 clarification.

5 COMMISSIONER BAEZ: Redirect.

6 REDIRECT EXAMINATION

7 BY MR. McGLOTHLIN:

8 Q Mr. Majoros, counsel for Progress Energy asked you to
9 agree that the company is entitled to an opportunity to recover
10 all of its prudent costs, and you answered in the affirmative.

11 If the Commission accepts your proposed adjustments,
12 will Progress Energy have that opportunity to recover all of
13 its prudent costs associated with the storm?

14 A Yes.

15 Q And is that the case even though one outcome of those
16 adjustments would be that its reported earnings and rate of
17 return might be somewhat lower than would be the case if all of
18 the costs were included in the storm reserve?

19 A Yes.

20 Q Would you explain why, even with a lower earnings,
21 Progress Energy, in your opinion, would have recovered all of
22 its costs?

23 A Well, one thing, I'm not proposing any disallowance.
24 Remember that the debit and credit aspects of this, this
25 accounting are that normal operating expenses -- 100 percent of

1 the operating expenses during the period of the storms were
2 reduced and assigned to the Storm Damage Reserve. When you
3 reduce operating expenses, you increase net income. That's one
4 thing.

5 Now, now they're sitting over in, in this pot of
6 dollars called the Storm Damage Reserve. If I were going to
7 propose to disallow them, I would say lop off a part of those
8 dollars and just don't let this company collect it. But that's
9 not what I'm proposing.

10 I'm proposing that the portion of those costs that
11 are over there be reassigned back to normal operating expenses,
12 and then I'm agreeing to the recovery of what's left in the
13 Storm Damage Reserve. But even if these are transferred back
14 where they were to begin with, the company is still earning
15 money. So obviously it's recovering those costs. And that's
16 my -- that's why -- well, anyway, that's my answer.

17 Q Mr. Walls asked you a couple of questions about the
18 company's contention that it lost revenues as a result of the
19 storm damage. Do you regard that as relevant to the purpose of
20 your testimony?

21 A No. I'm dealing with the actual numbers and the
22 actual accounting proposals that have happened, not opportunity
23 costs, nothing like that. Real numbers, real green dollars.

24 Q If we were to consider the question of lost revenues,
25 would a calculation of lower revenues during the storm event be

1 a full and fair picture of that situation?

2 A No.

3 Q What else would have to be considered?

4 A Well, you know, a majority of this company's and most
5 electric utilities' revenues is fuel, and a lost revenue
6 calculation would have to recognize the variable costs
7 associated with revenues, including fuel. So that would be an
8 incomplete picture. So it, you know, lost revenues and there
9 would be cost reductions associated with that. So you're
10 talking about margins, not revenues.

11 Q And with respect to time frames beyond the storm,
12 would it be possible there would be offsetting gains in
13 revenues that would have to be taken into account?

14 A There may be. I mean, you know, the, the activities
15 of reconstruction activities may involve the use of more
16 electricity. I don't know.

17 Q You were asked some questions about the guidelines
18 that were provided to you by the Office and that you endorsed
19 in adopting your testimony.

20 Just for clarification, with, with the exception of
21 the caveat that you expressed relating to capital, have you
22 incorporated those guidelines as your own testimony in this
23 proceeding?

24 A Yes.

25 Q You were asked to agree that the company had been

1 consistent with certain procedures identified in a 1994 study.
2 Whether or not those, those procedures were consistent with a
3 prior study, do you agree or disagree with those procedures
4 that they've been -- as they have been implemented for purposes
5 of this proceeding?

6 A If that study resulted in the procedures that the
7 company is proposing here, then I disagree with them. I mean,
8 I don't think those procedures or any rules were ever designed
9 to enable an electric utility in Florida to make money on
10 hurricanes.

11 Q Mr. Majoros, counsel for Progress Energy asked you
12 some questions regarding the need for persons in the field to
13 have direction with respect to the accounting method to be
14 used. Do you recall that exchange?

15 A Yes, I do.

16 Q Are you familiar with the manner in which Progress
17 Energy voluntarily has accounted for capital costs in this
18 proceeding?

19 A Yes.

20 Q Do you believe that persons in the field would have
21 to have directions with respect to the manner of accounting for
22 capital costs as well as O&M?

23 A No.

24 Q That would not be the case?

25 A I don't think they would -- no, I don't think so.

1 They -- I'm not even sure -- I'm trying to remember -- I
2 reviewed a lot of work orders and work tickets, and I don't
3 know if I ever saw a distinction between maintenance or capital
4 on those, on those tickets. There may have been. I just don't
5 remember seeing it.

6 Q You were asked whether you had been given everything
7 you needed for purposes of your testimony, and you referred to
8 the fact that at the time you proposed, you prepared your
9 testimony you had not seen all the information you needed with
10 respect to quantifying costs of removal. Do you remember that
11 question and answer?

12 A Yes, I do.

13 Q And then you also said in response to a question that
14 after you prepared your testimony, you received and reviewed
15 additional information. Do you recall that?

16 A Yes.

17 Q As a result of that review, do you have a better
18 handle as to whether the company has accurately quantified cost
19 of removal?

20 A I do have an opinion. I've seen information and I do
21 have an opinion.

22 Q Okay. What is that opinion?

23 A Well, my opinion is -- well, the company apparently
24 has designated about \$1.6 million as cost of removal for
25 transmission and distribution retirements.

1 In a late-filed exhibit Mr. Portuondo finally
2 provided those retirements, and they amount to almost
3 \$20 million storm-related retirements, primarily distribution
4 retirements. And from that is derived a \$1.7 million, 1.6 cost
5 of removal estimate, which is about 8 percent.

6 Now, this goes back to what I was describing earlier
7 about how these projects work. What is built into the
8 depreciation rates for cost of removal is about 40 -- it is
9 based on the assumption of 42 percent of the cost of
10 retirements relate -- is cost of removal. **And that's what's**
11 being charged to ratepayers and collected, and that is why
12 there's a \$528 million cost of removal reserve. That 8 percent
13 though, I believe, for this company really relates to the
14 percentage of cost of removal to new gross additions, not
15 retirements.

16 I think that this company's estimate of cost of
17 removal is, is understated. I think it should be in the range
18 of \$8 to \$9 million. Based upon what is in the depreciation
19 studies it is understated. And if that's what's going to be --
20 and \$1.6 million, we have a cost of removal reserve of
21 \$528 million, and the difference between that and \$8 million or
22 \$9 million, while it's not huge in the grand scheme of things,
23 it still is millions of dollars. And that difference alone
24 leads me to challenge the accuracy of that \$25 million
25 estimate, the other estimate of catch-up work.

1 I, I can sit here and tell you -- I mean, I know I
2 do -- I know a lot about depreciation, I know a lot about plant
3 accounting, and I believe that the cost of removal estimate is
4 understated.

5 Q And you used the range \$8 to \$9 million as your
6 revised view of what the minimum cost of removal should be.
7 Specifically how did you arrive at \$8 or \$9 million?

8 A I looked at the most recent depreciation study. I
9 looked at the cost of removal ratios that were used in that
10 study. Those cost of removal for, for distribution poles and
11 distribution overhead conductors and devices, which are a
12 majority of the retirements, distribution retirements that took
13 place during the storms, the weighted composite cost of removal
14 ratio for those two accounts, which are the two biggest
15 accounts in distribution, is about 42 percent.

16 That 42 percent is derived from studies by Progress
17 Energy that relate current cost of removal to the cost of
18 retirements. That's how it's -- I don't agree with that
19 approach, but that's the way it's done. And that 42 percent --
20 and so it should be 42 percent based on historical studies, and
21 yet Progress Energy has used what appears to be about
22 8 percent. And I think they've mixed and matched, they've
23 probably derived the 8 percent from their budgeting process for
24 new construction and used that to estimate the cost of removal
25 for retirements. And I think they've significantly understated

1 that cost of removal, and that results in an overstated Storm
2 Damage Reserve deficiency and an understatement of what should
3 be charged to the cost of removal reserve.

4 Q For clarification, Mr. Majoros, did your earlier
5 quantification of a deficiency of 123 take into account this
6 \$8 to \$9 million?

7 A No. Because, as I said, I didn't have that
8 information at the time I wrote my testimony.

9 Q You were asked whether you had personal knowledge of
10 the manner in which some of Progress Energy's budgets are
11 developed. Is that information necessary for your purpose in
12 this proceeding?

13 A No.

14 Q You were asked questions with respect to the catch-up
15 work, and I think one of the questions was whether you had any
16 information available to you to more or less disprove the
17 \$25 million of the estimate.

18 With respect to the company's claim as to the nature
19 and amount of catch-up work, whose job is it, do you believe,
20 to make that case?

21 A It's not my job. That's the company's job.

22 Q In one of your responses you indicated that the, the
23 demonstration that, of a double recovery was, quote, purely a
24 debit and credit function. Would you elaborate on what you
25 meant with that phrase?

1 A Yes. I mean, it's -- as I tried to explain earlier,
2 any accountant sitting in this room that understands the flow
3 of dollars in public utility ratemaking can sit down and do the
4 debits and credits in simple T accounts. And that's the way we
5 accountants understand things: For every debit there's got to
6 be a credit, et cetera.

7 In the final analysis you will find that under
8 Progress Energy's proposal, to the extent of normal expenses
9 being transferred to the storm reserve, if their proposal is
10 approved, there will be double recovery. The company will have
11 made money on the hurricanes.

12 Now, that is to the extent of normal expenses. I'm
13 not challenging the extraordinary incremental. I'm talking
14 about normal expenses that are transferred from regular
15 operating income to the storm reserve.

16 Q You were asked some questions about the subject of
17 tree trimming and the nature and amount of the adjustment you
18 included and Mr. Wimberly's latest information to the effect
19 that the positive variance had turned, to some extent, in later
20 periods.

21 If the net of those beginning and later variances was
22 to result in a positive variance, do you believe that an
23 adjustment should be made for tree trimming?

24 A Well, maybe. But I think that what he, Mr. Wimberly
25 is talking about is accumulative. So I don't know. I haven't,

1 I haven't given that any thought.

2 Q But if it showed a year-end positive variance, would
3 you continue to recommend adjustment of that amount?

4 A Remember, the objective of my, my recommendation is
5 to get normal tree trimming expenses transferred back to normal
6 O&M expenses. That's my objective.

7 MR. MCGLOTHLIN: Those are all of my questions.

8 COMMISSIONER BAEZ: Exhibits?

9 MR. MCGLOTHLIN: We move Exhibits 29 through 37.

10 COMMISSIONER BAEZ: Do you want to take a short
11 break, Mr. Twomey? Now are you, are you saying this before the
12 exhibits move in for our purpose or -- because that was the
13 plan, just you --

14 MR. TWOMEY: Yes.

15 COMMISSIONER BAEZ: Your mike's not on. Maybe Mr.
16 McWhirter can loan you a microphone. I don't know that it's
17 absolutely necessary for purposes of this discussion at this
18 point.

19 We're going to take a break for ten minutes as soon
20 as -- if there are no objections, we're going to accept
21 Exhibits 29 through 37 into the record. And we will break for
22 ten minutes.

23 (Exhibits 29 through 37 admitted into the record.)

24 (Recess taken.)

25 COMMISSIONER BAEZ: We'll go back on the record.

1 Mr. Perry, you were going to call your witness.

2 MR. PERRY: The Florida Industrial Power Users Group
3 would call Sheree Brown.

4 COMMISSIONER BAEZ: Ms. Brown, were you sworn?

5 THE WITNESS: Yes, sir.

6 SHEREE L. BROWN

7 was called as a witness on behalf of the Florida Industrial
8 Power Users Group and, having been duly sworn, testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. PERRY:

12 Q Ms. Brown, could you state your name and business
13 address for the record, please?

14 A Yes. My name is Sheree Brown. My business address
15 is 530 Mandalay Road, Orlando, Florida 32809.

16 Q And have you caused prefiled testimony to be filed in
17 this docket?

18 A Yes, I have.

19 Q Do you have any corrections to make to that
20 testimony?

21 A Yes, just a couple.

22 On Page 4 at Line 15, "\$46.5 million" should have
23 been "\$46.9 million."

24 On Page 5, Line 2, "\$46.5 million" should be
25 "\$46.9 million."

1 And on Line 3 of the same page, "\$264.9 million"
2 should be "\$264.5 million."

3 Q Ms. Brown, if I were to ask you the questions in your
4 testimony, would you give the same answers today?

5 A Yes, I would.

6 MR. PERRY: I would ask that the prefiled direct
7 testimony of Ms. Brown be moved into the record as though read.

8 COMMISSIONER BAEZ: Excuse me. Without objection,
9 show the direct testimony of Sheree Brown moved into the record
10 as though read.

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FPSC DOCKET NO. 041272-EI

**IN RE: PROGRESS ENERGY FLORIDA, INC.’s PETITION
FOR APPROVAL OF STORM COST RECOVERY CLAUSE FOR
EXTRAORDINARY EXPENDITURES RELATED TO HURRICANES
CHARLEY, FRANCES, JEANNE, AND IVAN**

DIRECT TESTIMONY AND EXHIBITS OF SHEREE L. BROWN

INTRODUCTION

11 Q: PLEASE STATE YOUR NAME AND OCCUPATION.

12 A: My name is Sheree L. Brown and I am the President and Managing Principal of
13 Utility Advisors’ Network, Inc., located at 530 Mandalay Rd., Orlando, Florida
14 32809.

15 Q: PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
16 EXPERIENCE.

17 A: I received a B. A. in Accounting from the University of West Florida and a
18 Masters in Business Administration from the University of Central Florida. I am
19 a Certified Public Accountant in the State of Florida.

20 I have been providing utility consulting services to municipal, cooperative,
21 county, and institutional utilities and industrial and commercial consumers since
22 1981. My work has primarily focused in the areas of regulatory affairs, revenue
23 requirements and costs of service, rates and rate design, deregulation and stranded
24 costs, valuation and acquisition, feasibility studies, and contract negotiations.

25 Q: ON WHOSE BEHALF ARE YOU TESTIFYING?

26 A: I am testifying on behalf of the Florida Industrial Power Users Group (“FIPUG”).
27 Members of FIPUG are large commercial and industrial users of electricity whose

1 costs of providing service to their own customers are directly impacted by
2 increases in the costs of electricity.

3 Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

4 A: The purpose of my testimony is to address the level of hurricane cost recovery
5 Progress Energy Florida, Inc. ("PEF") seeks and explain to the Commission why
6 the adjustments I propose in my testimony are fair and equitable to the company
7 and consumers.

8 SUMMARY OF TESTIMONY

9 Q: PLEASE PROVIDE A SUMMARY OF YOUR TESTIMONY.

10 A: My testimony addresses the Stipulation and Settlement that PEF entered into in
11 Florida Public Service Commission ("FPSC" or the "Commission") Docket No.
12 000824-EI (the "Settlement"). I describe the limitations of the Settlement on
13 PEF's ability to seek cost recovery at this time. I further describe how PEF's
14 accounting for storm damage costs and its cost recovery proposal would "game
15 the system" by permitting it to recover excessive costs from ratepayers, while
16 retaining ratepayer-provided funds due to cost decreases. My testimony
17 addresses the following issues:

- 18 ■ PEF's proposed storm damage recovery clause ignores the terms of the
19 Settlement.
- 20 ■ PEF's proposal seeks to hold PEF harmless from any damages related to
21 the storms, while increasing costs to residents and businesses in PEF's
22 service territory that have already absorbed storm damage costs of their
23 own.

- 1 ▪ PEF's proposal seeks 100% cost recovery from consumers, with no
- 2 contribution from PEF, while PEF benefits from increased profits.
- 3 ▪ PEF's claimed storm damage costs are excessive and include amounts that
- 4 should have been allocated to normal operations and maintenance
- 5 ("O&M") expenses.
- 6 ▪ PEF has enjoyed higher earnings than it would have otherwise had due to
- 7 reductions in O&M expenses to levels below the budgets included in
- 8 establishing the current rates.
- 9 ▪ PEF should be required to take into account revenues it received for
- 10 assisting other utilities;
- 11 ▪ PEF's interest calculations on the storm damage recovery clause do not
- 12 provide an offset for the income tax benefits that PEF received for
- 13 expensing the storm damage costs for tax purposes.

14 Lastly, in the event that the Commission does not interpret the Stipulation and
 15 Settlement to bar recovery at this time, I develop a recommended approach that
 16 balances the interests of PEF and its customers in a fair and equitable manner. I
 17 recommend that the Commission require PEF to immediately expense \$142.7
 18 million of its claimed storm damage costs and allow PEF to recover the balance of
 19 its claimed storm damage costs in the following manner:

TABLE 1	
BREAKDOWN OF RECOMMENDED STORM COST RECOVERY	
(\$ MILLIONS)	
Total Claimed Storm Damage Costs	\$366.3
Amount recovered from existing storm damage reserve	(\$46.9)
Amount capitalized to be considered in future rate proceedings	(\$54.9)
Amount immediately expensed	(\$142.7)
Amount to be recovered through a storm damage clause	\$121.8

1 I explain how my proposal provides a fair and equitable resolution of the issues
2 before the Commission by:

- 3 ▪ Providing PEF with immediate recovery of appropriate costs;
- 4 ▪ Limiting PEF's recovery to the amount that provides PEF with a return on
5 equity of 10% for 2004, in accordance with the level of financial risk PEF
6 assumed in the Settlement, while allowing PEF to earn in excess of this
7 floor for 2005;
- 8 ▪ Preventing PEF's manipulation of the regulatory system by eliminating
9 the "double dipping" that would occur if PEF were allowed to recover
10 costs through a recovery clause while recovering the same costs through
11 base rates.

12 PEF'S PROPOSAL

13 Q: PLEASE DESCRIBE PEF'S PROPOSAL FOR RECOVERY OF ITS
14 HURRICANE-RELATED COSTS.

15 A: PEF has already collected \$^{46.9}~~46.5~~ million in storm damage costs through accruals
16 to the storm damage reserve. PEF is seeking to recover an additional \$251.9
17 million, plus interest, from its jurisdictional customers over a two-year period
18 through a storm damage recovery clause. PEF's proposal assumes 100% recovery
19 of its storm damage claim without any sharing of risk or equitable division of the
20 costs between the company and its customers.

21 Q: WHAT IS THE TOTAL LEVEL OF COSTS THAT PEF SEEKS TO RECOVER
22 FROM ITS CUSTOMERS?

23 A: PEF seeks recovery of \$366.3 million that it claims were damages associated with
24 hurricanes Charley, Frances, Ivan, and Jeanne. Of that amount, PEF booked

1 \$311.4 million against the storm damage reserve and capitalized \$54.9 million.
 2 As of the end of 2004, PEF had already collected \$~~46.5~~^{46.9} million from its customers
 3 in anticipation of storm damages. Of the remaining \$~~264.9~~^{264.5} million, PEF is
 4 seeking to recover \$251.9 million from its retail ratepayers over the next two
 5 years through a storm damage recovery clause with interest applied to the
 6 outstanding balance at the commercial paper rate. PEF will seek to recover the
 7 \$54.9 million of capitalized costs by including such costs in rate base in its future
 8 surveillance reports and its next base rate proceeding.

9 Q: HOW IS PEF TREATING THE STORM DAMAGE COSTS FOR TAX
 10 PURPOSES?

11 A: For tax purposes, PEF is expensing the hurricane damage costs. This results in
 12 PEF booking additional accumulated deferred income taxes, which is a source of
 13 cost-free capital for PEF.

14 PEF'S PROPOSAL IGNORES THE STIPULATION AND SETTLEMENT

15 Q: PLEASE DESCRIBE THE STIPULATION AND SETTLEMENT IN DOCKET
 16 NO. 000824-EI.

17 A: The Stipulation and Settlement in Docket No. 000824-EI (the "Settlement") set
 18 PEF's current rates, which became effective on May 1, 2002, and will continue
 19 through December 31, 2005. The Settlement also provided for a sharing of retail
 20 base rate revenues above a revenue cap. PEF may petition the Commission to
 21 amend the base rates only if earnings fall below a 10% return on equity as
 22 reported on an FPSC adjusted or pro-forma basis on a monthly earnings
 23 surveillance report. In addition to the revenue sharing, PEF is committed to

1 providing a \$3 million refund to customers in the event System Average
2 Interruption Duration Index ("SAIDI") improvements are not achieved.

3 Q: HAVE PEF'S EARNINGS FALLEN BELOW THE 10% RETURN ON
4 EQUITY LEVEL?

5 A: No. In fact, PEF's return on equity rose from 12.55% in July to 13.71% in
6 September, 13.39% in October, and 13.61% in November. Therefore, the
7 condition precedent set out in the Settlement has not been met and the balance of
8 the deferred account would be considered in the next base rate proceeding, not via
9 a new, separate recovery clause.

10 Q: HOW CAN YOU EXPLAIN THE INCREASE IN PEF'S EARNINGS DURING
11 A PERIOD OF TIME IN WHICH IT WAS INCURRING SIGNIFICANT
12 COSTS FOR HURRICANE DAMAGE?

13 A: PEF engaged in what I would term profitable "cost shifting." PEF's earnings rose
14 because it shifted costs from normal O&M to the storm damage accrual account.
15 PEF did not limit its charges to the storm damage accrual account to those costs
16 that were incremental to its regular costs. Instead, PEF shifted its regular costs
17 from normal O&M to the storm damage accrual account. Because O&M costs
18 were reduced, PEF's earnings actually *rose* during the hurricane restoration
19 period when it claims to have had these extraordinary expenses.

20 Q: WOULD PEF'S EARNINGS HAVE FALLEN BELOW THE 10% RETURN
21 ON EQUITY FLOOR IF ALL THE STORM DAMAGE COSTS HAD BEEN
22 CHARGED TO O&M?

23 A: Yes. Just as a reduction in O&M expenses increases PEF's return on equity,
24 increases in O&M expenses decrease its return on equity. Thus, if PEF had not

1 deferred its storm damage expenses, but had booked them to O&M expenses
2 immediately, its return on equity would have been reduced significantly.

3 Q: WOULD PEF HAVE BEEN ELIGIBLE TO FILE FOR A RATE INCREASE
4 UNDER THE TERMS OF THE SETTLEMENT IF PEF HAD BOOKED THE
5 STORM DAMAGE COSTS TO O&M?

6 A: Yes. In that event, PEF would have been eligible to petition the Commission for
7 an increase in base rates.

8 Q: WHY DIDN'T PEF JUST BOOK THE EXPENSES TO O&M AND FILE FOR
9 A BASE RATE INCREASE?

10 A: Under the Commission's accounting rules, PEF may defer its uninsured losses by
11 booking them to Account 228.1, Accumulated Provision for Property Insurance.
12 Further, if PEF had just booked the expenses to O&M and filed for a rate
13 increase, it would have had to absorb the total costs. Deferral was, therefore, a
14 much more attractive option to PEF.

15 Q: WHY WOULD PEF HAVE HAD TO ABSORB THE TOTAL COSTS IF IT
16 BOOKED THE EXPENSES TO O&M AND FILED FOR A BASE RATE
17 INCREASE?

18 A: Given that rates are implemented on a prospective basis, any non-recurring
19 expenses, such as the storm damage losses, would typically be removed through
20 pro-forma adjustments. This would have eliminated PEF's recovery of the costs
21 in a future rate period.

22 Q: WHAT WOULD HAPPEN IF THE COMMISSION JUST SET THE
23 APPROPRIATE LEVEL OF THE DEFERRED EXPENSES AND THE
24 ANNUAL AMORTIZATION?

1 A: Under the terms of the Settlement, any amortization taken for 2004 and 2005
2 would be totally absorbed by the Company.

3 Q: IF THE COMPANY'S PROPOSAL IS ACCEPTED BY THE COMMISSION,
4 WILL PEF BEAR ANY OF THE LOSSES?

5 A: No. PEF's proposed special cost recovery clause would allow the Company to
6 transfer the total cost burden to ratepayers while holding PEF harmless. If the
7 Commission approves PEF's total request, it will allow PEF to recover 100% of
8 its claimed storm damage costs from ratepayers while also boosting PEF's
9 earnings from base rates at the ratepayers' expense.

10 Q: DOES THE SETTLEMENT BAR ANY RECOVERY OF PEF'S STORM
11 DAMAGE COSTS AT THIS TIME?

12 A: This is a legal matter which will be argued and briefed by the attorneys in this
13 case. I would note, however, that the Commission could develop a cost recovery
14 methodology that would be fair and equitable to both the Company and its
15 customers.

16 Q: WHAT CRITERIA SHOULD THE COMMISSION CONSIDER WHEN
17 EVALUATING THE APPROPRIATE RATEMAKING TREATMENT FOR
18 PEF'S STORM DAMAGE COSTS?

19 A: The appropriate ratemaking treatment for PEF's storm damage costs should be
20 fair and equitable to both PEF and its ratepayers. It should consider the terms of
21 the Settlement and PEF's earnings. The costs should be limited to those costs that
22 exceed PEF's normal costs of operations and maintenance in order to protect
23 ratepayers against the over-recovery that would occur if costs are shifted between
24 base rate recovery and a special recovery clause.

1 Q: HOW SHOULD THE COMMISSION CONSIDER THE SETTLEMENT WHEN
2 EVALUATING THE APPROPRIATE RATEMAKING TREATMENT FOR
3 PEF'S STORM DAMAGE COSTS?

4 A: As I explained above, the Settlement set forth specific rates that were to be in
5 effect through December 31, 2005 and permitted PEF to request a rate increase
6 *only* if its return on equity fell below 10%. If costs are deferred and amortized,
7 any amortization applied during the Settlement period would be absorbed by the
8 Company. The Commission should thus consider PEF's earnings and a
9 reasonable sharing of the costs in evaluating the appropriate ratemaking
10 treatment.

11 Q: HAS THE COMMISSION CONSIDERED EARNINGS IN EVALUATING
12 STORM DAMAGE RECOVERY?

13 A: Yes. In Order No. PSC-93-1522-FOF-EI, discussed below, the Commission
14 recognized that a utility's earnings should be considered in the context of any
15 storm damage request.

16 PEF'S PROPOSAL IS NOT FAIR AND EQUITABLE, AS IT WOULD HOLD PEF
17 HARMLESS FROM ANY STORM DAMAGE

18 Q: SHOULD THE COMMISSION ALLOCATE ANY STORM DAMAGE COSTS
19 TO PEF?

20 A: Yes. Residents and businesses all over Florida have been severely impacted by
21 damages incurred from the hurricanes. FIPUG members have absorbed millions
22 of dollars in damages. As a matter of public policy, it is unfathomable that PEF
23 should be held totally harmless from the impacts of the hurricanes, while its
24 customers bear their own losses, as well as 100% of PEF's losses.

1 Q: DID THE COMMISSION PRE-APPROVE 100% STORM DAMAGE
2 RECOVERY IN THE EVENT THAT DAMAGES EXCEED THE STORM
3 DAMAGE RESERVE BALANCE?

4 A: No. The Commission approved the use of an unfunded storm damage reserve to
5 self-insure against transmission and distribution losses. In Order PSC-93-1522-
6 FOF-EI at page 5, the Commission noted that “[n]o prior approval will be given
7 for the recovery of costs to repair and restore T&D facilities in excess of the
8 Reserve balance.” In Order No. PSC-93-0918-FOF-EI, the Commission rejected
9 a 100% pass-through proposal by FPL and stated:

10 We believe it would be inappropriate to transfer all risk of storm
11 loss directly to ratepayers. The Commission has never required
12 ratepayers to indemnify utilities from storm damage. Even with
13 traditional insurance, utilities are not free from risk. This type of
14 damage is a normal business risk in Florida.

15 In addition, Rule 25-6.0143, Florida Administrative Code, provides for the
16 charging of losses to Account 228.1, Accumulated Provision for Property
17 Insurance. The rule does not define how losses are to be determined. Further, the
18 rule does not establish the ratemaking treatment for recovery of such losses.

19 Q. HAS PEF FAIRLY ALLOCATED STORM DAMAGE BETWEEN ITSELF
20 AND CONSUMERS?

21 A. No. PEF’s proposal would require consumers to absorb 100% of the costs of the
22 storms with no equitable apportionment. These are the same consumers whose
23 homes and businesses were damaged by the hurricanes and who have had to
24 absorb large losses themselves. PEF wants to recover dollar for dollar all storm

1 expenses, including as discussed below, revenues for expenses it is recovering
2 elsewhere.

3 Q. PUTTING ASIDE THE SETTLEMENT, ARE THERE OTHER REASONS THE
4 COMMISSION SHOULD CONSIDER PEF'S EARNINGS IN DECIDING ON
5 FAIR AND EQUITABLE RECOVERY FOR ALL PARTIES?

6 A. Yes. Before the Commission contemplates imposing a separate recovery charge
7 on consumers, it should review PEF's earnings to determine if the utility has
8 sufficient earnings to defray some or all of these costs. If PEF's earnings are in
9 excess of a reasonable minimum earnings level, PEF should bear some of the
10 costs before additional costs are transferred to consumers. In Order No. PSC-93-
11 1522-FOF-EI at page 5, the Commission said:

12 If FPC experiences significant storm related damage, it can petition
13 for appropriate regulatory action. In the past, this Commission has
14 allowed recovery of prudent expenses and has allowed
15 amortization of storm damage expense. *Extraordinary events such*
16 *as hurricanes have not caused utilities to earn less than a fair rate*
17 *of return.* FPC shall be allowed to defer storm damage loss over
18 the amount in the reserve until we act on any petition filed by the
19 company. (emphasis added)

20 Therefore, in determining the appropriate ratemaking treatment for storm damage
21 costs, the Commission has indicated that a utility's earnings are a consideration.
22 The Commission should consider the terms and conditions of the Settlement and
23 PEF's earnings, as well as the prudence and reasonableness of PEF's claimed
24 expenses.

1 PEF'S CLAIMED STORM DAMAGE COSTS ARE EXCESSIVE BECAUSE THEY
2 INCLUDE AMOUNTS WHICH ARE BEING RECOVERED THROUGH BASE
3 RATES

4 Q: ARE PEF'S CLAIMED STORM DAMAGE COSTS EXCESSIVE?

5 A: Yes. PEF's claimed storm damage costs are excessive because PEF has included
6 ordinary operations and maintenance ("O&M") expenses in its calculation of
7 storm damage costs. By including normal O&M costs in its storm damage claim,
8 PEF is "gaming the system" to increase its total cost recovery. Ordinary O&M
9 expenses should not be charged to a clause intended to recover "extraordinary"
10 expenses, especially when such ordinary expenses are already funded through
11 base rates.

12 Q: DOES INCLUDING NORMAL O&M COSTS IN THE STORM DAMAGE
13 CLAIM INCREASE PEF'S TOTAL COST RECOVERY?

14 A: Yes. PEF's normal O&M costs were included in the development of its current
15 base rates. Customers are, therefore, already paying for such costs through those
16 rates. Since PEF is already recovering these normal costs through its base rates,
17 any shifting of costs to a storm damage recovery clause allows PEF to recover
18 these costs twice – once through the clause and again in base rates. Allowing
19 PEF to shift normal O&M costs to a storm damage recovery clause would allow
20 PEF to "double dip" by recovering the same costs twice.

21 Q. IS THIS TREATMENT CONSISTENT WITH PEF'S TREATMENT OF
22 STORM DAMAGE COSTS IN ITS NORTH CAROLINA AND SOUTH
23 CAROLINA RETAIL JURISDICTIONS?

1 A. No. In the North Carolina and South Carolina retail jurisdictions, PEF has limited
2 its storm damage claims to incremental costs. In the response to FIPUG's Fifth
3 Request for Production of Documents, No. 20, PEF provided correspondence
4 between PEF and its accountants, Deloitte & Touche, regarding PEF's accounting
5 for storm damage costs. One email included therein explained:

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 In addition, in its filing with the South Carolina Public Service Commission on
14 December 22, 2004, Progress Energy Carolinas, Inc. ("PEC"), Len S. Anthony,
15 PEC's Deputy General Counsel – Regulatory Affairs noted:

16 Pursuant to Public Service Commission Order No. 2004-367(A)
17 issued in Docket No. 2004-55-E, Progress Energy Carolinas, Inc.
18 ("PEC") submits the actual storm damage expenses incurred by
19 PEC associated with an ice storm that occurred in January 2004.
20 The total system cost of the storm was \$15,661,828. The total
21 system *incremental* operating and maintenance costs were
22 \$13,161,657. The South Carolina jurisdictional portion of such
23 *incremental* operating and maintenance costs were [sic]
24 \$9,073,667. (emphasis added)

1 Q: HOW HAS PEF INCLUDED ORDINARY OPERATIONS AND
2 MAINTENANCE EXPENSES IN ITS CALCULATION OF STORM DAMAGE
3 COSTS IN THIS CASE?

4 A: As explained in PEF's response to FIPUG's First Set of Interrogatories, No. 1,
5 PEF has not deducted its budgeted O&M expenses from the storm-related
6 expenses it proposes to recover in this case. For example, labor charges to the
7 storm damage account include normal, or ordinary, labor charges for PEF's work
8 force that would have otherwise been charged to O&M, which is recovered from
9 base rates. PEF has thus reduced its normal O&M expenses, which are covered
10 by base rates, and has shifted these costs to hurricane damage accounts, for which
11 it is requesting recovery through a surcharge .

12 Q: WHAT EVIDENCE DO YOU HAVE THAT PEF SHIFTED COSTS FROM
13 ORDINARY O&M TO THE HURRICANE DAMAGE ACCOUNT?

14 A: PEF has provided numerous documents in discovery which show that PEF shifted
15 costs from normal O&M into the storm damage account. Shifted costs included
16 not only regular salaries and associated benefits, but also included contract labor
17 and expenses, maintenance expenses, and even depreciation. Several examples
18 were found in PEF's response to OPC Request for Production of Documents, Nos.
19 4 and 5. These documents are PEF's internal reports that show the differences,
20 or "variances" between budgeted and actual costs incurred. A "favorable"
21 variance indicates that PEF spent less than it had originally budgeted, while an
22 "unfavorable" variance indicates that PEF spent more than it had originally
23 budgeted. The reports were provided on a monthly basis through November,
24 2004. As explained earlier, as PEF shifted costs from O&M to the storm damage

1 reserve, the normal O&M costs were reduced, resulting in a favorable variance.
2 The following excerpts from those reports demonstrate this cost-shifting
3 technique:

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED];
16 [REDACTED]
17 [REDACTED]
18 [REDACTED];

- 19 ■ Charges for company owned-vehicles included \$909,352 for depreciation,
20 \$1,560,600 for maintenance and \$222,164 for overhead. Response to
21 Staff Interrogatory No. 12;
- 22 ■ Through November, 2004, labor charges to the storm account included
23 \$9,757,075 regular PEF labor and \$2,101,392 regular service company
24 labor. Response to Staff Interrogatory No. 11.

1 These excerpts show that PEF was well aware that its cost shifting resulted in
2 favorable variances, which increase PEF's earnings from base rate revenues.

3 Q: DID YOU OBSERVE THIS TREND IN REDUCED O&M EXPENSES IN ANY
4 OTHER REPORTS YOU REVIEWED?

5 A: Yes. In response to Staff's First Set of Interrogatories, No. 8, PEF provided its
6 monthly non-recoverable O&M by Federal Energy Regulatory Commission
7 ("FERC") account for November 2002 through October 2004. In 2003, PEF's
8 O&M costs averaged \$48.5 million per month. From January through July 2004,
9 PEF's O&M costs averaged \$47.2 million. In August, O&M costs dropped to
10 \$40.5 million. O&M costs dropped further in September, to only \$27.9 million.
11 In October, O&M were still below average at \$43.9 million.

12 PEF'S COST SHIFTING RESULTED IN HIGHER EARNINGS

13 Q: HOW DID THIS COST SHIFTING AFFECT PEF'S RATE OF RETURN
14 CALCULATIONS THAT WERE PROVIDED TO THE COMMISSION IN THE
15 MONTHLY SURVEILLANCE REPORTS?

16 A: As reported in PEF's surveillance reports, O&M expenses for the 12 months
17 ending July 2004 were \$571.9 million. The O&M expenses reported for the 12
18 months ending August, September, October, and November 2004 dropped to
19 \$561.0 million, \$535.5 million, \$527.4 million, and \$521.8 million, respectively.
20 When compared against the average monthly expenses for the 12 months ending
21 July 2004, PEF's O&M expenses decreased \$50.1 million for August through
22 November 2004.

1 Q: WHAT HAPPENED TO PEF'S REPORTED RETURN ON COMMON
2 EQUITY OVER THE PERIOD FROM JULY 2004 THROUGH OCTOBER
3 2004?

4 A: As shown in the July 2004 surveillance report, the return on common equity was
5 12.55%. The return on common equity rose to 13.02% in August, 13.71% in
6 September, 13.39% in October, and 13.61% in November. This increase in return
7 on equity was realized notwithstanding an increase of \$312,602,817 in rate base
8 for September and \$303,117,565 in rate base for October associated with the
9 storm damage accrual, which PEF included in working capital. (See PEF
10 Response to FIPUG Interrogatory No. 28).

11 Q: WHAT FACTORS CAUSED THE INCREASE IN PEF'S RETURN ON
12 COMMON EQUITY DURING THIS PERIOD OF TIME?

13 A: PEF's return on common equity was affected by several factors:

- 14 ▪ Decreases in expenses increase the return on common equity. The shifting
15 of costs from O&M to the storm damage reserve directly contributed to
16 the increase in the return on equity.
- 17 ▪ Decreases in revenues decrease the return on common equity. It should be
18 noted that, during the same time frame, PEF had reduced revenues as a
19 result of storm outages. Therefore, even though revenues were reduced,
20 the reduced expenses more than offset such reduction in revenues allowing
21 the returns to increase to over 13%. Further, even though the revenues
22 were reduced, the revenues are still in excess of the revenue sharing cap
23 established in the Settlement. PEF's reduction in revenues due to the

1 hurricane outages was thus shared between PEF and the ratepayers, as
2 PEF's obligation to refund revenues to the ratepayers was reduced.

3 ■ Increases in rate base result in a decreased return on equity. PEF
4 increased rate base by over \$300 million in the storm damage reserve.
5 Again, while this would cause the return on equity to decrease, PEF still
6 realized an increase in the return on equity, further indicating that the shift
7 in O&M costs had a greater impact than the reduction in revenues.

8 ■ Increases in the accumulated deferred income taxes (credit balance)
9 provide a greater portion of PEF's capital at zero cost, resulting in a lower
10 weighted average cost of capital. This would cause the return on equity to
11 increase. The impact of this adjustment is much smaller than the impact
12 due to the reduction in O&M costs.

13 Q. WHAT IS THE SIGNIFICANCE OF PEF'S HIGH RETURN ON EQUITY
14 DURING THIS TIME PERIOD?

15 A. The significance of the rise in PEF's return on equity during the storm restoration
16 period is that it demonstrates that PEF has manipulated its cost accounting to
17 maximize returns from its current base rate revenues while seeking recovery of
18 normal O&M costs through a storm damage recovery clause.

19 Q: SHOULD THE COMMISSION REQUIRE PEF TO ELIMINATE THE
20 NORMAL LEVEL OF O&M COSTS FROM ITS CLAIMED STORM
21 DAMAGE EXPENSES?

22 A: Yes. The Commission should reduce PEF's storm damage claim by the amount
23 of normal O&M expenses that were shifted into the storm damage accounts.
24 These costs should be expensed during the time period incurred. Any future

1 expenses charged to the storm damage accounts which would be included in the
2 recovery clause should be limited to verifiable incremental costs incurred over
3 and above PEF's budgeted O&M.

4 REVENUES FROM OTHER UTILITIES FOR STORM DAMAGE ASSISTANCE

5 Q: HAS PEF ASSISTED OTHER UTILITIES WITH STORM DAMAGE
6 REPAIRS?

7 A: Yes. PEF has assisted other utilities with storm damage repairs. In response to
8 FIPUG Interrogatory No. 15, PEF provided information regarding costs it
9 incurred in assisting Dominion Power with its restoration efforts after Hurricane
10 Isabel. PEF billed Dominion Power a total of \$1.7 million for its costs, including
11 company labor and associated benefits and taxes. Payment was received in
12 February 2004. This event occurred in September 2003 and PEF described this
13 event as the last event in which PEF dispatched crews to assist another utility.

14 Q: WERE THESE COSTS ALSO RECOVERED FROM PEF'S RETAIL
15 JURISDICTIONAL RATEPAYERS?

16 A: At least a portion of these costs would have been included in PEF's normal O&M
17 costs. For example, PEF sent approximately 255 employees to assist in the
18 Hurricane Isabel recovery efforts for 10 days. The normal hourly costs for these
19 employees would have already been recovered through PEF's base rates. Of the
20 total reimbursed by Dominion Power, \$1.1 million was for PEF labor and
21 associated taxes and benefits.

22 Q: DID PEF ASSIST OTHER UTILITIES WITH STORM DAMAGE REPAIRS?

23 A: Yes. PEF assisted Entergy in restoration efforts after Hurricane Lili in October,
24 2002. PEF also assisted PEC in storm restoration efforts.

1 Q: SHOULD PEF BE ALLOWED TO RETAIN THE REVENUES RECEIVED
2 FOR ASSISTING OTHER UTILITIES IN THEIR STORM RESTORATION
3 EFFORTS?

4 A: IF PEF is allowed to recover its storm damage costs through a recovery clause, it
5 should not be allowed to retain the revenues received for assisting other utilities in
6 their storm restoration efforts to the extent that the revenues were to reimburse
7 PEF for normal O&M costs. This, again, would amount to “double dipping” and
8 should be an offset to any storm recovery. The Commission should require PEF
9 to offset the storm damage expenses by a portion of the revenues received from
10 assisting other utilities in storm restoration efforts. The amount that should be
11 offset should be equal to the revenues received for normal wages, benefits, and
12 payroll taxes for employees involved in the restoration efforts. For future
13 accounting purposes, PEF should be required to credit the storm damage reserve
14 by revenues received for normal wages, benefits, and payroll taxes when assisting
15 others in storm-related activities.

16 OTHER CONCERNS WITH COST-SHIFTING

17 Q: DO YOU HAVE ANY OTHER CONCERNS WITH POTENTIAL COST-
18 SHIFTING DUE TO RECOVERY OF STORM DAMAGE COSTS THROUGH
19 A SURCHARGE?

20 A: Yes. PEF has profited from savings in O&M costs which it has retained, yet
21 when costs are greater than expected, it now seeks recovery outside of base rates.
22 It also seems probable that many of the repairs made as a result of the hurricane
23 damages were repairs that would have been made under PEF’s normal
24 maintenance schedules, but were accelerated as a result of the damage. This

1 should allow PEF to reduce its O&M expenses in the future, thus allowing it to
 2 retain additional revenues from the customers. Lastly, PEF has been accruing a
 3 portion of the revenues received from ratepayers for the cost of removal of
 4 transmission and distribution equipment, yet none of the accrued cost of removal
 5 was applied to the storm damage costs.

6 Q: PLEASE EXPLAIN HOW PEF HAS PROFITED FROM O&M SAVINGS.

7 A: As acknowledged by PEF in Docket 000824-EI, the Company's transmission and
 8 distribution system has been in need of significant repairs. The Company thus
 9 increased its distribution and transmission O&M budgets to a total of \$97.1
 10 million and \$34.3 million a year, respectively. As reported in PEF's 2002 and
 11 2003 Federal Energy Regulatory Commission Form 1's, PEF's actual expenses
 12 were as follows:

Operating and Maintenance Expense	Rate Case Annual Budget	Actual 2002	Actual 2003
Distribution	\$97,100,000	\$81,951,879	\$92,963,867
Transmission	\$34,300,000	\$31,498,882	\$27,658,972
O&M Savings		\$17,949,239	\$10,777,131

13
 14 PEF thus realized transmission and distribution O&M savings of \$17.9 million in
 15 2002 and \$10.8 million in 2003. Since PEF's distribution and transmission O&M
 16 costs are included in its base rates, any savings in O&M have been retained by the
 17 Company. Now, when costs are higher than anticipated due to the storms, PEF is
 18 "carving out" those higher costs for recovery through a surcharge.

19 Q: IS IT PROBABLE THAT PEF WILL ENJOY REDUCED FUTURE O&M
 20 COSTS DUE TO THE STORM DAMAGE RESTORATION EFFORTS?

1 A: Yes. As explained above, PEF's system has been in need of significant repairs
2 and upgrades. In FPSC Docket 000824-EI, PEF witnesses set forth a plan for
3 increasing the reliability of its transmission and distribution systems. This plan
4 resulted in increases to PEF's anticipated O&M costs. It is doubtful that the
5 hurricane damage was isolated to just those portions of the system that had
6 already been repaired. It is also doubtful that PEF would have repaired damage to
7 facilities that already needed repair only to their previous state of disrepair.
8 Therefore, repairs made to facilities that were already in need of repair should
9 reduce the need for future repair costs that would have otherwise been incurred.

10 Q: HOW MUCH HAS PEF ACCRUED FOR COST OF REMOVAL OF
11 TRANSMISSION AND DISTRIBUTION EQUIPMENT?

12 A: As of September 2004, PEF had accrued \$365 million for distribution cost of
13 removal and \$163 million for transmission cost of removal. To the extent that
14 damaged equipment was removed and replaced early due to the hurricanes, PEF
15 should be required to attribute such costs to the early retirement of those assets
16 and the reserve should be adjusted accordingly.

17 Q: WHAT IS THE SIGNIFICANCE OF THESE OTHER CONCERNS WHEN
18 DETERMINING AN APPROPRIATE RATEMAKING TREATMENT FOR
19 PEF'S CLAIMED STORM DAMAGE COSTS?

20 A: If PEF is allowed to defer its claimed storm damage costs and recover those costs
21 through a surcharge, PEF will have successfully gained at the expense of
22 ratepayers by passing off any increases in costs, while retaining any decreases.

23 PEF'S STORM DAMAGE RECOVERY SHOULD BE LIMITED TO THE AMOUNT
24 THAT WOULD PROVIDE 10% RETURN ON EQUITY

1 Q: YOU MENTIONED EARLIER THAT THE SETTLEMENT INCLUDED A
2 PROVISION ALLOWING PEF TO SEEK A BASE RATE INCREASE IN THE
3 EVENT THAT ITS RETURN ON EQUITY FELL BELOW 10%. SHOULD
4 THE COMMISSION CONSIDER THIS PROVISION WHEN ESTABLISHING
5 THE REASONABLE RATEMAKING TREATMENT FOR PEF'S STORM
6 DAMAGE COSTS?

7 A: Yes. The Commission should recognize that PEF entered into the Settlement
8 which established a 10% return on equity earnings floor as a reasonable "bottom
9 line" of earnings before PEF would be entitled to an increase in rates. PEF should
10 not be allowed to recover costs outside of its base rates as long as base rates are
11 providing a return on equity in excess of the 10% return on equity floor. The
12 storm damage recovery should be limited to that amount that would result in PEF
13 earning the 10% floor return on equity.

14 Q: HOW WOULD PEF'S STORM COST RECOVERY BE DETERMINED BY
15 APPLYING THE 10% RETURN ON EQUITY ?

16 A: Each month, PEF files a surveillance report with the Commission setting forth its
17 revenues, expenses, rate base, cost of capital, and rate of return for the 12 months
18 ending with the current month. To the extent that PEF's return on equity is in
19 excess of 10%, PEF should be required to expense the level of its claimed storm
20 damage costs that would result in a return on equity of 10%.

21 Q: HAS PEF CALCULATED THE CHANGE IN THE STORM DAMAGE
22 RECOVERY LEVEL THAT WOULD BE APPLICABLE IF THE 10%
23 RETURN ON EQUITY FLOOR WAS IMPLEMENTED?

1 A: Yes. In response to FIPUG Interrogatory No. 5, PEF provided calculations of the
2 revised storm reserve deficiency in the event that the 10% return on equity floor
3 was applied to the October 2004 surveillance report. As shown in that response,
4 implementation of the 10% return on equity floor would reduce the storm reserve
5 deficiency from the \$264.5 million shown in the attachment to PEF Witness
6 Portuondo's testimony on 05 Proj 02, to \$150.6 million on a total system basis.

7 Q: DO YOU AGREE WITH PEF'S CALCULATIONS IN THE RESPONSE TO
8 FIPUG INTERROGATORY NO. 5?

9 A: No. In making its calculations, PEF has overstated its rate base, causing an
10 understatement in its actual return on equity before the adjustment. This results in
11 an understatement of the adjustment to reach the 10% return on equity.

12 Q: PLEASE EXPLAIN.

13 A: In its response to FIPUG Interrogatory No. 28, PEF showed that it had included
14 its storm damage work in progress in the working capital component of rate base.
15 This adjustment caused an increase of \$307.9 million to average rate base in
16 October. Although PEF did not mention it in its response to FIPUG Interrogatory
17 No. 28, I assumed that PEF's accumulated deferred income taxes, which are
18 included in PEF's cost of capital at zero cost, were increased by PEF's tax rate of
19 38.575% on the portion of the total expenditures that were booked to O&M for
20 tax purposes. Since PEF is removing this reserve from rate base and is proposing
21 to collect interest on the outstanding balance, it would be appropriate to remove
22 the total storm damage balance and the associated deferred income taxes from the
23 calculation of PEF's returns. When these adjustments are made to the October
24 calculations provided in PEF's October surveillance report, the return on equity

1 increases to 14.25%. These calculations are shown in Exhibit __ (SLB-1), page 1
2 of 2. In November, the Company's return on equity increased to 13.61%. When
3 the Company's November calculations are corrected to remove the storm damage
4 account and associated deferred income taxes, the return on equity increases to
5 14.41%. These calculations are shown on Exhibit __ (SLB-1), page 2 of 2.

6 Q: HAVE YOU RECALCULATED THE STORM RESERVE DEFICIENCY
7 WITH THE 10% RETURN ON EQUITY LIMITATION TO REMOVE THE
8 STORM DAMAGE RESERVE AND ASSOCIATED DEFERRED INCOME
9 TAXES?

10 A: Yes. Removal of the storm damage reserve from rate base and the associated
11 deferred income taxes from the capital structure changes the storm reserve
12 deficiency to \$121.8 million when a 10% return on equity floor is implemented.
13 These calculations are shown on Exhibit __ (SLB-1), page 2 of 2. The reduction
14 in the storm reserve deficiency would be \$142.7 million, which would be
15 immediately expensed by PEF, effectively reducing its return on equity to 10%
16 for 2004.

17 Q: IS IT REASONABLE TO REDUCE THE STORM RESERVE DEFICIENCY
18 FROM THE \$264.5 MILLION PEF REQUESTED TO \$121.8 MILLION?

19 A: Yes. The reduction of \$142.7 million is approximately 39% of PEF's total storm
20 damage claim of \$366 million. By using this ratemaking methodology, the
21 Commission can provide PEF with a return that meets the standards set forth in
22 the Settlement. This methodology also prevents any "double-dipping" in 2004 by
23 disallowing recovery of costs through base rates and the storm damage recovery
24 clause, with the added advantage of limiting the need to isolate the amount of

1 actual cost-shifting which occurred. Further, it provides a reasonable level of
2 cost-sharing between PEF and its customers.

3 Q: HOW DOES THIS METHODOLOGY PREVENT THE DOUBLE-DIPPING
4 ASSOCIATED WITH COST-SHIFTING IN 2004?

5 A: Any variances in PEF's expenses directly affects the return on equity earned. As
6 explained above, PEF's return on equity increased to 13.71% in September 2004,
7 due, in part, to the shifting of costs from O&M to the storm damage reserve. If
8 these costs had not been shifted, PEF's rate of return would have been less. By
9 limiting PEF's return on equity to 10%, the amount of the cost-shifting will be
10 automatically eliminated. For example, if eliminating the actual amount of cost-
11 shifting would have decreased PEF's return on equity from 13.71% to 12.0%,
12 then the reduction would be encompassed within the return on equity limitation.
13 The reduction in the return on equity would include two components: (1) the
14 elimination of cost-shifting and (2) the sharing of storm damage costs.
15 Differences in actual cost-shifting would change the portion of the reduction
16 attributable to each component, but would not change the overall reduction. The
17 result is still to provide PEF with a 10% return on equity, which was deemed to be
18 a reasonable return on equity floor in the Settlement by the parties. Even if the
19 Commission were to find the Settlement inapplicable here, the 10% return on
20 equity limitation is a good gauge of what the parties thought was reasonable.

21 Q: DOES THIS METHODOLOGY PROVIDE A FAIR AND REASONABLE
22 LEVEL OF COST-SHARING BETWEEN THE COMPANY AND ITS
23 CUSTOMERS?

1 A: Yes. As indicated above, the total level of storm damages claimed by the
2 Company was \$366 million, of which \$311.4 million were treated as O&M
3 expenses, which were deferred into the storm damage account. The 10% return
4 on equity limitation would result in PEF absorbing approximately 39% of its
5 claimed storm damage costs. Since the costs PEF seeks to recover were not
6 developed on an incremental basis, the level of storm damage costs PEF will
7 actually absorb will be smaller than 39%. The Commission should also view the
8 cost sharing in light of previous O&M savings enjoyed by the Company and
9 potential cost savings it will enjoy as a result of repair costs that were accelerated
10 and will no longer be incurred. Regardless of the level of cost sharing, PEF
11 would be protected against earning below 10% return on equity and would be
12 allowed immediate relief over a short period of time. Further, while this
13 methodology limits PEF's return on equity for 2004, I have not recommended that
14 PEF's returns be limited in 2005. This provides an added benefit to PEF.

15 Q: PLEASE EXPLAIN.

16 A: If the amortization of the storm damage account was treated as a base rate
17 expense in 2005, the Company would not receive any additional revenues from its
18 customers due to the Settlement. The Company would thus absorb the full
19 amortization for 2005. By allowing the recovery to be accomplished through a
20 surcharge, PEF is protected from having to absorb additional storm damage costs.
21 The methodology I am recommending thus strikes a balance between the
22 Company and ratepayers that is just and reasonable.

23 Q: DO YOU HAVE ANY OTHER CONCERNS WITH PEF'S CALCULATION
24 OF THE STORM DAMAGE RECOVERY CLAUSE?

1 A: Yes. As shown on PEF Witness Portuondo's exhibits, 05 Proj P2, PEF has
 2 included interest on the outstanding balance of the storm damage account at the
 3 commercial paper rate. This fails to recognize that PEF expensed the storm
 4 damage costs for tax purposes and, therefore, should only be collecting interest on
 5 the net-of-tax balance of the storm damage account.

6 Q: WHAT IS THE IMPACT OF THIS INTEREST OVERSTATEMENT?

7 A: When calculated on the net-of-tax storm damage balances, the interest expense
 8 would be reduced by \$3.2 million as shown in the table below. The interest
 9 calculations are shown on Exhibit __ (SLB-2).

10

TABLE 3			
BREAKDOWN OF INTEREST OVERSTATEMENT			
Year	Interest per Witness Portuondo (05 Proj P2)	Recalculated Interest on the Net-of-Tax Storm Damage Account	Difference in Interest
2005	\$6,233,298	\$3,828,804	\$2,404,494
2006	\$2,077,767	\$1,276,268	\$801,499
Total	\$8,311,065	\$5,105,072	\$3,205,993

11

12 RATE DESIGN

13 Q: DO YOU HAVE ANY CONCERNS REGARDING PEF'S ALLOCATION OF
 14 COSTS?

15 A: Yes. While the majority of PEF's claimed storm damage costs are demand-
 16 related, the storm cost recovery clause PEF proposes is based on an energy-only
 17 charge. This rate design shifts costs from the low load factor customers to the
 18 high load factor customers.

19 Q: SHOULD PEF BE REQUIRED TO MODIFY THE RATE DESIGN?

1 A: Yes. For purposes of the GSD, CS, and IS rates, the storm damage costs should
2 be recovered through a demand charge.

3 Q: HAS THE COMPANY PROVIDED THE INFORMATION REQUIRED TO
4 DESIGN THE RATE ON A DEMAND BASIS?

5 A: The Company provided estimated billing demands for each demand-metered
6 customer class for 2005 and 2006 in response to FIPUG's Second Set of
7 Interrogatories, No. 49. The billing demands were not broken down by voltage
8 level. Therefore, the information provided in this case was insufficient to develop
9 a demand rate for the classes at the individual voltage levels. A more detailed
10 breakdown of billing demands was provided in Docket 000824-EI. Assuming the
11 class demands are proportional to the billing demands in Docket 000824-EI, the
12 revised rates could be calculated. Assuming that PEF's proposal was accepted,
13 including the allocation of costs within rate classes, the demand rates would be as
14 follows:

Class	2005	2006
GSD-1 Transmission	\$1.61	\$1.58
GSD-1 Primary	\$1.24	\$1.17
GSD-1 Secondary	\$1.05	\$.99
CS Primary	\$1.90	\$1.78
CS Secondary	\$.91	\$.85
IS Secondary	\$1.17	\$1.10
IS Primary	\$.90	\$.84
IS Transmission	\$.69	\$.64

15

16 Q: HAVE YOU CALCULATED THE REVISED STORM DAMAGE RECOVERY
17 CLAUSE AMOUNTS REFLECTING YOUR RECOMMENDED
18 ADJUSTMENTS?

1 A: Yes. Exhibit __ (SLB-3) sets forth the costs to be recovered under the storm
2 damage recovery clause, using the methodology employed by PEF Witness
3 Portuondo, as adjusted to reflect the 10% return on equity limitation and interest
4 applied to the net-of-tax outstanding balance. Exhibit __ (SLB-3) was developed
5 in the same format as Mr. Portuondo's allocation and rate design workpapers, 05
6 Proj P4.

7 Q: DOES THIS CONCLUDE YOUR TESTIMONY?

8 A: Yes, it does.

1 BY MR. PERRY:

2 Q Ms. Brown, have you prepared a summary today?

3 A Yes, I have.

4 Q Would you please give us that summary?

5 A Yes. Progress Energy has deferred its claimed storm
6 damage expenses and has petitioned the Commission for recovery
7 of those expenses through a special recovery clause. My
8 testimony examines three basic methodologies available to the
9 Commission for the treatment of Progress Energy's hurricane
10 damage costs and shows how Progress Energy would be affected
11 under each of those options.

12 Under the first option, Progress Energy would write
13 off all noncapitalized expenses in 2004. This approach would
14 require Progress Energy to absorb 100 percent of the storm
15 cost.

16 The second option is a standard regulatory approach
17 where costs are deferred and then amortized through base rates.
18 Under this option, Progress Energy would be allowed to recover
19 the expense through base rates over a reasonable period of
20 time. Since they are currently operating under a rate freeze,
21 Progress Energy would be required to bear the costs which are
22 amortized in 2004 and 2005 in any period up to the time that
23 new rates would be placed into effect. This option is a
24 middle-of-the-road approach with costs shared between Progress
25 Energy and the customers. The level of cost sharing under this

1 methodology is dependent upon the amortization period chosen by
2 the Commission.

3 Progress Energy has proposed the third option, which
4 would allow it to recover the costs through a storm damage
5 recovery clause in addition to the base rates. Under this
6 option proposed by Progress Energy, ratepayers would pay
7 100 percent of the costs and Progress Energy would receive
8 additional profit for the period over which the costs were
9 incurred. Progress Energy would receive this additional profit
10 because it has shifted normal operating maintenance costs into
11 the storm damage account. This results in increased earnings
12 to Progress Energy during the period in which the cost shifting
13 occurred.

14 In looking at these three different options, I
15 recommended a shared risk approach that protects both Progress
16 Energy and its customers from undue hardship. I recommend that
17 the Commission require Progress Energy to write off
18 \$142.7 million of its total system storm damage costs claim of
19 \$366 million. This is \$135.8 million for the retail
20 jurisdiction, which would require Progress Energy to absorb
21 approximately \$83.4 million after taxes or only 22.8 percent of
22 the total storm damage claim.

23 After reducing the balance by the \$54.9 million that
24 Progress Energy has capitalized and the portion of the costs
25 already paid by ratepayers through accruals to the Storm Damage

1 Reserve, I then allow Progress Energy to collect the balance of
2 the operating and maintenance costs over a two-year period.

3 My recommendation was based on several factors.
4 There's no dispute that the storm damage claim included
5 Progress Energy's normal operation and maintenance expense
6 levels that were already included in base rates. If the normal
7 operating and maintenance costs are included in both base rates
8 and in the storm recovery clause, Progress Energy will recover
9 those costs twice. Progress Energy's records are inadequate to
10 segregate incremental storm costs from their normal expense
11 levels.

12 As I mentioned previously, if the Commission set an
13 amortization period over which Progress Energy would amortize
14 the costs that had been deferred into the storm damage account,
15 Progress Energy would have to absorb all amortization from the
16 date of the storms to the date on which any future base rates
17 are approved by the Commission become effective. As explained
18 yesterday, this is the approach Progress Energy is following
19 for its wholesale customers. Due to Progress Energy's
20 obligations under the stipulation and settlement, the only way
21 Progress Energy would avoid having to bear a portion of the
22 cost would be to allow full recovery under a cost recovery
23 clause such as that proposed by the company.

24 Another consideration I made was that Progress Energy
25 has enjoyed returns in excess of 13 percent partially due to

1 expenses that were lower than anticipated. It seems reasonable
2 then for Progress Energy to absorb a portion of the costs
3 incurred when such costs are higher than anticipated.

4 Lastly, the settlement and stipulation in
5 Docket 000824-EI specifically indicated a 10 percent return
6 level that would trigger Progress Energy's right to seek a
7 prospective base rate increase. While Progress Energy is not
8 protected from returns that are lower than 10 percent under the
9 settlement and stipulation, I believe this trigger shows that
10 they did take a level of risk that unforeseen costs could
11 result in a reduction in return and specifically set the
12 10 percent level as a measure of protection.

13 Based on these factors, I took a simple but
14 reasonable approach. I limited Progress Energy's 2004 return
15 only to 10 percent return on equity, but suggest that it's fair
16 to allow Progress Energy to recover its remaining storm cost
17 over a two-year period. I believe this is a fair and
18 reasonable method because the cost sharing is based on a level
19 of risk that Progress Energy accepted in the stipulation and
20 settlement. And by limiting the write-off to the level that
21 would provide them with a 10 percent return on equity for 2004,
22 I effectively placed a floor on their earnings to protect them
23 from the greater impact of the expenses. I did not limit
24 Progress Energy's 2005 earnings, even though the base rate
25 freeze is still in effect. Progress Energy will only absorb

1 \$83.4 million after taxes, which is only 22.8 percent of the
2 total cost. Therefore, ratepayers will bear the remaining
3 77.2 percent of the total cost.

4 To the extent that Progress Energy's storm damages
5 are overstated due to any cost shifting, this approach would
6 automatically correct for any such overstatement and allow the
7 Commission to avoid the task of attempting to identify and
8 quantify the appropriate level of cost that should have been
9 booked to the storm damage account.

10 In developing the rates for recovery of the storm
11 damages, I recommend that the Commission allow Progress Energy
12 to earn interest at its commercial paper rate on the
13 unamortized net of tax balance of the storm damage account.
14 This adjustment would only remove the portion of Progress
15 Energy's deferred income taxes associated with the operating
16 and maintenance expenses to be recovered over the two-year
17 period, which is 38.575 percent of the total to be recovered.

18 It should be understood that the deferred costs in
19 the storm damage account are only attributable to the deferred
20 operating and maintenance expenses, and the deferred taxes
21 removed should only be those associated with the deferred
22 operating and maintenance expenses to be recovered through that
23 clause. The remainder of Progress Energy's deferred taxes
24 associated with the storm damages would remain in the capital
25 structure as cost-free capital.

1 I further recommend that the rate for the demand
2 metered classes be designed as a demand rate to prevent
3 intraclass subsidies. This rate design has no affect on the
4 revenue Progress Energy will be allowed to collect, but fairly
5 distributes cost within the customer classes.

6 MR. PERRY: We tender the witness.

7 COMMISSIONER BAEZ: Mr. McGlothlin.

8 MR. MCGLOTHLIN: OPC has no questions of this
9 witness.

10 COMMISSIONER BAEZ: Mr. Wright.

11 MR. WRIGHT: Thank you, Mr. Chairman. I have a few
12 questions.

13 CROSS EXAMINATION

14 BY MR. WRIGHT:

15 Q Good morning, Ms. Brown.

16 A Good morning.

17 Q Would you please explain how you treat the interest
18 calculations on deferred storm damage costs that are to be
19 recovered through Progress's storm recovery surcharges?

20 A Yes. Under normal ratemaking when you have an
21 expense to be recovered through rates, the expense is recovered
22 on a dollar-for-dollar basis. And the reason that the expense
23 is recovered on a dollar-for-dollar basis is that there -- when
24 the company receives the revenue, it has to pay taxes on that.
25 And when the company takes the expense for tax purposes, it

1 gets the tax savings. So essentially the tax on the revenue is
2 offset by the tax on, the tax savings on the expense deduction.

3 So when the company has, takes the amount that
4 they're trying to recover through the special clause and they
5 move it into a separate account in which they will be paying,
6 or we will be paying interest, the ratepayers will be paying
7 interest, they then have the use of the cap of the tax savings
8 over that period of time.

9 So what I did was said they should be giving, they
10 should be charging interest only on the net of tax balance
11 related just to the amount that is moved into that reserve
12 that's being collected over the two-year period. And both,
13 both would be amortized out over the two-year period.

14 Q Thank you. Please explain the impact or relationship
15 of these calculations on or to deferred income taxes to the
16 extent you didn't already cover that.

17 A The deferred income taxes that are in the capital
18 structure are put in there at zero cost capital. And the
19 reason for that is that the company gets to take tax deductions
20 prior to the time that those tax deductions are included in
21 rates that customers pay. Therefore, they have the use of this
22 capital until such time as it's basically paid back to the
23 ratepayer.

24 In many jurisdictions the way that deferred taxes are
25 handled is they're actually done as a rate base offset. It can

1 be done either way. In this jurisdiction it's treated as zero
2 cost capital.

3 To the extent that you have taken the associated
4 expense and moved it out of rate base and into a special cost
5 recovery clause, then by the same token the associated deferred
6 income taxes would be taken out. The remainder of the deferred
7 income taxes that relate to things like the capital items and
8 so forth would remain in the company's capital structure that
9 would then be used as zero cost capital in their future base
10 rate proceeding.

11 Q Ms. Brown, you were present for Mr. Portuondo's
12 testimony, were you not?

13 A Yes, I was.

14 Q Could you please summarize your understanding of
15 Mr. Portuondo's corresponding treatment of deferred storm
16 damage costs and deferred income taxes? **Are they the same as**
17 **yours?** And, if not, explain the differences.

18 A Well, originally they were not. And based on some of
19 the comments that he made yesterday, I was concerned that he
20 was looking at transferring the entire amount of the associated
21 deferred income taxes, the deferred income taxes that were
22 associated with all of the storm damages out into that account.
23 And I have reviewed what he turned in today as Exhibit 49, I
24 believe, and I do disagree with the numbers that he has in
25 there. He has moved out \$135 million as opposed to the

1 \$97 million that would be the 38 percent of his overall storm
2 cost recovery clause claim that is to be recovered through
3 their proposed clause.

4 The result of that would be that when you get to the
5 base rate proceeding, the customer would no longer have the
6 amortization of the deferred tax associated with the balance
7 that he moved over that was in excess of the amount that was
8 attributable to the costs to be recovered through the clause.

9 Q And so would I be correct to interpret what you just
10 said as it being your opinion that what he has done is not
11 correct?

12 A That's correct. Yes.

13 Q Would you please summarize your understanding of how
14 the Federal Energy Regulatory Commission is treating Progress
15 Energy Florida's storm restoration costs?

16 A My understanding, based on reading Progress Energy's
17 application to the chief accountant and the chief accountant's
18 review of that, as well as the discussions in testimony
19 presented in the last couple of day, is that Progress Energy
20 petitioned the Federal Energy Regulatory Commission to defer
21 and amortize the cost over a five-year period. Because those
22 costs were included in -- basically they did not amend their
23 base rates, so they are absorbing those costs until such time
24 as they would have a change in their base rates, which I am not
25 aware of any known indication that they plan to do that.

1 Q Does this FERC method, if I may call it that,

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22 through a special clause.

23 Q Okay. You are, you are -- excuse me. You are

24 familiar, are you not, at least to some degree with the

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1 Florida's sister company, which I believe is Progress Energy
2 Carolina or Carolinas, by the utility regulatory bodies in
3 North and South Carolina?

4 MR. WALLS: I'm going to object on relevance grounds,
5 and this is way outside the scope of her direct. I let it go
6 on the FERC because Mr. Portuondo testified about that. But,
7 you know, this isn't --

8 COMMISSIONER BAEZ: Mr. Wright, can you, can you
9 point to her direct?

10 MR. WRIGHT: Well, I'm working on it, Mr. Chairman.

11 MR. PERRY: It's Page 13.

12 MR. WRIGHT: Thank you.

13 COMMISSIONER BAEZ: I'm sorry?

14 MR. WRIGHT: I found it. On Page 13 she discusses
15 the North Carolina and South Carolina retail jurisdictions in
16 which PEF has limited its storm damage claims to incremental
17 costs. Furthermore, I think that how your sister commissions
18 --

19 COMMISSIONER BAEZ: I'll allow the question.

20 MR. WRIGHT: Thank you.

21 MR. WALLS: Well, I stand corrected on the inclusion,
22 but I would at least ask him to refer to the companies
23 correctly as --

24 COMMISSIONER BAEZ: I think that would be only fair.

25 THE WITNESS: I'm sorry. Could you repeat the

1 question?

2 MR. WRIGHT: I, I thought I did.

3 COMMISSIONER BAEZ: And --

4 MR. WRIGHT: Mr. Chairman, I really thought I did,
5 but I'll try it again.

6 COMMISSIONER BAEZ: And to the extent that you did,
7 it may have gotten lost in all the back and forth. But I'll
8 instruct the witness as well, now that we are into the sisters,
9 into the sister companies, if we can try and keep the companies
10 straight for the record what we're talking about.

11 THE WITNESS: Yes, sir.

12 BY MR. WRIGHT:

13 Q Okay. Let me try to state my question again.

14 My first question was are you familiar with the
15 regulatory treatment being applied by the utility regulatory
16 authorities in North and South Carolina to storm cost recovery
17 or storm restoration costs incurred by Progress Energy
18 Florida's sister company or companies? I honestly don't know
19 whether it's one or two. Do you guys have -- well, by
20 Progress, Progress Energy Florida's sister company or companies
21 in North Carolina and South Carolina. I thought it was one
22 company, Progress Energy Carolinas, but if that's not the case,
23 someone can straighten me out.

24 But my question is are you aware how they do it in
25 the Carolinas?

1 A It's my understanding that in both the North Carolina
2 and South Carolina jurisdictions Progress Energy Carolina is
3 using incremental cost accounting.

4 Q And does this method correspond to any of the methods
5 that you discussed in your testimony?

6 A The methods that I discussed were cost recovery
7 methods and really don't go to what the level of costs are. So
8 it doesn't really address the methods as much as it addresses
9 what cost actually went into the overall recovery.

10 Q To your knowledge, is Progress Energy Carolina being
11 allowed to recover storm restoration costs incurred in any of
12 the recent hurricane events that occurred in the Carolinas?

13 A I have not looked into that issue, no.

14 Q You talk extensively about rates of return and risk,
15 I think, in your testimony. I have a general question for you.

16 Does the availability of cost recovery clauses reduce
17 risk to utilities and their investors?

18 A Yes, I believe it does.

19 Q Can you explain briefly how?

20 A Well, any time that you allow 100 percent of costs to
21 be recovered through a clause, it reduces the risk of cost
22 underrecovery. So to the extent particularly when you have
23 such a high level of your costs being recovered through clauses
24 it does limit the overall risk of the company.

25 Q You just made reference to such a high level of costs

1 being recovered through clauses.

2 Do you have an understanding of approximately how
3 much of Progress Energy Florida's total revenues are recovered
4 through the various recovery clauses that the Florida PSC has
5 authorized?

6 A About 53 percent.

7 Q Thank you. I noticed you just pulled out your
8 calculator and referred to a document. Was that document an
9 earnings surveillance report?

10 A Yes, it was.

11 Q Was it for the year-end 2004?

12 A Yes.

13 MR. WRIGHT: Mr. Chairman, if I might, there has been
14 some questioning regarding earning surveillance reports, rates
15 of return and various revenue items. I would like to move for
16 leave to have admitted into the record certified copies,
17 certified by your clerk, of the year-end 2003 and year-end 2004
18 earnings surveillance reports for Progress Energy Florida.

19 COMMISSIONER BAEZ: Any objections?

20 MR. WALLS: Apparently not.

21 COMMISSIONER BAEZ: Very well.

22 MR. WRIGHT: Thank you, Mr. Chairman. I'll have that
23 done by Monday at the latest.

24 COMMISSIONER BAEZ: All right. We'll mark them,
25 we'll mark them as a composite. Those are 2003, 2004?

1 MR. WRIGHT: Yes, sir.

2 COMMISSIONER BAEZ: We'll mark them as composite 54.

3 (Late-Filed Exhibit Number 54 marked for
4 identification.)

5 BY MR. WRIGHT:

6 Q Just a couple of more questions, Ms. Brown. I
7 understand your testimony to be that your proposed methodology
8 is fair and equitable; is that about right?

9 A I believe it is, yes.

10 Q Do you agree that, that it is most appropriate public
11 policy for public utility commissions such as the Florida PSC
12 to ensure that the totality of a utility's rates are in their
13 totality fair, just and reasonable?

14 A I wouldn't go so far as to say as ensure. I believe
15 that when they set the rates, it should be set in a manner to
16 be just and reasonable.

17 Q Will your proposed treatment of storm costs in this
18 case have that result?

19 A I believe it would, yes.

20 Q Will Progress's?

21 A No, I do not believe it would.

22 MR. WRIGHT: Thank you. That's all the questions I
23 have.

24 COMMISSIONER BAEZ: Mr. Twomey?

25 MR. TWOMEY: No, sir, no questions.

1 COMMISSIONER BAEZ: Staff?

2 MS. BRUBAKER: Staff has just a few questions.

3 CROSS EXAMINATION

4 BY MS. BRUBAKER:

5 Q Ms. Brown, if I could refer you to your testimony,
6 Page 22, Lines 1 through 9. That's part of a larger section, I
7 believe it starts at Page 20, discussion titled "Other Concerns
8 with Cost Shifting."

9 A Okay.

10 Q And at Page 22, Lines 1 through 9, in this section
11 you express the belief that Progress's hurricane restoration
12 efforts more than likely resulted in the system being repaired
13 to a higher standard or a better condition than the condition
14 the system was in prior to the storms; is that correct?

15 A Partially. All I'm saying is that if there were
16 repairs to be made and they made repairs to equipment and
17 facilities that were already in need of repair, that were
18 already scheduled for repair, then to the extent they did that,
19 obviously when they fixed it, they wouldn't fix it back to a
20 state of disrepair. And I believe that the hurricanes, when
21 they come through, they're not selective, as I believe
22 Mr. McDonald testified the other day. He said that they didn't
23 come through and just take down bad poles, they took down good
24 poles. Well, by the same token, they didn't just go take good
25 poles. They took down bad poles as well.

1 Q So to the extent there were those types of repairs
2 done, would that result in avoiding some costs for planned
3 activities?

4 A I believe it would.

5 Q And similarly would it be correct to say that
6 Progress would recognize reduced future O&M costs due to the
7 storm damage restoration efforts for those types of repairs?

8 A I believe it would.

9 Q If I could refer you, please, to the staff composite
10 exhibit, it's Exhibit 6. It should be there in front of you.
11 Bate stamps Pages 95 and 96. And just for the reference of the
12 record, that's Progress's response to staff's fourth set of
13 interrogatories, Interrogatory Number 38. Are you at, are you
14 at those pages?

15 A Yes, I'm there.

16 Q Have you had a chance to review that interrogatory
17 and response before?

18 A I looked over it yesterday, yes.

19 Q Okay. Do you need to refamiliarize yourself with it
20 or --

21 A Yes. Just let me look over it real quick.

22 Q Okay. Thank you. Just let me know when you're
23 ready.

24 COMMISSIONER DEASON: Staff, what page was that
25 again?

1 MS. BRUBAKER: Bate stamps 95 and 96.

2 THE WITNESS: Okay.

3 BY MS. BRUBAKER:

4 Q Is it correct to just kind of essentially summarize
5 that this interrogatory discusses 329 poles that had been
6 identified for placement in the regular course of business
7 prior to the hurricanes of 2004, and it also asks about such
8 things as storm restoration costs associated with those poles
9 previously identified for replacement?

10 A It was scheduled for replacement in 2005 and 2006
11 according to this response.

12 Q Oh, okay. Having looked at the company's response to
13 this interrogatory, is it your opinion that the response is
14 demonstrative of your concerns as stated in your testimony?

15 A Yes. Even though they have noted that this is a
16 capital expense, I think it's demonstrative of other expenses
17 that would have the same impact.

18 MS. BRUBAKER: Thank you. We have no further
19 questions.

20 COMMISSIONER BAEZ: Mr. Walls.

21 MR. WALLS: Thank you.

22 CROSS EXAMINATION

23 BY MR. WALLS:

24 Q Ms. Brown, before we talk about the details of your
25 testimony, I do want to establish the distinct areas in which

1 you are not providing testimony on.

2 For example, you're not challenging what work the
3 company had to do in order to respond to the four hurricanes in
4 2004; correct?

5 A Correct.

6 Q And you're not challenging the decisions that the
7 company made to prepare for, respond to and recover from those
8 hurricanes with respect to staffing, equipment procurement and
9 logistic issues; correct?

10 A That's correct.

11 Q Now would you agree with me the standard as to
12 whether the company can recover costs from its ratepayers is
13 whether those costs were reasonably and prudently incurred?

14 A That is one standard. That's not the only standard.

15 Q Could you -- do you have your deposition with you?

16 A Yes, I do.

17 Q Okay. Could you turn to Page 43 of the deposition
18 beginning at Line 18 to 25, and then continuing on to Page 44,
19 Line 1.

20 A Yes.

21 Q I asked you, and you gave the following answer.

22 Question, "Would you agree with me that Progress
23 Energy does bear the risk of determination of whether the costs
24 incurred were reasonably and prudently incurred?"

25 Answer, "I don't know that I would call that a risk,

1 but they do have to live with what the Commission determines as
2 reasonable and prudent."

3 Question, "That is the standard that they have to
4 meet in order to recover costs by the Commission; right?"

5 Answer, "Yes, it is."

6 A Yes. And I did not refute that. I said, "Yes, it
7 is," but there are other standards as well.

8 Q Ms. Brown, when the company sets out and incurs costs
9 like hurricane-related costs, it doesn't know in advance that
10 all the costs it incurs are going to be held to be reasonably
11 and prudently incurred; correct?

12 A No, it does not know that in advance.

13 Q And while you may be challenging the accounting
14 treatment of the costs that the company incurred to prepare
15 for, respond to and recover from the hurricanes, you're not
16 challenging the reasonableness or prudence of the costs that
17 the company incurred in those efforts; correct?

18 A That's correct.

19 Q And, Ms. Brown, you, you cannot give me an example
20 where the Florida Public Service Commission has said that even
21 though a utility incurred reasonable and prudent costs, the
22 company should share the incurrence of those costs with
23 customers; correct?

24 A Can you repeat the question, now that I've found it?

25 Q Ms. Brown, you cannot give me an example where the

1 Florida Public Service Commission has said that even though a
2 company incurred reasonable and prudent costs, a company should
3 share the incurrence of those costs with customers; correct?

4 A I don't know that I would say that's correct. If you
5 look at Order PSC-93-0918-FOF-EI, the Commission, when
6 addressing cost recovery, specifically said that the utility
7 had wanted to guarantee that storm losses would have no affect
8 on earnings, and they believed it would be inappropriate to
9 transfer all risk of storm loss directly to ratepayers.

10 Q Ms. Brown, first we'll go to your deposition. If you
11 would turn to Page 45 to 46, beginning at the bottom of the
12 page.

13 Question -- and, by the way, you gave this answer to
14 the following questions.

15 Question, I said, "Assume any costs are reasonable
16 and prudently incurred by the company. Can you give me an
17 example where the Public Service Commission has said that even
18 though the company incurred reasonable and prudent costs, that
19 it should share those costs, the incurrence of those costs with
20 the customers?"

21 Answer, "I don't have an example for this Commission
22 in mind right now. But, again, going back to nuclear plant
23 installations, for example, those costs were shared."

24 Question, "But that wouldn't have been the Florida
25 Public Service Commission; correct?"

1 Answer, "It may have been. I'd have to go back and
2 look. I don't remember what treatment they had."

3 Did I read that accurately?

4 A Absolutely, you did. That was a situation where you
5 were asking about a specific company, as opposed to a generic
6 statement by the Commission about the prudence of costs and
7 recoverability.

8 Q And let's turn to the order you cited. The order you
9 have cited was Order Number PSC-93-0918 involving Florida Power
10 & Light; that's correct?

11 A Yes. Yes.

12 Q And that was the order that established the
13 self-insurance program for Florida Power & Light; correct?

14 A Yes.

15 Q And this is the same order where the company went in
16 following Hurricane Andrew and requested a self-insurance
17 program to be set up by the Commission; correct?

18 A I believe that's correct. Yes.

19 Q And the costs the company, FP&L, had incurred in
20 Hurricane Andrew were covered by insurance at the time;
21 correct?

22 A Yes.

23 Q And so in this petition, the company, FP&L, was not
24 asking the Commission to award it the recovery of the costs
25 that it had incurred in any hurricane; isn't that correct?

1 A I don't know that that is correct. I would have to
2 look at FPL's full approval that they were looking for because
3 I don't know that this was approval for recovery of Hurricane
4 Andrew or if it was approval for recovery of a mechanism going
5 forward.

6 Q Well, why don't you look in there and tell me if you
7 see anywhere in there where the Commission actually ordered the
8 sharing of costs that the company had incurred for a hurricane
9 in this order that you cited to me.

10 A No. They refused to establish a recovery mechanism
11 at the time. They said it would be looked at later.

12 Q And because the company wasn't actually asking them
13 to award them costs from a hurricane; isn't that correct?

14 A Sure. That's correct.

15 Q Okay. And you cannot give me any PSC decision or
16 Commission rule where the company -- where the Public Service
17 Commission has required an equitable division of reasonable and
18 prudent costs between a utility and its customers; isn't that
19 correct?

20 A That's correct. I haven't reviewed all the orders.

21 Q And as far as the accounting goes for the company's
22 2004 storm costs, on Page 9 of your direct testimony you
23 referred to the PSC order that established the self-insurance
24 docket for Progress Energy Florida; correct?

25 A I'm sorry. I didn't -- I don't see what you're

1 talking about on Page 9.

2 Q On Page 9 of your direct testimony, at Lines
3 11 through 15 you referred to the order that established
4 Progress Energy Florida's self-insurance docket. Do you see
5 that?

6 A I see that I referenced the order.

7 Q And you would agree with me that on Page 4 of that
8 order the Commission required the company to submit a study
9 evaluating the amount that should be annually accrued to the
10 reserve and the type of storm-related expenses the company
11 intended to charge against the reserve; correct?

12 A Yes. They did require a study to be submitted on
13 Page 4.

14 Q And you did not take that study into account in
15 preparing your testimony in this docket; correct?

16 A That's correct.

17 Q Okay. Now I want to switch gears a bit and establish
18 that you're not an engineer; correct?

19 A I am not an engineer.

20 Q And you don't know how the company budgets for and
21 funds transmission and distribution system maintenance, do you?

22 A No.

23 Q And you've had no occasion to assess the condition of
24 the company's transmission and distribution systems prior to
25 the 2004 hurricanes; correct?

1 A Not on my own.

2 Q All right. And even if you endeavored to do such an
3 inspection on your own such as looking at poles, you couldn't
4 give us an engineering opinion on the pole conditions because,
5 as you stated, you're not an engineer; correct?

6 A That's correct.

7 Q So any opinion you have regarding the system's
8 condition prior to the 2004 hurricanes would have to be based
9 on what someone else has told you or what you've personally
10 observed as a lay person; correct?

11 A Not just what someone's told me. Reports that I have
12 read.

13 Q Okay. And you cannot speak with any authority as to
14 what work the company has done on its system after its last
15 base rate proceeding because you've not extensively researched
16 that topic; correct?

17 A That's correct.

18 Q Now, Ms. Brown, I wanted to ask you some questions
19 regarding the particular points of your testimony, on Page 21,
20 in Table 2. You state here that these amounts that you've
21 identified in Table 2 for distribution and transmission were
22 included in the company's last rate case; is that correct?

23 A Yes.

24 Q And your point is, is that you believe the company
25 has more money available to it now because it didn't spend this

1 level on transmission and distribution in 2002 and 2003;
2 correct?

3 A I don't know about now. They did in those years.

4 Q Okay. And you pulled these numbers for the rate case
5 annual budget from the MFRs that the company filed in that
6 proceeding; correct?

7 A Yes, I did.

8 Q And you would not dispute that the company did not
9 get all the money that it asked for in its MFRs as a result of
10 the settlement to that last base rate proceeding; correct?

11 A I would dispute that they didn't get these dollars.
12 I believe that if you look at the settlement, you will see that
13 of the \$125 million, \$62.5 million was by deferring
14 depreciation, \$7 million was by deferring dismantlement costs,
15 and \$9 million was by deferring decommissioning. And you filed
16 for a 13.2 percent return on equity, which gave you a breakeven
17 position at a time when everyone was looking at a midpoint of
18 12 percent. So I do not believe that these costs were not, not
19 included in base rates.

20 Q Ms. Brown, if you could turn to Page 77 of your
21 deposition, Lines 10 through 13. And this is where we were
22 discussing the MFRs from which you drew these numbers.

23 A Yes. I see it.

24 Q These specific pages dealing with transmission and
25 distribution; correct?

1 A Yes. At the top of the page, yes.

2 Q And the question and answer was: "And the company
3 did not get everything it requested in its MFRs as a result of
4 the settlement; correct?"

5 Answer, "That's correct."

6 A And that's correct. They didn't get everything
7 because the MFRs included a rate of return on equity of
8 13.2 percent. And it also included depreciation,
9 decommissioning and dismantlement.

10 Q Ms. Brown, turning to the effects of the 2004
11 hurricanes, you don't dispute the fact that the damage to the
12 company's transmission and distribution system was extensive as
13 a result of the storms; correct?

14 A No. I don't dispute that.

15 Q And you don't dispute the fact that the company lost
16 some revenues as a result of the hurricanes that it would have
17 otherwise received had there been no hurricanes; correct?

18 A Well, the company lost a third and the ratepayers
19 lost two-thirds.

20 Q So the answer to my question would be, yes, you don't
21 dispute that the company lost some revenues as a result of the
22 hurricanes.

23 A Yes. They lost a third of the revenues that were
24 foregone.

25 Q And you also don't dispute the fact that when the

1 company sends employees to work on storm-related restoration
2 projects, they're leaving some work that they will have to come
3 back to when their storm work is over; correct?

4 A I don't call that a fact. I believe that they could
5 have to come back to some work or maybe they don't. **They** could
6 have been idle at the time, there could have been other
7 employees that would have picked up that work while they were
8 gone. I have no evidence to support that they have to come
9 back and, and work overtime to make up for work that they left.

10 Q Would you turn to Page 28 of your deposition, Lines
11 12 through 16? I asked you the following question, you gave
12 the following answer.

13 "Now would you agree with me when the company sends
14 employees to work on storm restoration efforts, that they're
15 leaving work that they'll have to come back to?"

16 Answer, "Some work, not necessarily all the work."

17 Correct?

18 A That's correct. **Yes.**

19 Q Okay. And you don't have any personal knowledge, do
20 you, as to whether any particular company employee who was
21 assigned to hurricane work did or did not have backlog work
22 that had to be made up with either overtime or contract labor,
23 do you?

24 A I've seen no evidence from the company whether they
25 came back to it or didn't.

1 Q Well, Ms. Brown, you have read the rebuttal testimony
2 of Mr. Wimberly in this docket, haven't you?

3 A Yes, I have.

4 Q And you're aware that Mr. Wimberly estimates that the
5 total cost to the company as a result of catch-up work caused
6 by the hurricanes for the distribution and transmission system
7 is well over \$25 million; correct?

8 A I'm aware that he put that number out there, yes.

9 Q And when you completed your testimony and gave your
10 deposition in this proceeding, you had no evidence or reason to
11 believe that Mr. Wimberly's testimony was incorrect; isn't that
12 right?

13 A I have no evidence to believe it's correct or
14 incorrect.

15 Q Now if we could turn to Page 19 of your prefiled
16 testimony. Do you see your discussion about revenues from
17 other utilities for storm damage assistance?

18 A Yes.

19 Q You would agree with me in situations where the
20 company has to respond to help other utilities outside Florida
21 in hurricane situations that you do not know one way or the
22 other whether the employees who responded to that help had
23 backlogged work that had to be completed with overtime or
24 contract labor; correct?

25 A No. As I've said, I've seen no evidence one way or

1 the other.

2 Q Now, Ms. Brown, I want to talk to you about your
3 opinion regarding the reduction of PEF's 2004 earnings to a
4 10 percent ROE before PEF can recover costs.

5 On Page 23 of your direct testimony you've referred
6 to the 10 percent return on equity earnings floor in PEF's last
7 rate case as a reasonable bottom line of earnings; correct?

8 A Yes.

9 Q And also I believe you had referred to this rule in
10 your testimony at Page 10, Rule 25-6.0143.

11 A Yes.

12 Q Do you have that rule with you?

13 A Yes.

14 Q If you could look at 25-6.0143(4)(b), please. It
15 says there, quote, if the utility elects to use any of the
16 above listed accumulated provision accounts, each and every
17 loss or cost which is covered by the account shall be charged
18 to that account and shall not be charged directly to expenses.
19 Charges shall be made to accumulated provision accounts
20 regardless of the balance in those accounts.

21 Did I read that accurately?

22 A Yes, you did a very good job of reading that
23 accurately.

24 Q Now you cannot point to me any order or rule where
25 the Public Service Commission has required a utility to incur

1 costs reducing its revenues down to a minimum ROE or floor
2 before it was allowed to recover costs; correct?

3 A I don't know of any particular order, no.

4 Q Okay. And you would agree with me that under the
5 rate case stipulation, the company is permitted to earn more
6 than a 10 percent ROE; is that correct?

7 A They're permitted to earn more or less.

8 Q Now, Ms. Brown, would you agree with me that the cost
9 for the company to prepare for and respond to and recover from
10 hurricanes are nonrecurring costs?

11 A Not all of them. The normal O&M costs that were put
12 into the storm damage account are recurring costs.

13 Q If you could turn to Page 10 of your deposition,
14 Lines 13 through 17. I asked you the following question, you
15 gave me the following answer.

16 Question, "Would you agree with me that
17 hurricane-related costs are nonrecurring costs, the cost to
18 actually prepare for and respond to a hurricane?"

19 Answer, "Yes, as are many of the other costs that
20 Progress Energy would incur in a particular year."

21 Did I read that correctly?

22 A You read that correctly. But if you look up --

23 Q That was your answer at the time, wasn't it?

24 A Yes. But if I can explain, the question right above
25 it was exactly the question you just asked me where you asked

1 if I agreed that hurricane storm damage costs were nonrecurring
2 costs, and I told you then, as I've told you now, that not all
3 of them, a portion of them. And I said that the normal O&M
4 were not nonrecurring.

5 Q Ms. Brown, would you agree with me that the cost to
6 prepare for, respond to and recover from hurricanes will vary
7 from hurricane to hurricane?

8 A Yes.

9 Q And you would also agree with me that the 2004
10 hurricane season was an unprecedented event.

11 A Absolutely.

12 Q And you would also agree that hurricane-related costs
13 are unpredictable; isn't that right?

14 A Well, they're predicted, but they're -- they have a
15 high degree of uncertainty.

16 Q And the base rates are not set to cover the costs of
17 hurricanes like those experienced in 2004, are they, Ms. Brown?

18 A Well, it wasn't included in your MFRs.

19 Q So the answer to my question would be yes; right?

20 A Yes. They were not set to cover that level of cost.

21 Q And base rate proceedings are actually set to recover
22 costs in a future time period; isn't that right?

23 A They are typically set forward-looking, and they may
24 include some costs from prior times that were deferred and then
25 amortized.

1 Q Okay. Finally, on Page 28 of your testimony you talk
2 a bit about rate design.

3 A Yes.

4 Q Are you there?

5 A Yes, I am.

6 Q Okay. You would agree with me that what Progress
7 Energy has proposed as a rate design for recovery in this
8 proceeding is consistent with the rate design for recovery of
9 costs under other cost recovery clause; correct?

10 A Yes.

11 MR. WALLS: Okay. I have no further questions for
12 Ms. Brown.

13 COMMISSIONER BAEZ: Commissioners, questions?

14 COMMISSIONER DEASON: I have a question.

15 COMMISSIONER BAEZ: Commissioner Deason.

16 COMMISSIONER DEASON: On Page 16 of your prefilled
17 testimony, on Lines 8 through 11 you provide some O&M costs and
18 what the average monthly O&M costs were and how they dropped
19 during the months of August and September and October.

20 Is it your testimony that that deviation for those
21 months is an indication of the amount of O&M costs that would
22 have been incurred had it not been for the storms but,
23 nevertheless, were allocated to cost recovery through the
24 proposed clause?

25 THE WITNESS: I believe it's an indication that costs

1 were shifted, and it just proves out that the costs were
2 shifted out of normal O&M and over into the storm damage
3 account. Putting your finger on the actual amount, I believe,
4 is an insurmountable task that we don't have the evidence now,
5 and I don't even believe that Progress Energy has the, has the
6 knowledge of, of being able to tie down the exact numbers.

7 COMMISSIONER DEASON: So you're not proposing an
8 adjustment for that then?

9 THE WITNESS: No. I believe that the adjustment to
10 bring their return on equity down to the 10 percent level in
11 2004 and absorb the amount that I have requested that they
12 absorb takes into account all of those issues and it resolves
13 it. Because if you moved the, the O&M expenses back into the
14 normal accounts, their rates of return would have dropped, and,
15 therefore, the adjustment down to 10 percent ROE would have
16 been smaller. So they're encompassed within that 10 percent
17 ROE adjustment.

18 COMMISSIONER DEASON: Thank you.

19 COMMISSIONER BAEZ: Mr. Perry.

20 MR. PERRY: Just a few redirect questions.

21 REDIRECT EXAMINATION

22 BY MR. PERRY:

23 Q Ms. Brown, in your opinion, will your proposal allow
24 Progress Energy Florida to recover all of its prudent costs,
25 even though its earnings may decrease?

1 A Absolutely. If you're making a 10 percent return on
2 equity, you're still recovering all your costs plus a profit.

3 Q Ms. Brubaker asked you a question about an
4 interrogatory response regarding poles. When poles are
5 replaced, does the company incur O&M in replacing those poles?

6 A I'm not sure if they incur O&M. I would assume that
7 there would be some, but they're capitalizing in particular
8 those poles that they mentioned there. I would assume that,
9 that other O&M expenses and repairs that they were making on
10 the system would have the same type of impact though, that
11 there would have been some advantages to some of the repairs
12 that had been made.

13 Q Let me ask you to turn to Page 43 of your deposition.

14 A Okay.

15 Q And Mr. Walls asked or read to you a portion of your
16 deposition transcript where he was discussing a reasonable and
17 prudent standard. And the question that he asked was, that is
18 a standard that they have to meet in order to recover costs by
19 the Commission. What are some other standards that have to be
20 met?

21 A Well, I believe, as we were talking about in the FP&L
22 order, that the Commission also has standards of being fair and
23 reasonable. And in this case I believe it is fair and
24 reasonable for the company to share because I don't believe
25 that anybody has been totally insulated from the impact of

1 these hurricanes, and I don't see why Progress Energy should be
2 the only one that is totally insulated from the impact.

3 Q Mr. Walls asked, also asked you about whether you
4 could recall an instance where a utility was ordered to share
5 costs. Do you remember testifying in the 2003 fuel cost
6 recovery docket? Specifically, there was a case regarding
7 Tampa Electric Company and the sharing of costs with the Gannon
8 Unit. Do you recall that?

9 A I recall testifying, but I don't remember the issues
10 enough to really go into that.

11 Q Do you recall whether or not the Commission ordered
12 an apportionment of the costs between Tampa Electric and the
13 ratepayers in that instance?

14 A I don't remember.

15 Q Mr. Walls also asked you whether you had reviewed the
16 storm study at the time you filed your testimony. Have you had
17 the opportunity to review that study since?

18 A I've reviewed it, yes.

19 Q After reviewing that study, would it affect your
20 testimony at all?

21 A No, it would not.

22 Q Mr. Walls also asked you about work done on the T&D
23 system prior to the hurricanes. Have you considered any
24 statements made by the company in its testimony about what work
25 they had done to the system prior to the hurricanes,

1 specifically the Commitment to Excellence Program?

2 A Yes. In looking at Mr. Wimberly's testimony, his
3 rebuttal testimony, I believe it is, at Page 6 in his rebuttal
4 of both me and Mr. Majoros, he indicated that the Commitment to
5 Excellence Program was fulfilled by 2004 before the hurricanes
6 started in late August.

7 But when you look at Mr. Portuondo's rebuttal
8 testimony at Page 31, he has a different statement about that.
9 He says that it was an ongoing and, in fact, that they had,
10 they were on track to perform a number of activities that got
11 interrupted by the hurricanes. So I believe there was a little
12 bit of contradiction there as far as whether the program was
13 actually completed or not.

14 Q Mr. Walls also asked you a question or two about
15 funds that Progress Energy received, Progress Energy Florida
16 received assisting other utilities. In this case have you
17 suggested that all those costs should be refunded or just the
18 incremental portion of those costs?

19 A Just the normal, just the normal cost would be
20 refunded to the ratepayers.

21 Q Mr. Walls also asked you a question about whether or
22 not the company's MFRs were set or predicted base rates
23 specifically to recover 2004 hurricane expenses. Would you
24 agree that there were some costs that were included in base
25 rates that resulted in being charged to the Storm Damage

1 Reserve?

2 A Yes. There was \$6 million a year put into the
3 reserve. And at the end of 2004, based on Progress Energy's
4 accounting, there was still \$46.9 million left that was used to
5 cover some of these costs.

6 Q Would there be any other costs, normal costs that
7 could have been charged to the storm reserve or to the storm --
8 or that are part of the company's storm damage claim?

9 A Any other normal cost? I mean, I believe there were
10 a lot of normal costs. I believe they have said there are, for
11 example, overhead charges, for example, like benefits on
12 salaries so that if you have someone who has medical benefits
13 or whatever, I'm assuming those have been charged as well.

14 Q Mr. Walls also asked you about catch-up work. To the
15 extent that that catch-up work would involve construction, it
16 would be capitalized, not expense, and, therefore, it would not
17 result in an offset to the O&M that would be taken out of the
18 storm reserve; is that correct?

19 A Well, catch-up work, if it's capitalized at any point
20 in time, it's going to be something they would reflect in rate
21 base later on. If it's something that's an operation and
22 maintenance expense, then it would be something that they would
23 incur in their normal operations going forward, and it's just a
24 matter of whether that's truly catch-up work or if all the
25 costs got deferred off. And in addition to that, there's no

1 way to tell how much they're going to have in cost savings.
2 And Mr. Portuondo even said that in his rebuttal testimony; he
3 said they have no way to predict that there would, that that
4 would occur or to even quantify if it did occur. So the fact
5 is we don't know -- all we have is the \$25 million number
6 provided by Mr. Wimberly.

7 MR. PERRY: I have no further questions. And I'd ask
8 that Exhibits 38 through 40 be moved.

9 COMMISSIONER BAEZ: Without objection, show Exhibits
10 38, 39 and 40 moved into the record. The witness is excused.
11 Thank you.

12 THE WITNESS: Thank you.

13 (Exhibits 38 through 40 admitted into the record.)

14 COMMISSIONER BAEZ: Mr. Twomey, I think that leaves
15 your witness.

16 MR. TWOMEY: Yes, sir.

17 COMMISSIONER BAEZ: Okay. Do you, do you need time
18 for him to set up?

19 MR. TWOMEY: No.

20 COMMISSIONER BAEZ: No? Okay. Then let's move
21 along.

22 MR. TWOMEY: Mr. Chairman, Buddy Hansen and Sugarmill
23 Woods will call Mr. Steve Stewart.

24 Mr. Stewart, before you sit down, have you been
25 sworn?

1 THE WITNESS: No, I have not.

2 COMMISSIONER BAEZ: You weren't sworn, sir? Please
3 stand.

4 STEPHEN A. STEWART

5 was called as a witness on behalf of Buddy Hansen and Sugarmill
6 Woods Civic Association, Inc., and, having been duly sworn,
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. TWOMEY:

10 Q Mr. Stewart, have you prepared direct testimony of
11 Stephen A. Stewart submitted for filing in this docket
12 January 31st, Year 2005, consisting of 19 pages of testimony?

13 A I have.

14 Q Do you have any changes or corrections to your
15 prefiled testimony?

16 A Yeah, I have a couple of corrections. On Page 12 of
17 the testimony, on Line 5, the number "\$25 million" should be
18 changed to "\$20 million."

19 Q Yes, sir.

20 A On Line 13, the date should be "October 1" instead of
21 "January 1." And within the parentheses that should read,
22 "That is to backdate it to the fourth quarter of the prior
23 year."

24 Q Are those all your changes?

25 A Yes.

1 Q Okay. Mr. Stewart, with those changes, if I were to
2 ask you the questions contained in your prefiled direct
3 testimony, would your answers remain the same?

4 A Yes, they would.

5 MR. TWOMEY: Okay. Mr. Chairman, I would ask that
6 Mr. Stewart's prefiled testimony be inserted into the record as
7 though read.

8 COMMISSIONER BAEZ: Without objection, show the
9 direct testimony of Stephen Stewart entered into the record as
10 though read.

11 BY MR. TWOMEY:

12 Q Mr. Stewart, have you prepared for filing in this
13 case any exhibits?

14 A No, I haven't.

15

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BEFORE THE PUBLIC SERVICE COMMISSION

TESTIMONY

OF

STEPHEN A. STEWART

1

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4

5

6

7 **Q. Please state your name, address and occupation?**

8 A. My name Stephen A. Stewart. My address is 2904 Tyron Circle, Tallahassee,
9 Florida, 32309. I am appearing as a consultant for Buddy L. Hansen and the Sugarmill
10 Woods Civic Association, Inc. (collectively "Sugarmill Woods"). Mr. Hansen,
11 individually, and approximately 4,000 Sugarmill Woods association members are
12 Progress Energy Florida, Inc. ("PEF") ratepayers.

13

14 **Q. Please describe your educational background and business experience?**

15 A. I graduated from Clemson University with a Bachelor of Science degree in
16 Electrical Engineering in December 1984. I received a Master's degree in Political
17 Science from Florida State University in August 1990, and I completed Doctorate level
18 work in the area of Public Policy.

19 From January 1985 until October 1988, I was employed by Martin Marietta
20 Corporation and Harris Corporation as a Test Engineer. In July 1989, I accepted an
21 internship with the Science and Technology Committee in the Florida House of
22 Representatives. Upon expiration of the internship I accepted employment with the
23 Office of the Auditor General in August 1990, as a program auditor. In this position I was

1 responsible for evaluating and analyzing public programs to determine their impact and
2 cost-effectiveness.

3 In October 1991, I accepted a position with the Office of Public Counsel ("Public
4 Counsel") with the responsibility for analyzing accounting, financial, statistical,
5 economic and engineering data of Florida Public Service Commission ("Commission")-
6 regulated companies and for identifying issues and positions in matters addressed by the
7 Commission. I left the Public Counsel in 1994 and worked as a consultant for the Florida
8 Telephone Association for one year.

9 Since 1995 I have been the employed by two privately held companies, United
10 States Medical Finance Company ("USMED") and Real Estate Data Services Inc. I
11 worked with USMED for approximately four years as Director of Operations. I founded
12 Real Estate Data Services in 1999 and I am currently its President and CEO.

13 Over the last five years I have also worked for the Public Counsel on a number of
14 utility related issues.

15
16 **Q. What is the purpose of your testimony?**

17 A. I am appearing on behalf of the Sugarmill Woods in opposition to PEF's request.
18 The purpose of my testimony is to explain why PEF's request is fundamentally unfair and
19 why the Commission should reject it.

20
21 **Q. What is PEF asking for in the petition?**

22 A. PEF is seeking Commission approval of a storm cost recovery clause that will
23 allow it to collect \$251.9 million, plus interest, from its customers, over a two-year

1 period, to “recover extraordinary expenditures related to Hurricanes Charley, Frances,
2 Jeanne, and Ivan” during 2004. If approved by the Commission, these monthly
3 surcharges will be in addition to PEF’s base rates and other current cost recovery clauses
4 and will be allowed without regard to PEF’s profit levels.

5
6 **Q. What does PEF offer as support for this recovery?**

7 A. From my review of the testimony filed by PEF and its petition, the recovery is
8 based on the fact that the expenses are claimed to be prudent and are claimed to be
9 allowed pursuant to the Commission’s decision in 1993 that established a Storm Reserve
10 Fund.

11
12 **Q. Why is it your position the petition should be rejected?**

13 A. I believe the surcharge recovery sought by PEF in this case should be rejected
14 because it would effectively transfer all risk associated with storm damage directly to
15 ratepayers, thus completely insulating the utility and its shareholders from the clearly
16 foreseeable business risk of facing hurricanes in Florida. Additionally, the requested
17 surcharges should be denied because they do not take into account whether requiring the
18 utility and its shareholders to bear all or a portion of the storm damage recovery costs
19 would allow it to remain within the range of reasonableness on its allowed return on
20 equity.

21

1 **Q. Is it your position that PEF's customers should pay no portion of the utility's**
2 **expenses for the recovery for the four hurricanes that struck its service territory**
3 **during 2004?**

4 A. No, that is not my position. Rather, I believe the prior orders of this Commission
5 on the subject of storm damage recovery require the utility in question, and its
6 shareholders, to share in the business risk of hurricane exposure in Florida and to bear a
7 portion of the recovery costs, so long as doing so does not force the utility to fall below
8 the minimum of its last approved range on return on equity. Aside from being consistent
9 with the Commission's prior orders, such a result seems entirely fair to me given that
10 many of PEF's customers suffered not only a loss of electric service during these four
11 hurricanes, but the additional financial loss associated with loss of perishable foods and
12 other inventory, loss or damage to a residence or business, which, even if covered by
13 insurance, involved the payment of one or more deductibles. Few of PEF's customers
14 were completely isolated from the financial consequences of these hurricanes and it is
15 simply unfair to conclude that the customers should bear even greater expense solely so
16 PEF and its shareholders are completely insulated and suffer no financial loss. Again,
17 aside from being blatantly unfair, such an outcome appears to be clearly inconsistent with
18 the Commission's precedents on the subject.

19 I think it would be consistent with prior Commission orders for PEF to charge the
20 total storm recovery expense to the storm fund balance and then amortize the balance
21 over five years. However, I believe the more preferable course of action would be for the
22 Commission to address the portion of storm damages to be borne by the utilities'
23 shareholders and customers in PEF's base rates case, which will be filed shortly. In that

1 way, the appropriate amount for the annual accrual would be factored into base rates and
2 no surcharge would be required.

3 I should add that the obvious first step the Commission should take is a thorough
4 review of all of PEF's expenses claimed to be associated with storm recovery to ensure
5 that each dollar was spent solely for storm recovery and not operation and maintenance
6 expense or capital assets more properly included in base rates. Once the review to
7 determine that the expenses were "necessary" to storm recovery is accomplished, the
8 Commission should ensure that the amounts paid were reasonable and prudent under the
9 circumstances. My assignment did not include reviewing the necessity, reasonableness
10 and prudence of the claimed storm recovery expenses.

11
12 **Q. Do you believe there is any prior Commission order or rule cited by PEF that**
13 **warrants the surcharge recovery sought by PEF?**

14 A. No, I believe the Commission's rules and prior orders actually argue against the
15 utility-biased result requested. For example, in Order No. PSC-93-1522-FOF-EI, the
16 "Order Granting Request To Self-Insure," the Commission noted that PEF's storm
17 damage reserve balance had been entirely depleted on two occasions and was allowed to
18 recharge through base rates without dollar for dollar surcharges being levied on its
19 customers. Specifically, the Commission stated at Page 4 of that order:

20 Exhibit JS-1, Part C, attached to the testimony of John
21 Scardino, presents a summary of storm damage experience from
22 the period 1973-1993. The reserve balance remained at
23 \$1,643,000 from 1981 to 1985, when it was completely wiped out
24 by \$4,440,000 in storm damage from hurricanes Elena and Kate.
25 The reserve was rebuilt to \$4,244,000 by 1992, and was then
26 depleted by the October 1992 tornadoes followed by the March
27 1993 "storm of the century."

1
2 Thus, it appears the storm damage reserve balance historically was funded by an annual
3 accrual approved typically during the course of a base rate proceeding. Approved storm
4 expenses were charged against the balance with the result that PEF's balance was "wiped
5 out" on at least two occasions after which it was replenished at the rate of the approved
6 annual accrual. In the case of Gulf Power Company, which I will discuss below, the
7 storm damage reserve balance was allowed to go "negative" without that utility receiving
8 a surcharge outside base rates. The Commission's overall decision in that Gulf Power
9 Company case was clearly driven by a consideration of the impact of the storm expense
10 on the utility's earnings. Furthermore, other Commission orders on the subject,
11 particularly with respect to Florida Power & Light Company ("FPL"), state that the utility
12 should not be isolated from the financial impacts of storms and that, consequently, their
13 earnings must be taken into consideration.

14
15 **Q. What conclusions do you draw from Order No. PSC-93-1522-FOF-EI with**
16 **respect to the manner in which storm damage was paid for through the utility's**
17 **rates?**

18 A. First, it appears the storm damage reserve balance was "financed" through a
19 charge to base rate revenues and not through a special surcharge to customers. After
20 1988, the effective date of Rule 25-6.0143, F.A.C., it appears that storm and other losses
21 not covered by insurance would be charged to Account No. 228.1 Accumulated Provision
22 for Property Insurance. With respect to the level and annual accrual rate for account, the
23 rule provides:

1 (4)(a) The provision level and annual accrual rate for each
 2 account listed in subsections (1) through (3) shall be evaluated at
 3 the time of a rate proceeding and adjusted as necessary. However,
 4 a utility may petition the Commission for a change in the provision
 5 level and accrual outside a rate proceeding.
 6

7 I interpret this rule to mean that a utility could seek a change in the provisional level and
 8 annual accrual rate either during the course of a rate proceeding or outside of one. If
 9 within a rate proceeding, the Commission would presumably allow the new annual
 10 accrual rate in the total annual revenues approved during the rate proceeding. If changes
 11 were sought and approved outside a rate proceeding, there is nothing in the rule to
 12 suggest customer surcharges would be approved. Rather, as in the Gulf Power case, it is
 13 likely that the increased accrual would be taken against the utility's profits.

14 It is worth noting that PEF filed a letter on January 28, 2005 advising the
 15 Commission that it would shortly file a base rate increase case for new rates to become
 16 effective January 1, 2006. It is not clear to me why the storm damage surcharge issue
 17 should not be rolled into the full rate case so that the Commission might consider the
 18 implications of each in the same proceeding.
 19

20 **Q. Why is it important that the Commission consider PEF's earnings in**
 21 **evaluating the petition?**

22 **A. Citing from Commission Order Number PSC-93-1522-FOF-EI:**

23 If FPC experiences significant storm related damage, it can petition for
 24 appropriate regulatory action. In the past, this Commission has allowed recovery
 25 of prudent expenses and has allowed amortization of storm damage expenses.
 26 Extraordinary events such as hurricanes have not caused utilities to earn less than
 27 a fair rate of return. FPC shall be allowed to defer storm damage loss over the
 28 amount in the reserve until we act on any petition filed by the company.
 29 (Emphasis supplied)

1 This language is rather clear in indicating that PEF has not only the burden of proving
2 storm expenses incurred were necessary, prudent and reasonable in their amount, but that
3 the financial accounting for those expenses would result in less than a fair rate of return
4 for the utility if it was not allowed to surcharge its customers for the total. PEF does not
5 address this point in its petition. Rather PEF is seeking to have the storm expense item
6 considered in isolation from any of its other financials.

7 Additionally, the above language of the order indicates that the main goal of the
8 Commission was to assure PEF that any extraordinary expenses associated with storm
9 damage would not cause it to earn less than a fair rate of return. The goal was not to
10 provide a dollar for dollar pass through that would insulate PEF from the financial effects
11 of the storms and maintain its earnings to the sole benefit of its shareholders.

12
13
14 **Q. Are you aware of other Commission orders stating that utilities should not**
15 **be provided with a dollar for dollar pass through that transfers the complete risk**
16 **for extraordinary storm damage losses to their customers?**

17 A. Yes, there are the FPL and Gulf Power Company orders I mentioned
18 above. PEF cites the FPL order in its petition, but neglects to quote Commission
19 language that argues against the full relief it seeks. Specifically, in Order No. PSC-93-
20 0918-FOF-EI, issued June 17, 1993, the Commission authorized FPL to begin a self-
21 insurance plan for storm damage and to re-establish annual funding of its storm damage
22 reserve. In rejecting a specific Storm Loss Recovery Mechanism proposed by FPL, the
23 Commission stated its unwillingness to shift storm damage costs fully on the backs of
24 customers, saying:

1 FPL seeks approval for a Storm Loss Recovery Mechanism that
 2 would guarantee 100% recovery of expense from ratepayers, over
 3 and above the base rates in effect at the time of implementation.
 4 This would effectively transfer all risk associated with storm
 5 damage directly to ratepayers, and would completely insulate the
 6 utility from risk. We decline to approve such a mechanism at this
 7 time. (Emphasis supplied.)
 8
 9

10 **Q. By stating “decline to approve such a mechanism at this time” it appears the**
 11 **Commission left the door open for completely insulating utilities from storm risks in**
 12 **the future. Do you think that is the case?**

13 A. No. While the above quote may appear ambiguous on the issue of subsequently
 14 insulating electric utilities completely from business risks, including those associated
 15 with storms, the statement should be considered in the context of the rest of language of
 16 the order and subsequent Commission orders on the subject. For example, the text
 17 immediately following the quote above makes clear, in my view: (1) that the Commission
 18 has never contemplated completely insulating utilities from business risks, including
 19 storm damages; and (2) that it was unlikely to approve recovery of storm damage
 20 expenses through an ongoing cost recovery clause. Specifically, the Commission stated:

21 FPL’s cost recovery proposal goes beyond the substitution
 22 of self-insurance for its existing policy. The utility wants a
 23 guarantee that storm losses will have no effect on its earnings. We
 24 believe it would be inappropriate to transfer all risk of storm loss
 25 directly to ratepayers. The Commission has never required
 26 ratepayers to indemnify utilities from storm damage. Even with
 27 traditional insurance, utilities are not free from this risk. This type
 28 of damage is a normal business risk in Florida.
 29

30 FPL’s proposal does not take into account the utility’s
 31 earnings or achieved rate of return. If the company was already
 32 earning an adequate return on equity, its storm-related expenses
 33 could be amortized in whole or in part over five years. If the
 34 magnitude of the loss is great, the utility could draw on its line of

1 credit and then petition the Commission to act quickly to allow
2 expense recovery from ratepayers.

3
4 Storm repair expense is not the type of expenditure that the
5 Commission has traditionally earmarked for recovery through an
6 ongoing cost recovery clause. Conservation, oil backout, fuel and
7 environmental costs are currently recoverable under Commission
8 created cost recovery clauses. These expenses are different from
9 storm repair expense in that they are ongoing rather than sporadic
10 expenditures.

11 * * *

12
13
14 Therefore, we decline to authorize the implementation of a
15 Storm Loss Recovery Mechanism, in addition to the base rates in
16 effect at the time, for the recovery, over a period of five years, of
17 all prudently incurred costs in excess of the reserve to repair or
18 restore T&D facilities damaged or destroyed by a storm.

19
20 If a hurricane strikes, FPL can petition at that time for
21 appropriate regulatory action. In the past, we have acted
22 appropriately to allow recovery of prudent expenses and allowed
23 storm damage amortization. We do not believe that regulated
24 utilities should be required to earn less than a fair rate of return
25 because of extraordinary events such as hurricanes or storms.
26

27 Pages 5-6, Order No. PSC-93-0918-FOF-EI (Emphasis supplied.)

28
29 **Q. Aside from making clear that the Commission would not transfer all risks of**
30 **storm loss directly to ratepayers so that there would be no effect on a utility's**
31 **earnings, the Commission appears to also state directly that earnings must be**
32 **considered when allowing a utility to pass all or a portion of storm costs on to its**
33 **customers. Is this conclusion consistent with your view?**

34 A. Yes, while the quoted language above clearly states that a utility should not "be
35 required to earn less than a fair rate of return because of extraordinary events such as
36 hurricanes or storm," the requirement to consider earnings when determining what

1 portion of storm expenses to pass along to customers was clearly stated as well. While
2 the Commission did not have to reach a decision on the point in the FPL case, it said, at
3 Page 6 of Order No. PSC-93-0918-FOF-EI:

4 Given our decision not to authorize implementation of a Storm
5 Loss Recovery Mechanism, we find that the issue of whether FPL
6 should [be] authorized to increase customer rates if its earned
7 return on equity is within the allowed range is moot.
8 (Emphasis supplied.)

9 Furthermore, aside from being fundamentally fair, requiring a utility's shareholders to
10 bear storm expenses, so long as its return on equity would remain within the allowed
11 range, is merely the flip side of the advantage the Commission gave FPL in the reported
12 case when its expenses were reduced by the Commission for a specific cause.

13
14 **Q. What are you referring to?**

15 A. As reflected on Page 7 of Order No. PSC-93-0918-FOF-EI, the Commission had
16 earlier, in Order No. 24728, issued July 1, 1991, allowed FPL to discontinue its annual
17 charge to its storm reserve fund in the amount of some \$3 million, while it declined at the
18 same time to require FPL to reduce its annual revenues by the same \$3 million. The
19 result, of course, was that the Commission specifically allowed FPL to continue to
20 recover from its customers revenues for a \$3 million expense it no longer would incur by
21 virtue of Commission action. Within the context of that one issue, the utility's profits, or
22 return on equity, would necessarily have to increase. Requiring utilities and their
23 shareholders to bear the business risks of hurricanes in the State of Florida by absorbing
24 the costs of such storms is fair in my view, so long as the utility will still earn within its
25 authorized range on equity.

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Q. How does the Commission’s treatment of Gulf Power Company’s 1995 storm recovery request support your view of the limits on surcharges that should be borne by customers?

A. In 1995, after experiencing over \$²⁰~~25~~ million in damages from Hurricanes Erin and Opal, Gulf Power sought permission to increase its annual accrual from \$1.2 million to \$3.5 million beginning in 1996 and to amortize approximately \$9 million of the hurricane related expenses to the accumulated provision account over the five-year period from 1996-2000. It also sought permission to apply any earning over 12.75 percent return on equity for calendar year 1995 to the accumulated provision account. The Commission approved the request to increase the annual accrual to \$3.5 million but denied Gulf Power’s request to increase the annual accrual effective January 1, 1996 and instead required it to make the change effective ^{October}~~January~~ 1, 1995 (that is to backdate it to the ~~first of the then current year~~ ^{fourth quarter of the prior year}) because the storm recovery costs would not be “expensed” to that year, as feared by Gulf Power, but merely charged to the accumulated provision account. Specifically, the Commission said:

The Company is not required to expense the \$9 million in 1995 because the Commission Rule 25-6.0143(4)(b), Florida Administrative Code, entitled “Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4” states that:

. . . Charges shall be made to accumulated provision Accounts regardless of the balance in those accounts.

When the Commission considered this rule, we realized that there could be times when charges to the accumulated provision account could exceed the balance in the account, resulting in a negative balance.

1 Page 4, Order No. PSC-96-0023-FOF-EI (Emphasis supplied.)
 2
 3

4 **Q. Aside from the Commission clearly recognizing that the accumulated**
 5 **provision account could have a negative balance, what other Commission**
 6 **precedents do you find in that order?**

7 A. The Commission stated that a utility, Gulf Power in that case, could address the
 8 negative balance by giving it the flexibility to increase its annual accrual above the \$3.5
 9 million already approved, when it believed its earnings would allow it to do so. That is,
 10 Gulf Power could bring its accumulated provision account positive and to a more
 11 reasonable level, but by use of its profits, not by either raising its base rates immediately
 12 or by surcharging its customers. Specifically, the Commission addressed the point at

13 Page 4, Order No. PSC-96-0023-FOF-EI:

14 After charging the accumulated provision account for
 15 actual hurricane related expenditures, a negative balance will
 16 result. Even with the approval of the increase in the annual accrual
 17 to \$3.5 million, effective October 1, 1995, the accumulated
 18 provision account will have a negative balance until late 1997,
 19 assuming no further charges are made due to future storm activity.
 20 This obviously is not desirable since the Company is in a self-
 21 insurance position. Therefore, we find it appropriate to allow the
 22 Company the flexibility to increase its annual accrual to the
 23 accumulated provision account when the Company believes it is in
 24 a position, from an earnings standpoint, to do so. Once the
 25 accumulated provision account balance reaches \$12 million or
 26 such other level approved by us, the Company shall not increase its
 27 accrual above the annual accrual amount last approved by the
 28 Commission. (Emphasis supplied.)
 29

30 If the lesson, or holding, of the above Gulf Power Company case were applied to PEF's
 31 petition, it strikes me that the Commission would properly allow PEF to determine the
 32 level of accrual to accumulated provision for 2004 and 2005 that it believes it is in a

1 position to support, "from an earnings standpoint," and without any surcharges to its
2 customers.

3
4 **Q. When would the Commission determine the appropriate level of annual**
5 **accrual on a going forward basis?**

6 A. I believe the most appropriate time would be in connection with the base rates
7 case PEF has announced it will file shortly and which necessarily must be heard before
8 the end of 2005 for the new rates to become effective January 1, 2006. Considering the
9 annual accrual level in the context of revenue or expense factors that might benefit the
10 customers would be fair for the customers and utility and a most efficient use of the
11 Commission's time.

12
13 **Q. How does the regulatory action requested in PEF's petition differ from the**
14 **comprehensiveness review of a utilities financial condition, which takes place during**
15 **a rate case?**

16 A. In PEF's petition, it seeks to avoid a comprehensive review of the utility's
17 financial condition and have just one expense, which is unfavorable to ratepayers,
18 evaluated in isolation without review of other factors that may be favorable to ratepayers.

19
20 **Q. Is this fair to ratepayers?**

21 A. No. It is blatantly unfair to ratepayers.

22

1 **Q. Are there any examples of where the Commission considered a company's**
2 **earnings to determine how an extraordinary base rate expense item should be**
3 **treated?**

4 **A. Yes.** As mentioned briefly above, in 1986 the Federal Government lowered the
5 corporate tax rate from 46% to 34%. This change took effect in 1987 by lowering the tax
6 expense of utilities across the nation. In Florida, the Commission issued Order No.18340,
7 which addressed this issue. Specifically, the Commission stated:

8 As with many other utilities, the currently authorized rates of these
9 three electric utilities reflect federal income tax expense at the 46%
10 rather than at the 34% rate effective since July 1, 1987. Rule 25-
11 14.003, Florida Administrative Code (the tax savings rule) allows
12 utilities to keep "tax savings" resulting from reduced corporate
13 income tax rates so as their retention does not cause a utility's
14 earned rate of return to exceed the "midpoint" of the overall rate of
15 return approved by the Commission in that utility's last rate case.
16

17 **Q. Did the action by the Commission result in a dollar for dollar pass through of**
18 **the reduction in tax expense to the ratepayer?**

19 **A. No.** As mentioned above, the regulatory action ordered by the Commission took
20 into account the overall earnings by the utilities and refunded only the amount of expense
21 reduction that would allow the utilities to continue to earn the midpoint of a fair rate of
22 return on equity.
23

24 **Q. How was the tax expense reduction handled for PEF?**

25 **A. In** Order No. 16862, the FPSC approved a settlement between the parties that
26 based a refund to the consumers on the midpoint of a fair return on equity, not on a dollar
27 for dollar pass through.

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Q. What are the differences between the extraordinary change in expenses as a result of the reduction in taxes in 1986 and extraordinary change in expenses as result of the hurricanes in 2004?

A. First, from a financial perspective, the tax rate reduction should have favored the consumers more and the proposed storm expense recovery favors PEF. Second, the tax reduction was a recurring expense, while the storm expense is a non-recurring expense. One characteristic that is common with both expenses is that they were out of the control of the utilities.

Q. If the Commission granted PEF's petition could this be interpreted as a double standard with regards to addressing the regulatory action concerning extraordinary changes in base rate expenses?

A. Yes. Based on prior cases, a double standard would exist. This double standard could be summed up this way: When regulatory action is sought to address extraordinary changes in a base rate expense, utility earnings are evaluated to limit the amount of the refund when the change benefits the ratepayer, but utility earnings are not evaluated to limit the amount of expense recovered by a utility when the change benefits the utilities. Layman might think of it in a "Heads the utilities win, tails the customer lose" perspective.

1 **Q. Does a review of the complete financial picture of PEF’s operations indicate**
2 **there are other factors that are favorable to ratepayers that should be considered in**
3 **any proceeding addressing the recovery of storm expenses?**

4 A. Yes. In this case, PEF seeks to have the recovery of just one expense, which is
5 unfavorable to ratepayers, evaluated in isolation without review of other factors that may
6 be favorable to ratepayers. There are a number of financial conditions that exist, if
7 considered in this case would favor the ratepayers. They are as follows:

- 8 1. According to financial reports filed by PEF with the Commission, PEF is
9 currently earning a 13.6% return on equity. I am not a cost of capital expert,
10 however, I think most observers would agree that a 13.6% return on equity in
11 the current economic environment is high.
- 12 2. Over the period of the July 1, 2004 to September 30, 2004, PEF revenues,
13 excluding recoverable fuel and other pass through revenues, increased \$22
14 million over the same period in 2003. The increase was attributed to favorable
15 customer growth and – interestingly enough – “favorable weather.” The report
16 did indicate the increase was offset by \$12 million in lost sales due to the
17 hurricanes. (Source: FORM 10-Q FLORIDA POWER CORP/-FLPWO,
18 Filed: November 9, 2004 (period: September 30, 2004))
- 19 3. For the nine months ending September 30, 2004, PEF revenues increased \$40
20 million over the same period in 2003. (Source: FORM 10-Q FLORIDA
21 POWER CORP/-FLPWO, Filed: November 9, 2004 (period: September 30,
22 2004))

1 4. PEF is engaged in franchise litigation that could result in significant gains on
2 sale as early as the summer of 2005. (Source: FORM 10-Q FLORIDA
3 POWER CORP/-FLPWO, Filed: November 9, 2004 (period: September 30,
4 2004))

5
6 **Q. For the Commission to be consistent in handling extraordinary changes to**
7 **base rate expenses, what would have to happen in this case?**

8 A. To be consistent and fair to consumers, the storm expense incurred by PEF would
9 have to be amortized over an appropriate time period (perhaps five years) and then the
10 amount of the recovery would be determined, not based on the amount that PEF spent,
11 but the amount that would result in PEF earning at the minimum, or floor, of a fair rate of
12 return on equity.

13
14 **Q. If the Commission resolves this issue based on the principle you described**
15 **above, what would be the result?**

16 A. PEF would recover enough prudently incurred expenses to earn a fair rate of
17 return. The decision would balance the interests of the consumers and utilities and
18 effectively result in a sharing arrangement in handling the extraordinary expenses
19 associated with the storms of 2004.

20
21 **Q. Is appropriate for PEF to share in the costs of the recovery?**

22 A. Most definitely. PEF takes huge advantage of the benefits of operating a
23 monopoly in the State of Florida. These benefits include high customer growth rates, low

1 labor costs, and favorable weather. It is only fair that PEF share in the costs of hurricane
2 recovery efforts.

3
4 **Q. If the Commission grants the request by PEF, what would be the result from**
5 **the consumer perspective?**

6 A. First, consumers would rightly argue the Commission has a double standard when
7 it comes to evaluating extraordinary changes in base rate expenses. Second, the
8 Commission could put PEF in an over earnings condition. Third, consumers would
9 question why the Commission did not ask PEF to share in some of the costs of the
10 recovery.

11
12 **Q. Does this conclude your testimony?**

13 A. Yes.

1 BY MR. TWOMEY:

2 Q Okay. Have you prepared a summary of your testimony
3 for presentation?

4 A Yes, I have.

5 MR. TWOMEY: Mr. Chairman, may he give his, may he
6 give his summary, please?

7 COMMISSIONER BAEZ: Go ahead, Mr. Stewart.

8 THE WITNESS: Thank you, Commissioners. My name is
9 Stephen Stewart. I'm appearing here today on behalf of
10 Sugarmill Woods Civic Association and Bud Hansen. My testimony
11 provides what I believe is to be a reasonable rationale for
12 rejecting the relief sought by Progress Energy. In addition,
13 my testimony provides an approach for addressing the company's
14 request.

15 The rationale for rejecting Progress Energy's request
16 is based on the premise that any cost recovery for storm
17 expense deemed to be prudent must be evaluated while giving
18 consideration to the earnings of Progress Energy. This
19 rationale is supported by three Commission orders addressing
20 this issue. Each order gives consideration to earnings when
21 addressing storm expense recovery.

22 Progress Energy's petition and testimony in this case
23 is completely silent on earnings. There are no projections
24 indicating how earnings will be affected under different
25 scenarios if the expense is not recovered as a surcharge.

1 There is no evidence Progress Energy's earnings will be harmed
2 if this expense is not recovered.

3 Progress Energy's approach is based on the simple
4 premise that they are entitled to recovery no matter what their
5 earnings are. I believe a more reasonable approach would be
6 for Progress Energy to amortize the prudent expenses that
7 result from this hearing over a five-year period and to make
8 their case for recovery in the upcoming rate case.

9 This concludes my summary.

10 MR. TWOMEY: We'd offer Mr. Stewart for cross, sir.

11 COMMISSIONER BAEZ: Ms. Christensen, do you have
12 cross?

13 MS. CHRISTENSEN: No questions.

14 COMMISSIONER BAEZ: Mr. Perry?

15 MR. PERRY: No questions.

16 COMMISSIONER BAEZ: Mr. Wright?

17 MR. WRIGHT: Thank you, Mr. Chairman. I have just a
18 few.

19 CROSS EXAMINATION

20 BY MR. WRIGHT:

21 Q Good afternoon, Mr. Stewart. In reading your
22 testimony, I noted that you cited extensively to the prior
23 orders of the Florida Public Service Commission in support of
24 your positions. I want to ask you a few questions about those
25 to make sure I understand what your position as a utility

1 regulatory expert is.

2 At Page 4 of your testimony you make, in essence, the
3 following statement. "I believe the prior orders of the
4 Commission require a utility to share the business risk of
5 hurricane exposure in Florida."

6 Is that an accurate characterization of your reading?

7 A That's correct.

8 Q Is that your professional opinion as to what is sound
9 public policy for a utility regulatory authority?

10 A Based on the orders that I have reviewed and
11 understanding the intent of those orders, that is, that is my
12 position.

13 Q And do you agree that that is sound public policy?

14 A Yes.

15 Q You mentioned in your summary that you think it would
16 be better to consider all these issues in the rate case. Did I
17 get that right?

18 A That's correct.

19 Q On Page 7 of your testimony you say, "It's not clear
20 to me why the storm damage surcharge issue should not be rolled
21 into the full rate case." So you've told us it should be. Why
22 should it be, Mr. Stewart?

23 A Well, I think there's a couple of reasons. I think
24 the first issue would be that it would allow the expense the
25 company is addressing to be considered together with other

1 factors in the operations of the utility. Instead of looking
2 at this expense in isolation, looking at other factors that may
3 actually benefit the ratepayers.

4 The second issue is the philosophical difference that
5 I have here is that I think the company has stated that they
6 are -- looking at their earnings level is irrelevant.
7 There's -- a rate case would allow us to look at some
8 projections on what their earnings are going to be and how,
9 what would be the appropriate way to expense this and how it
10 would affect the earnings.

11 Q Thank you. At Page 8 of your testimony you, you
12 discuss some prior orders relative to either, either Progress
13 or its, its predecessor Florida Power Corporation, and at Lines
14 9 through 11 on Page 8 you make the following statement. "The
15 goal," and I understand that to be the Commission's goal, "was
16 not to provide a dollar-for-dollar pass-through that would
17 insulate PEF," Florida Power, "from the financial effects of
18 the storms and maintain its earnings to the sole benefit of its
19 shareholders." That's your understanding of what the
20 Commission did in 1993?

21 A That's correct.

22 Q And do you think that was good public policy?

23 A Yes.

24 Q Is what Progress Energy Florida is asking for in this
25 case inconsistent with that earlier decision?

1 A Most definitely.

2 Q At the bottom of Page 8 you cite to an FPL case and
3 you refer to the Commission's unwillingness to shift storm
4 damage costs fully on the backs of customers. Do you agree
5 that that was appropriate regulatory policy in 1993?

6 A Yes, I do.

7 Q Is that still appropriate regulatory policy today in
8 2005?

9 A I believe it is.

10 Q Is Progress Energy asking the Commission to follow
11 this policy or to abandon it?

12 A It is my opinion that they are not following that
13 policy.

14 Q Should the PSC follow that policy in this case?

15 A Yes.

16 Q Over on Page, Pages 13 and 14, Mr. Stewart, you
17 discuss a, a Gulf Power proceeding before the Florida Public
18 Service Commission, I guess actually it started on Page 12 and
19 continued on to Page 14, wherein Gulf sought permission to
20 increase an annual accrual to a storm fund as a result of costs
21 incurred due to Hurricanes Erin and Opal. Did I understand the
22 context correctly?

23 A Correct.

24 Q Do I understand the gist of what Gulf was asking for
25 was to be allowed to use earnings above a certain level to

1 restore a negative balance in Gulf's Storm Damage Reserve?

2 A That's my understanding.

3 Q Okay. At the bottom of Page 13 you make the
4 statement, "If the lesson, or holding, of the above Gulf Power
5 Company case were applied to Progress Energy Florida's
6 petition, it strikes me that the Commission would properly
7 allow PEF to determine the level of accrual to accumulated
8 provision for 2004 and 2005 that it believes it is in a
9 position to support, 'from an earnings standpoint,' and without
10 any surcharges to its customers."

11 My, my question for you is would it be appropriate
12 for the Commission to apply this principle here in this case?

13 A I believe the principle can be applied in this case,
14 yes.

15 Q And if Progress Energy were to argue that it was in a
16 position to support zero restoration of the Storm Damage
17 Reserve from an earnings standpoint, would you agree or
18 disagree with that?

19 A I would, I would disagree. However, I would, I
20 would -- the, the exact number, again, would be my rationale
21 for a rate case is to figure out exactly what the company could
22 absorb.

23 MR. WRIGHT: Okay. Thanks. That's all the questions
24 I have.

25 COMMISSIONER BAEZ: Staff?

1 MS. RODAN: No questions.

2 COMMISSIONER BAEZ: Mr. Burnett.

3 CROSS EXAMINATION

4 BY MR. BURNETT:

5 Q Good afternoon, Mr. Stewart. My name is John
6 Burnett. I haven't had the pleasure to meet you yet. I'm here
7 on behalf of Progress Energy, and I'd like to ask you a few
8 questions.

9 A Good afternoon.

10 Q Mr. Stewart, I think from what we've heard so far
11 it's clear that you're providing testimony on regulatory policy
12 issues as they relate to this proceeding; isn't that correct?

13 A That's correct.

14 Q And, Mr. Stewart, at the undergraduate level you're
15 an engineer by education; correct?

16 A That's correct.

17 Q And I believe that you have a master's degree in
18 political science; correct?

19 A Correct.

20 Q You're not a lawyer, are you?

21 A No.

22 Q You're not an accountant, are you?

23 A No.

24 Q In fact, I believe that you're currently working in
25 the real estate industry; isn't that correct?

1 A That's correct.

2 Q And since 1995 I believe you've been employed either
3 by a, a medical finance company or a real estate company; isn't
4 that right?

5 A Right. For the last ten years I've been in the
6 private sector.

7 Q Now you've never testified before with respect to any
8 proceeding regarding the recovery of storm-related costs, have
9 you?

10 A I've testified before, but not on that issue.

11 Q Okay. Now you worked in the early 1990s with the
12 Office of Public Counsel; that's correct?

13 A That's correct.

14 Q Okay. You're familiar in the 1993 and 1994 time
15 frames there were a couple of dockets by Progress Energy
16 Florida and then Florida Power Corporation and
17 Florida Power & Light that were opened regarding the
18 self-insurance programs.

19 A That's correct.

20 Q Okay. During your time at the Office of Public
21 Counsel you didn't testify in either one of those dockets, did
22 you?

23 A At that time I was not at the Public Counsel.

24 Q Okay. So obviously you played no substantive role in
25 any of those dockets?

1 A No, I did not.

2 Q By the way, speaking of those dockets, you didn't
3 read either one of the studies that were required by the
4 Commission in either one of those dockets before you prepared
5 your testimony in this case; correct?

6 A I did not.

7 Q Okay. Now you're appearing in this case, sir, on
8 behalf of Buddy L. Hansen and the Sugarmill Woods Civic
9 Association; correct?

10 A That's correct.

11 Q At the time you prepared your testimony you didn't
12 know Mr. Hansen, did you, sir?

13 A I didn't know him then and don't know him now.

14 Q Okay. And you never met with anyone at the Sugarmill
15 Woods Association at the time you prepared your testimony;
16 correct?

17 A Or have not since then either.

18 Q Okay. Obviously then you've never talked to
19 Mr. Hansen or the association about the substance of your
20 testimony; correct?

21 A I have not.

22 Q And so you don't know one way or the other how they
23 feel about your testimony in this case; isn't that right?

24 A I would assume that if it would have been negative,
25 that I would have heard from the attorney who represents them,

1 Mr. Twomey.

2 Q But because you haven't talked to them personally,
3 you don't know that for sure, do you, sir?

4 A No. Only through my relationship with my attorney.

5 Q Mr. Stewart, turning to your role in this case, you
6 agree with me that you're not challenging the reasonableness or
7 prudence of the works done by Progress Energy Florida to
8 prepare for, respond to and recover from the 2004 hurricanes;
9 correct?

10 A That's correct. I state that in my testimony.

11 Q You also agree you're not challenging the
12 reasonableness or prudence of the costs that Progress Energy
13 Florida incurred during those hurricanes; correct?

14 A Correct.

15 Q And, lastly, you're not commenting on the condition
16 of PEF's transmission or distribution systems prior to those
17 hurricanes.

18 A That's correct.

19 Q Now I'd like to discuss several of the points with
20 you on which I think we can agree, Mr. Stewart.

21 You've read the settlement stipulation from PEF's
22 last rate case; correct?

23 A Correct.

24 Q You agree with me that the 10 percent ROE that's in
25 Paragraph 7 of that stipulation is not a cap on earnings; isn't

1 that right?

2 A I agree.

3 Q You also agree with me that PEF is permitted to earn
4 more than a 10 percent ROE under the rate case stipulation and
5 settlement; correct?

6 A I agree.

7 Q Now some more points of agreement. Turning to the
8 costs incurred by PEF during the 2004 hurricanes, you agree
9 with me that the storm-related costs that PEF incurred during
10 those hurricanes are nonreoccurring costs; correct?

11 A I would agree that they're nonreoccurring, yes.

12 Q You also agree that the storm-related costs that PEF
13 incurred in 2004 are volatile costs, do you not?

14 A I would agree with that.

15 Q You also agree that those same costs incurred by PEF
16 as a result of the 2004 hurricanes are unpredictable; correct?

17 A I would agree to that.

18 Q You agree with me that the 2004 hurricane season was
19 unprecedented, do you not?

20 A I would agree with that.

21 Q You also don't dispute that the storm-related costs
22 that PEF incurred in 2004 as a result of the four hurricanes
23 were also unprecedented.

24 A I would agree with that.

25 Q Now, sir, you don't dispute that base rates are set

1 to recover recurring costs, do you?

2 A Base rates are set to recover recurring costs so that
3 the utility can earn a fair rate on return.

4 Q And you also agree that, that PEF's base rates are
5 not set at a level to cover the amount of costs that were
6 incurred from the 2004 hurricanes; isn't that right?

7 A The base rates were not set; however, their earnings
8 could cover those costs.

9 Q But, again, you agree with me that the base rates
10 were not set, as you stated?

11 A Right.

12 Q And you don't disagree that the costs of the 2004
13 hurricanes were not projected in Progress Energy Florida's 2001
14 MFRs; correct?

15 A Repeat that.

16 Q Sure. You do not disagree with me that the costs of
17 the 2004 hurricanes were not projected in Progress Energy
18 Florida's 2001 minimum filing requirements.

19 A I don't disagree with you on that.

20 Q Okay. Mr. Stephens (sic.), turning to your testimony
21 in this case, around Page 4 of your testimony, starting around
22 Line 4, you state that you believe that prior orders of the
23 Commission required PEF and its shareholders to share in what
24 you call the business risk of hurricane exposure and to bear a
25 portion of hurricane costs, so long as doing so does not force

1 PEF to fall below the minimum of its last approved range on
2 return on equity; isn't that right?

3 A Correct.

4 Q Specifically, Mr. Stewart, your opinion is that so
5 long as the utility is earning its minimum ROE, it shouldn't
6 have to come in for a rate case and it shouldn't come in asking
7 for a storm, recovery of storm costs, even if it has a major
8 hurricane every year; isn't that right?

9 A If they're earning a fair rate of return, that's
10 correct.

11 Q Now, Mr. Stewart, you can't give me a decision where
12 the Florida Public Service Commission has required a company to
13 incur costs down to the bottom of its ROE range, can you?

14 A I cannot give an example to the, to the bottom of the
15 range. Is that what you're asking?

16 Q Yes, sir.

17 A No. It would be that -- the language that the
18 Commission uses is a fair rate of return. The 10 percent, in
19 my view, would be characterized as a fair rate of return.

20 Q Okay. Now you also take the position in your
21 testimony that PEF should take its 2004 storm costs into
22 account in its next base rate proceeding; isn't that right?

23 A I said that the issue should be addressed in the base
24 rate case. Yes.

25 Q Would you agree with me that the purpose of PEF's

1 next base rate proceeding is to address future costs and not
2 costs incurred in 2004; isn't that right?

3 A That would be correct.

4 Q And when Mr. Walls here to my left took your
5 deposition, sir, you either could not or would not tell
6 Mr. Walls how you proposed that Progress Energy Florida address
7 2004 storms costs in its next base rate proceeding; isn't that
8 right?

9 A Yeah. I think I told Mr. Walls that that was not my
10 job to do. I think that my position was that they should
11 handle the storm expenses the best way that they can. They're
12 a Fortune 500 company, they have some pretty creative
13 accountants and people on staff, so they could figure out a way
14 to deal with it and then present their case to the Commission
15 just as they're doing here. I believe that the more
16 appropriate place to do it would be in a rate case. I don't
17 think that the -- it would be more reasonable than what is
18 being proposed in this, this case.

19 Q Thank you, Mr. Stewart.

20 Mr. Stewart, at least at the time of your deposition
21 in this matter you didn't know whether or not your clients
22 agreed with your contention that PEF should address 2004 storm
23 costs in its next base rate proceeding; correct?

24 A Repeat the question.

25 Q Sure. From what you told me earlier, I believe this

1 is true even now, but at least at the time of your deposition
2 and at the time you prepared your testimony you didn't know
3 whether or not your clients in this matter agree with your
4 position that PEF should address the 2004 storm costs in its
5 next base rate proceeding; isn't that right?

6 A I told you that I hadn't talked to representatives
7 from the civic association or Mr. Hansen. I had talked to my
8 attorney.

9 Q Would it surprise you to learn, sir, that your
10 clients in this matter take the position that any amount
11 authorized for recovery here should be collected by means of a
12 temporary surcharge to base rates?

13 A Since I haven't talked to them, I wouldn't know
14 either way.

15 MR. BURNETT: Thank you, sir. I have no further
16 questions.

17 COMMISSIONER BAEZ: Commissioners, any questions?
18 Redirect?

19 MR. TWOMEY: Yes, sir, just briefly.

20 REDIRECT EXAMINATION

21 BY MR. TWOMEY:

22 Q Mr. Stewart, with respect to, to communicating with
23 the clients that I represent, who do you take your instructions
24 from?

25 A I take them from you, Mr. Twomey.

1 Q Okay. Now the -- do you have a copy of the
2 prehearing order?

3 A I believe I do somewhere. Yes, I have that.

4 Q Okay. Let me find the -- where was the two-year --
5 let me ask it this way. I can't put my finger on it right now.

6 But Mr. Burnett, in one of his last questions, asked
7 you if you were aware whether your clients, our clients were
8 taking the position that any recovery that was approved would
9 be collected through a surcharge over two years. And, and I'll
10 ask you to accept that in the prehearing order there is that
11 position. In accepting that, I would ask you are you aware of
12 whether or not that two-year position is subordinate to the
13 main position of Sugarmill Woods in this case?

14 A Yes. In our -- I believe in the prehearing order in
15 our basic statement of position our position is a five-year
16 amortization and addressing the issue in the upcoming rate
17 case.

18 Q And lastly, Mr. Burnett asked you whether you had
19 testified specifically previously as an expert to storm damage
20 recovery. Do you recall that?

21 A Yes, I do.

22 Q Okay. Now you've been here for some of the testimony
23 of the other witnesses in this case, have you not?

24 A Yes.

25 Q Have you, have you heard any other witness in this

1 case state that they'd testified previously specifically on
2 storm damage issues?

3 A I have not heard anybody say they have.

4 Q Now aside from the specific storm damage issue which
5 you have not testified to previously, have you testified
6 previously to regulatory issues before this Commission?

7 A I've testified as an employee of Public Counsel and
8 also as a consultant with Public Counsel in rate cases, both
9 electric and water and wastewater.

10 MR. TWOMEY: Thank you. That's all I have, Mr.
11 Chairman.

12 COMMISSIONER BAEZ: Mr., Mr. Stewart didn't have any

13 --

14 MR. TWOMEY: No exhibits to move, sir.

15 COMMISSIONER BAEZ: All right. And I may have
16 inadvertently not accepted the earnings surveillance reports
17 into the record, so just in case I didn't, we'll do that now.
18 If there's no objections, that would be Exhibit 54.

19 (Exhibit 54 admitted into the record.)

20 COMMISSIONER BAEZ: Ms. Brubaker, where does that
21 leave us?

22 MS. BRUBAKER: That leaves us with Ms. Stephens, who,
23 as we mentioned earlier, was stipulated to as a witness. I
24 would move at this time that her testimony be entered into the
25 record as though read.

1 COMMISSIONER BAEZ: Without objection, show the
2 testimony of Witness Stephens moved into the record as though
3 read.

4 MS. BRUBAKER: And I'd also ask that her audit
5 report, which was the single exhibit attached to her testimony,
6 it's Exhibit 41, be moved into the record.

7 COMMISSIONER BAEZ: And if there are no objections,
8 we will, we will move Exhibit 41 into the record as well.

9 (Exhibit 41 admitted into the record.)

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DIRECT TESTIMONY OF JOCELYN Y. STEPHENS

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

3 A. My name is Jocelyn Y. Stephens and my business address is 4950 West
4 Kennedy Blvd., Suite 310, Tampa, Florida, 33609.

5

6 Q. By whom are you presently employed and in what capacity?

7 A. I am employed by the Florida Public Service Commission as a Regulatory
8 Analyst IV in the Division of Regulatory Compliance and Consumer Assistance .

9

10 Q. How long have you been employed by the Commission?

11 A. I have been employed by the Florida Public Service Commission since January,
12 1977.

13

14 Q. Briefly review your educational and professional background.

15 A. In 1972, I received a Bachelor of Science degree from Florida State University
16 with a major in accounting. I am also a Certified Public Accountant licensed in the
17 State of Florida.

18

19 Q. Please describe your current responsibilities.

20 A. Currently, I am a Regulatory Analyst IV with the responsibilities of planning
21 and directing audits of regulated companies, and assisting in audits of affiliated
22 transactions. I am also responsible for creating audit work programs to meet a specific
23 audit purpose.

24

25 Q. Have you presented expert testimony before this Commission or any other

1 regulatory agency?

2 A. Yes. I testified in the Florida Cities Water Co., (South Fort Myers), transfer of
3 certificate, Docket No. 910447-SU, and the Fuel and Purchased Power cost recovery
4 clause proceedings, Docket No. 030001-EI.

5

6 Q. What is the purpose of your testimony today?

7 A. The purpose of my testimony is to sponsor the staff audit report of Progress
8 Energy Florida, Inc. (Company) in the docket to address the Company Petition for
9 approval of storm cost recovery clause for recovery of extraordinary expenditures
10 related to Hurricanes Charley, Frances, Jeanne, and Ivan, Docket Number 041272-EI;
11 Audit Control Number 04-343-2-1. This audit report is filed with my testimony and is
12 identified as JYS-1.

13

14 Q. Did you prepare or cause to be prepared under your supervision, direction, and
15 control this audit report?

16 A. Yes, I was the audit manager in charge of the audit.

17

18 Q. Please describe the work performed in this audit.

19 A. We summarized storm costs by storm and resource type and selected resource
20 categories for testing. We also performed an analysis of Payroll, Materials, Contract
21 Services, Miscellaneous Other, and Service Company charges. We also performed a
22 comparison of Total Other Operating and Total Maintenance expenses for actual to
23 budget, and year to date for the current year and prior year. We also performed
24 analytical review procedures to determine the areas and extent of testing.

25

1 Q. Please describe the specific findings in this audit.

2 A. This report includes five audit disclosures.

3 Audit Disclosure No. 1 addresses the Company estimate of capital
4 expenditures. We reviewed the monthly accrual to the storm damage account. The
5 accrual was separated by capital items and Operation and Maintenance (O&M) items.
6 However, the actual costs have all been recorded in one account. The Company was
7 unable to indicate which of the actual costs would be transferred to plant and which
8 would be transferred to O&M expenses. Therefore, our review was limited solely to
9 verifying the existence of the actual expenditures. I was not able to verify the
10 allocation of costs between O&M and capital items.

11

12 Audit Disclosure No. 2 addresses payroll. The Company provided a schedule
13 detailing payroll costs by storm and by resource type. Resource types segregate costs
14 by category of costs, i.e. materials, advertising, contract labor, company labor, etc. We
15 analyzed payroll costs by dividing payroll costs of \$42,382,567 into three categories:

- 16 • Costs less than \$0 (\$21,071,236)
- 17 • Costs \$0 through \$10,000 (\$45,948,733)
- 18 • Costs greater than \$10,000 (\$17,505,069)

19 Of those \$45,948,733 dollars in the category \$0- \$10,000, we tested judgmentally
20 selected items totaling \$3,914,682 or 9%. The purpose of this test was:

- 21 (1) to determine if costs in various employee classifications were sufficiently
22 documented between regular and overtime labor;
- 23 (2) if regular hours were being charged to overtime classification, and
24 (3) basis for overtime charges.

25 We selected items judgmentally based upon overtime charges being 200% or more

1 greater than base labor charges in various employee job classifications. We found:
2 1) The Company included base/regular labor costs in its storm damage estimate,
3 2) Numerous instances existed whereby exempt employees (those not subject to
4 overtime) received overtime pay, and
5 3) The Company could not provide a schedule that accurately segregated total hours
6 worked between regular and overtime charges.

7
8 Audit Disclosure No. 3 addresses removal labor costs. The Company isolated
9 dollars for Removal Labor Cost but did not include these dollars in the capital estimate
10 total. These costs total \$1,677,449. I recommend that an adjustment be made to
11 remove these costs from O&M and include them in the capital account.

12
13 Audit Disclosure No. 4 is our comparison of actual costs in 2004 with budgeted
14 costs as well as costs from the prior year. We performed two comparisons using Total
15 Other Operations (Operations) Expense. We compared:

- 16 (1) current month actual to current month budget, and
17 (2) current year-to-date actual to prior year-to date actual.

18 For the 11-month period (January – November 2004), the average month actual for
19 Other Operations was \$33,007,134. For the month of September 2004, Operations
20 Expense was \$19,388,401, or a 41% decrease when compared to the average monthly
21 expense for the 11-month period.

22 Budgeted Operation expenses for September 2004 were approximately
23 \$35,000,000. Actual charges for September represent approximately 56% of
24 September's budgeted expense. I am aware that the month of September 2004 was the
25 one month with the most damaging storm activity for the Company. However, I

1 | believe this raises a question whether the incremental costs charged to storm damage
2 | may be overstated.

3

4 | Audit Disclosure No. 5 addresses damage claims. Included in the Company's
5 | estimate of storm damage costs is a line item for damage claims. The damage claims
6 | are for accidental damages caused by actions of Company personnel or its contracted
7 | labor. Damage claims, by storm, are as follows:

8 | Charley \$270,000

9 | Frances 800,000

10 | Ivan 40,000

11 | Jeanne 400,000

12 | For Hurricane Frances, damage claims include an amount of \$500,000. This is
13 | a result of the Company energizing a line that was on top of a customer's home in
14 | Inglis, Florida. As a result of energizing the line, the house burned down. There is a
15 | possibility that the Company may have some liability from the fire. The house, not
16 | including contents, was valued at \$400,000. If it is determined that the fire was caused
17 | by negligence on the part of the Company's personnel or its contracted labor, the cost
18 | should be borne solely by the Company and its stockholders. Ratepayers should not be
19 | burdened with the Company's negligence. Therefore, we recommend this item be
20 | removed to "below the line," pending a determination of negligence.

21

22 | Q. Does this conclude your testimony?

23 | A. Yes, it does.

24

25

1 COMMISSIONER BAEZ: And I think that about does it
2 for testimony.

3 Are there any, any matters that the parties need to
4 bring before us before we start going into the housekeeping of
5 future dates and so on?

6 MS. CHRISTENSEN: I guess my comment relates to
7 future dates.

8 COMMISSIONER BAEZ: All right. Then let's, let's put
9 the future dates out there in terms of briefs and transcripts
10 and what not.

11 MS. BRUBAKER: Yeah. Briefs are currently due on
12 April 19th. Transcripts, I think, we've been doing daily.

13 COMMISSIONER BAEZ: They have been daily.

14 MS. BRUBAKER: And they, in fact, have been posted
15 already in part, I noticed this morning. Staff rec is due
16 June 2nd and the Agenda is June 14th.

17 COMMISSIONER BAEZ: June 14th is Agenda day for the
18 rec?

19 MS. BRUBAKER: I believe it's a special -- it may be
20 a Special Agenda.

21 COMMISSIONER BAEZ: Is it a Special Agenda?

22 MS. BRUBAKER: I'd have to look at the calendar to be
23 sure.

24 COMMISSIONER BAEZ: Okay. Thank you, Commissioner
25 Reason.

1 MS. BRUBAKER: No. I stand corrected.

2 COMMISSIONER BAEZ: It's a regular Agenda.

3 MS. BRUBAKER: June 14 is a regular Agenda.

4 COMMISSIONER BAEZ: It's a regular Agenda. And you
5 said that briefs are due on the 19th. And I'm assuming, Ms.
6 Christensen, that that's what you want to talk about.

7 MS. CHRISTENSEN: Correct, Commissioner. We would
8 ask for a brief extension of the time for filing briefs. Our
9 circumstances are that the one day before we start the FP&L
10 hearings, the week prior to that we are in service hearings for
11 FP&L, and that leaves us -- and there's a service hearing the
12 week before that for FP&L. We would just ask for that
13 additional time so that we would have some time to actually be
14 addressing the, the numerous issues in this case without having
15 to also prepare to go to trial in FP&L. And I don't believe
16 that brief extension would impact staff's recommendation time
17 frame.

18 COMMISSIONER BAEZ: What, what kind of brief
19 extension are we talking about?

20 MS. CHRISTENSEN: We would be asking for May 3rd, if
21 possible.

22 COMMISSIONER BAEZ: I'm sorry? May 3rd?

23 MS. CHRISTENSEN: May 3rd, which is a two-week
24 extension from the current date.

25 COMMISSIONER BAEZ: Well, let's, let's work with the

1 May 3rd date. Have you been able to assess what, what
2 complications arise?

3 MS. BRUBAKER: I think we have some concerns about
4 that length of extension. If we could get an agreement to
5 moving the Agenda date perhaps. But, otherwise, I think that's
6 simply going to run too much into the staff rec time.

7 COMMISSIONER BAEZ: See, all right, let's everybody
8 jump in.

9 COMMISSIONER DAVIDSON: Chairman, I was going to say
10 on this Agenda date I've got a concern because we're, I mean,
11 at some point we need to just get this decided. We're coming
12 up on hurricane season again.

13 COMMISSIONER BAEZ: I agree with you. I agree with
14 you. That's a concern of mine as well. I haven't been shy
15 about saying it.

16 But, but let's -- and, and I know that it's hard
17 because it's hard for me to try to stay in the moment, given,
18 given your comments, they really are a concern for me.

19 MS. CHRISTENSEN: And just, just kind of for your
20 information, there's also an Agenda the subsequent, the
21 following week, on the 21st. So if you left it with the
22 May 3rd, even if you had to move the Agenda, it would be a
23 week. You know, if the Commission is uncomfortable with that,
24 we could even take a shorter extension, but --

25 COMMISSIONER BAEZ: We're going to explore a shorter

1 extension in due course, I think, but let's let Mr. Walls chime
2 in at this point.

3 MR. WALLS: We have no objection to extending the
4 time to file a brief. You know, if they need a week, we'll
5 give them a week, whatever they need.

6 COMMISSIONER BAEZ: Well, it's not you that's going
7 to give them a week now.

8 MR. WALLS: I know.

9 COMMISSIONER BAEZ: Okay.

10 MR. WALLS: But we, we do object to moving the Agenda
11 date. It's very important for us to get this resolved before
12 the next hurricane season.

13 COMMISSIONER BAEZ: I understand. Staff, is a week
14 doable from your perspective?

15 MS. CHRISTENSEN: Well, if we couldn't do that, then
16 we would ask for then the 28th of April, which is slightly more
17 than a week. But since we have an FP&L hearing right at the
18 end of that week, that would give us some time to work on it.

19 COMMISSIONER BAEZ: Yeah. And I, and I realize, and
20 I don't know how much the rest of the parties are, are in that
21 kind of dilemma. I harken back to a comment that Commissioner
22 Deason said, you know, if they file two rate cases in a summer,
23 you know, we've just got to suck it up and do it, you know.
24 And I suspect there are a lot of people in this room that are
25 going to have to be sucking up.

1 COMMISSIONER DEASON: It's certainly not the first
2 time it's happened.

3 COMMISSIONER BAEZ: Mr. Twomey.

4 MR. TWOMEY: Yes, sir. I would just support Public
5 Counsel in its request for an extension. And I can't speak for
6 the other consumer representatives, but I think essentially all
7 or certainly most of us are in the same boat as Public Counsel.
8 And there are, of course, limits to sucking up how much you can
9 conduct in a given point. So to the extent that -- I mean,
10 we're in the rate hearing case, too.

11 COMMISSIONER BAEZ: And I'll be candid with you all.
12 I'm not interested in sinking anybody's boat, but some boats
13 are going to have to take on water. You get my point.

14 MS. BRUBAKER: I think we just continue to have some
15 concerns. We're looking at backtracking the filing
16 requirements between the Agenda and filing the rec. We still
17 have another week or week and a half, two weeks basically where
18 the rec is being circulated. That gives us about a month to
19 work on what is going to be a fairly extensive, complex
20 recommendation. Even, even --

21 COMMISSIONER BAEZ: I have no idea what you just
22 said. What's your point?

23 MS. BRUBAKER: I'm just concerned it's not going to
24 give us enough time essentially.

25 COMMISSIONER BAEZ: Even at a week extension?

1 Because I realize that two weeks really crunches, winds up
2 crunching you all.

3 MS. BRUBAKER: And that's without an extension of the
4 week with the Agenda?

5 COMMISSIONER BAEZ: I don't -- you know, if, if --
6 and, again, if we were democratic about it -- I think you've
7 got two votes on the bench right now not to move that date.
8 And I can't speak for --

9 COMMISSIONER DAVIDSON: I support, I support the
10 benevolent dictator here. I mean, I totally understand staff's
11 concerns, I understand the practitioners' concerns, I think
12 we've all been there. But we're talking, I mean, from now two
13 and half months and we're going to be on the eve of another
14 hurricane season.

15 COMMISSIONER BAEZ: I mean, understand, Ms. Brubaker,
16 the Commissioners have made policy decisions that we also have
17 a vested interest in. So unfortunately something's got to
18 give. And if we can work with extensions --

19 MS. BRUBAKER: Well, to the extent --

20 COMMISSIONER BAEZ: -- that don't involve moving
21 Agenda days for obvious reasons, then --

22 MS. BRUBAKER: Right. I certainly think the 28th is
23 too far out in my opinion. If we could do the 26th instead.

24 MR. TWOMEY: That's only a week; right?

25 MS. BRUBAKER: That's a week.

1 MS. CHRISTENSEN: That gives us two days beyond when
2 we get out of the FP&L hearing. And that's really the crunch
3 that we're suffering here. I know, I know that Commission
4 staff obviously has, needs time to write their recommendation,
5 and we have the same concerns as far as writing our briefs and
6 the multiple issues we need to present to the Commission. I
7 think we should be able to come up with some compromise. Maybe
8 the 27th is the compromise.

9 MS. BRUBAKER: And to be fair, Commissioner, also
10 some of the same staff working in this docket will be working
11 on the FPL docket. We're already going to be --

12 COMMISSIONER BAEZ: Ms. Christensen, I've got to tell
13 you, just the fact that we're discussing this is a compromise.
14 Okay? I want you to understand that. And I know how difficult
15 it is for, for, for everyone involved. All right? And I think
16 we're going to go -- we'll take the 26th and make that the
17 brief due date, and that way no other, no other dates have to
18 move as a result of that.

19 And, and I guess what I, what I would urge or the
20 necessary fallout of that is that your briefs are going to be
21 just that, and to the point and, and, and do your best to hit
22 the nail.

23 COMMISSIONER DAVIDSON: Well, and, Chairman, we've
24 got a number of people sort of on the consumer side here, and
25 it may be that just what happens in the real world can happen

1 here, is that folks can sort of take the lead on particular
2 issues. We don't need -- unless we need everyone briefing
3 every single issue. I mean, maybe there can be some sort of
4 joint filings on particular issues.

5 COMMISSIONER BAEZ: You know, that's actually -- and
6 it's really funny that it always winds up being Commissioner
7 Davidson that has this streamlining approach, but I think you
8 make a lot of sense. I don't know to what extent it's
9 applicable here, but, you know, there are several, there are
10 several consumer participants, and there has to be some
11 economies there as well. So April 26th is the date for briefs,
12 and no other dates are moving.

13 MR. MCGLOTHLIN: Well, that is some, that is a degree
14 of relief for what we are up against, and we appreciate the
15 consideration.

16 COMMISSIONER BAEZ: Believe me, if I, if I felt it in
17 my heart that I could do better, I would. Because I understand
18 the kind of crunches that everybody, all of you are in. But
19 going back to Commissioner Davidson's good comments, I think we
20 have just as much good reason not to be moving dates around too
21 much. Anyway, is there anything else that we need to take up?

22 MS. BRUBAKER: The only other thing is there are two
23 late-fileds outstanding, but both parties responsible for those
24 have indicated they would be done very shortly, so I don't know
25 that it's necessary to set a time necessarily for those.

1 COMMISSIONER BAEZ: I want to make -- no. And I
2 think we went on the record as to time. I know Mr. Wimberly
3 has one outstanding that I know of, and then Mr., Mr. Wright
4 had those, those --

5 MR. WRIGHT: I'll submit the requests for the
6 certified copies this afternoon, presumably have them on
7 Monday.

8 COMMISSIONER BAEZ: I, I have no reason to believe
9 that that won't be done, so we don't have to address that any
10 longer.

11 MR. WALLS: Mr. Chairman, I do have one question.

12 COMMISSIONER BAEZ: Yes, sir. I'm sorry. Yes.

13 MR. WALLS: I just wanted to make sure that the
14 Exhibit 51 came in, the deposition, which was the deposition of
15 Ms. Stephens.

16 COMMISSIONER BAEZ: I have it marked into evidence.
17 As a matter of fact, I have them all, which is probably a first
18 for me.

19 If there's nothing else, I want to thank you all for
20 all of your efforts. It was -- it's a very, you know, complex,
21 complex hearing, a complex case, and we really do appreciate
22 all your efforts and all the hard work. Have a good weekend,
23 everyone.

24 MR. McWHIRTER: Mr. Chairman, I'd like to say that
25 it'll take an extraordinary effort to meet those deadlines, but

1 we can do it, but we'll have a lot of makeup time after it's
2 done.

3 COMMISSIONER BAEZ: I've seen it done before,
4 Mr. McWhirter. Good afternoon, everyone.

5 (Hearing adjourned at 12:51 p.m.)
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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

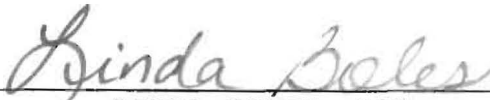
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I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 4th DAY OF APRIL, 2005.


LINDA BOLES, RPR
FPSC Official Commission Reporter
(850) 413-6734

(resigned) 4/7/11-ac