

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

PETITION FOR RATE INCREASE BY DOCKET NO. 050045-EI  
FLORIDA POWER & LIGHT COMPANY.

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2005 COMPREHENSIVE DEPRECIATION DOCKET NO. 050188-EI  
STUDY BY FLORIDA POWER & LIGHT  
COMPANY.

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VOLUME 1

Pages 1 through 40



PROCEEDINGS: HEARING  
BEFORE: CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER LISA POLAK EDGAR  
DATE: Monday, August 22, 2005  
TIME: Commenced at 9:55 a.m.  
PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida  
REPORTED BY: LINDA BOLES, RPR, CRR  
Official FPSC Hearings Reporter  
(850) 413-6734

## 1 APPEARANCES:

2 R. WADE LITCHFIELD, ESQUIRE, NATALIE F. SMITH,  
3 ESQUIRE, BRYAN S. ANDERSON, ESQUIRE, RICHARD A. DUROSE,  
4 ESQUIRE, and MITCHELL S. ROSS, ESQUIRE, Florida Power & Light  
5 Company, 700 Universe Boulevard, Juno Beach, Florida  
6 33408-0420; KENNETH A. HOFFMAN, ESQUIRE, Rutledge, Ecenia,  
7 Purnell & Hoffman, P.A., Post Office Box 511, Tallahassee,  
8 Florida 32302; SUSAN F. CLARK, ESQUIRE, Radey, Thomas, Yon &  
9 Clark, P.A., 301 South Bronough Street, Suite 200, Tallahassee,  
10 Florida 32301; JOHN T. BUTLER, ESQUIRE, Steel, Hector & Davis,  
11 LLP, 200 South Biscayne Boulevard, Suite 4000, Miami, Florida  
12 33131, appearing on behalf of Florida Power & Light Company.

13 CHARLIE CRIST, ATTORNEY GENERAL, CHRISTOPHER M.  
14 KISE, SOLICITOR GENERAL, and JACK SHREVE, SPECIAL COUNSEL,  
15 Office of the Attorney General, PL 101, The Capitol,  
16 Tallahassee, Florida 32399-1050, appearing on behalf of the  
17 State of Florida.

18 HAROLD MCLEAN, PUBLIC COUNSEL and CHARLIE BECK,  
19 DEPUTY PUBLIC COUNSEL, Office of Public Counsel, c/o The  
20 Florida Legislature, 111 West Madison St., Room 812,  
21 Tallahassee, Florida 32399-1400, appearing on behalf of the  
22 Citizens of the State of Florida.

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25

## 1 APPEARANCES (Continued):

2 ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA,  
3 III, ESQUIRE, Landers & Parsons Law Firm, Post Office Box 271,  
4 Tallahassee, Florida 32302, appearing on behalf of the Florida  
5 Retail Federation.

6 ALAN JENKINS, ESQUIRE, McKenna, Long & Aldridge, LLP,  
7 One Peachtree Center, 303 Peachtree Street, N.E., Suite 5300,  
8 Atlanta, Georgia 30308, appearing on behalf of the Commercial  
9 Group.

10 MAJOR CRAIG PAULSON, c/o AFCESA/ULT, 139 Barnes  
11 Drive, Tyndall Air Force Base, Florida 32403, appearing on  
12 behalf of Federal Executive Agencies.

13 KENNETH L. WISEMAN, ESQUIRE, MARK F. SUNDBACK,  
14 ESQUIRE, GEORGE E. HUMPHREY, ESQUIRE, GLORIA J. HALSTEAD,  
15 ESQUIRE and JENNIFER L. SPINA, ESQUIRE, Andrews & Kurth Law  
16 Firm, 701 Pennsylvania Avenue, N.W., Suite 300, Washington, DC  
17 20006, appearing on behalf of South Florida Hospital and  
18 Healthcare Association.

19 TIMOTHY J. PERRY, ESQUIRE, and JOHN W. McWHIRTER,  
20 McWhirter, Reeves Law Firm, 117 South Gadsden Street,  
21 Tallahassee, Florida 32301, appearing on behalf of Florida  
22 Industrial Power Users Group.

23 MIKE B. TWOMEY, ESQUIRE, AARP, Post Office Box 5256,  
24 Tallahassee, Florida 32314-5256, appearing on behalf of AARP.

25

1 APPEARANCES (Continued):

2 COCHRAN KEATING, ESQUIRE, JEREMY SUSAC, ESQUIRE, and  
3 MARLENE STERN, ESQUIRE, FPSC General Counsel's Office, 2540  
4 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,  
5 appearing on behalf of the Florida Public Service Commission  
6 staff.

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## E X H I B I T S

	NUMBER	ID.	ADMTD.
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2			
3	1	AJO-1	(REPORTER'S NOTE: All exhibits marked
4	2	LEG-1	and admitted into the record on Page 36.)
5	3	LEG-2	
6	4	LEG-3	
7	5	LEG-4	
8	6	LEG-5	
9	7	LEG-6	
10	8	LEG-7	
11	9	SLS-1	
12	10	SLS-2	
13	11	SLS-3	
14	12	SLS-4	
15	13	SLS-5	
16	14	SLS-6	
17	15	SLS-7	
18	16	SLS-8	
19	17	SLS-9	
20	18	MEB-1	
21	19	MEB-2	
22	20	MEB-3	
23	21	MEB-4	
24	22	MEB-5	
25	23	JHL-1	

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4	25	JHL-3	
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9	30	JHL-8	
10	31	JHL-9	
11	32	JHL-10	
12	33	JHL-11	
13	34	JHL-12	
14	35	JHL-13	
15	36	JHL-14	
16	37	JHL-15	
17	38	JHL-16	
18	39	JHL-17	
19	40	JHL-18	
20	41	JAS-1	
21	42	JAS-2	
22	43	JAS-3	
23	44	JAS-4	
24	45	JAS-5	
25	46	JAS-6	

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8	52 JAS-12		
9	53 WLY-1		
10	54 WLY-2		
11	55 WLY-3		
12	56 WLY-4		
13	57 WLY-5		
14	58 WLY-6		
15	59 WLY-7		
16	60 WLY-8		
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25	69 CMM-9		

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8	75	MMS-1	
9	76	MMS-2	
10	77	MMS-3	
11	78	MMS-4	
12	79	MMS-5	
13	80	RHE-1	
14	81	RHE-2	
15	82	RHE-3	
16	83	RHE-4	
17	84	RHE-5	
18	85	RHE-6	
19	86	RHE-7	
20	87	RHE-8	
21	88	RHE-9	
22	89	KMD-1	
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24	91	KMD-3	
25	92	KMD-4	



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9	99 SPH-2		
10	100 WEA-1		
11	101 WEA-2		
12	102 WEA-3		
13	103 WEA-4		
14	104 WEA-5		
15	105 WEA-6		
16	106 WEA-7		
17	107 WEA-8		
18	108 WEA-9		
19	109 WEA-10		
20	110 WEA-11		
21	111 WEA-12		
22	112 MPD-1		
23	113 RM-1		
24	114 RM-2		
25	115 RM-3		

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4	117 RM-5		
5	118 RM-6		
6	119 RM-7		
7	120 RM-8		
8	121 RM-9		
9	122 RM-10		
10	123 Donna DeRonne - Appendix 1		
11	124 DD-1		
12	125 David E. Dismukes - Attachment 1		
13	126 DED-1		
14	127 DED-2		
15	128 DED-3		
16	129 DED-4		
17	130 DED-5		
18	131 DED-6		
19	132 DED-7		
20	133 DED-8		
21	134 DED-9		
22	135 DED-10		
23	136 Kimberly H. Dismukes - Appendix 1		
24	137 KHD-1		
25	138 KHD-2		

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12	148 KHD-12		
13	149 KHD-13		
14	150 KHD-14		
15	151 KHD-15		
16	152 KHD-16		
17	153 Hugh Larkin, Jr. - Appendix 1		
18	154 HL-A		
19	155 HL-B-1		
20	156 MJM-1		
21	157 MJM-2		
22	158 MJM-3		
23	159 MJM-4		
24	160 MJM-5		
25	161 MJM-6		

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8	167 PWM-2		
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10	169 HWS-1		
11	170 HWS-2		
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13	172 HWS-4		
14	173 HWS-5		
15	174 HWS-6		
16	175 HWS-7		
17	176 HWS-8		
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23	182 JRW-6		
24	183 JRW-7		
25	184 JRW-8		

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9	191 SAS-5		
10	192 SAS-6		
11	193 JTS-1		
12	194 JTS-2		
13	195 JTS-3		
14	196 JTS-4		
15	197 JTS-5		
16	198 JTS-6		
17	199 JTS-7		
18	200 Teresa Civic and Jess P. Galura Attachment A		
19			
20	201 DWG-1		
21	202 DWG-2		
22	203 MIK-1		
23	204 MIK-2		
24	205 MIK-3		
25	206 MIK-4		

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3	207 MIK-5		
4	208 MIK-6		
5	209 MIK-7		
6	210 Matthew I. Kahal - Appendix A		
7	211 Sheree L. Brown - Appendix A		
8	212 SLB-1		
9	213 SLB-2		
10	214 SLB-3		
11	215 SLB-4		
12	216 SLB-5		
13	217 SLB-6		
14	218 SLB-7		
15	219 SLB-8		
16	220 SJB-1		
17	221 SJB-2		
18	222 SJB-3		
19	223 SJB-4		
20	224 SJB-5		
21	225 SJB-6		
22	226 SJB-7		
23	227 RAB-1		
24	228 RAB-2		
25	229 RAB-3		

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13	240 LK-6		
14	241 LK-7		
15	242 KLW-1		
16	243 KLW-2		
17	244 KLW-3		
18	245 CSV/RLF-1		
19	246 SWM-1		
20	247 LEG-8		
21	248 LEG-9		
22	249 LEG-10		
23	250 LEG-11		
24	251 SLS-10		
25	252 SLS-11		

## E X H I B I T S

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9	259 WLY-10		
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12	262 GJW-5		
13	263 MMS-6		
14	264 MMS-7		
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16	266 MMS-9		
17	267 KS-1		
18	268 NAS-1		
19	269 NAS-2		
20	270 NAS-3		
21	271 NAS-4		
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23	273 KMD-10		
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10	283 KMD-20		
11	284 SPH-3		
12	285 SPH-4		
13	286 WEA-13		
14	287 RM-11		
15	288 RM-12		
16	289 RM-13		
17	290 RM-14		
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19	292 RM-16		
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299 MJM-16		
300 MJM-17		
301 MJM-18		
302 MJM-19		
303 Staff Consolidated Exhibit 1		
304 Staff Consolidated Exhibit 2		
305 Staff Consolidated Exhibit 3		
306 Staff Consolidated Exhibit 4		

CERTIFICATE OF REPORTER	40
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## P R O C E E D I N G S

1  
2 CHAIRMAN BAEZ: Good morning everyone. Call this  
3 hearing to order.

4 Counsel, will you read the notice.

5 MR. KEATING: Pursuant to notice, this time and place  
6 have been set for a hearing in Docket Number 050045-EI,  
7 petition for rate increase by Florida Power & Light Company,  
8 and Docket Number 050188-EI, 2005 comprehensive depreciation  
9 study by Florida Power & Light Company.

10 CHAIRMAN BAEZ: Thank you, Mr. Keating. We'll take  
11 appearances starting on my left.

12 MR. LITCHFIELD: Thank you, Mr. Chairman. Wade  
13 Litchfield on behalf of Florida Power & Light Company. I would  
14 also like to enter appearances for Natalie Smith, Bryan  
15 Anderson, Richard Durose and Mitchell Ross also of Florida  
16 Power & Light Company; Susan Clark of the Radey, Thomas, Yon &  
17 Clark firm; John Butler of the Steel, Hector, Davis firm; and  
18 Ken Hoffman of the Rutledge, Ecenia, Purnell & Hoffman firm,  
19 all with addresses as set forth in the prehearing order.

20 CHAIRMAN BAEZ: Thank you, Mr. Litchfield.

21 MR. KISE: Good morning, Mr. Chairman. Christopher  
22 Kise, Solicitor General on behalf of Attorney General Charlie  
23 Crist.

24 ATTORNEY GENERAL CRIST: Charlie Crist, Attorney  
25 General of Florida.

1           MR. SHREVE: Jack Shreve on behalf of the Attorney  
2 General of Florida.

3           MR. McLEAN: Harold McLean, Office of Public Counsel.

4           MR. WRIGHT: Robert Scheffel Wright and John T.  
5 Lavia, III, Landers & Parsons, 310 West College Avenue,  
6 Tallahassee, appearing on behalf of the Florida Retail  
7 Federation.

8           MR. JENKINS: Alan Jenkins for the Commercial Group,  
9 McKenna, Long & Aldridge, 303 Peachtree Street, Atlanta,  
10 Georgia.

11           MAJOR PAULSON: Major Craig Paulson for the Federal  
12 Executive Agencies, 139 Barnes Drive, Tyndall Air Force Base,  
13 Florida.

14           MR. WISEMAN: Kenneth Wiseman of Andrews, Kurth for  
15 the South Florida Hospital and Healthcare Association, and also  
16 appearing with me are George E. Humphrey, Mark Sundback, Gloria  
17 Halstead and Jennifer Spina. All of the entries occur at the  
18 addresses set forth in the prehearing order. Thank you.

19           MR. PERRY: Timothy J. Perry and John W. McWhirter of  
20 the McWhirter, Reeves Law Firm at the address set forth in the  
21 prehearing order. We represent the Florida Industrial Power  
22 Users Group.

23           MR. TWOMEY: Mike Twomey appearing on behalf of AARP  
24 at the address indicated on the prehearing order.

25           MR. KEATING: And Cochran Keating appearing on behalf

1 of the Commission staff, and also making an appearance for  
2 Jeremy Susac and Marlene Stern.

3 MR. McLEAN: Mr. Chairman, Harold McLean, Public  
4 Counsel. I neglected to mention Deputy Public Counsel Charlie  
5 Beck is also with us this morning.

6 CHAIRMAN BAEZ: Thank you, Mr. McLean.

7 Mr. Keating, we've got preliminary matters.

8 MR. KEATING: We do have a new preliminary matter  
9 this morning. We have a stipulation and settlement that was  
10 filed this morning, and I believe it's been signed by or agreed  
11 to by all the parties at this time.

12 There are a few petitions, motions that are  
13 outstanding at the time that I believe -- at this time that I  
14 believe are probably rendered moot by the settlement. Those  
15 would include the petition to intervene by Common Cause and the  
16 motion to consolidate this proceeding with a joint petition for  
17 rate decrease that had been filed in a separate docket.

18 CHAIRMAN BAEZ: As to the motion to intervene, we can  
19 show it rendered moot. What I would like to -- Mr. McLean, you  
20 filed the petition for consolidation.

21 MR. McLEAN: Yes, sir, we did.

22 CHAIRMAN BAEZ: And it is -- just clarify for me that  
23 in your mind that docket essentially goes away --

24 MR. McLEAN: Yes, sir.

25 CHAIRMAN BAEZ: -- by the terms of the stipulation.

1 MR. McLEAN: Yes, sir, I believe it does.

2 CHAIRMAN BAEZ: Very well. Show, show those two  
3 pending matters rendered moot.

4 Mr. Keating, anything else before we can take some  
5 statements and present the stipulation to the Commissioners?

6 MR. KEATING: I think that covers any of the  
7 preliminary matters that I'm aware of.

8 CHAIRMAN BAEZ: All right. And we will deal with  
9 record matters after. At this point who, who wants to --  
10 General Crist, are you going to present? Go ahead, sir.

11 ATTORNEY GENERAL CRIST: Thank you, Mr. Chairman and  
12 members of the Public Service Commission. I want to, I want to  
13 first thank Harold McLean, the Office of Public Counsel, Mike  
14 Twomey with AARP, Schef Wright with the Florida Retail  
15 Federation, John McWhirter with the Florida Industrial Power  
16 Users. I also want to especially thank Jack Shreve and  
17 Chris Kise of the Attorney General's Office for very hard work,  
18 and I want to thank Bill Walker with Florida Power & Light.

19 We are pleased to announce a settlement reached this  
20 morning, Mr. Chairman. Florida Power & Light was seeking a  
21 \$430 million annual rate increase. This agreement eliminates  
22 that \$430 million annual increase for the people of Florida.  
23 In addition, the agreement also keeps in place a \$600 million  
24 rate decrease and revenue sharing plan in place that has  
25 already provided \$225 million in revenues to the consumers.

1 Florida Power & Light customers will also receive the benefit  
2 of two new power plants in Martin and Manatee County without  
3 increasing basic, basic rates. This is good news for the  
4 consumers and for Florida businesses. We are very pleased to  
5 be able to present this to you, Mr. Chairman.

6 CHAIRMAN BAEZ: Thank you, General Crist.

7 Mr. McLean, we'll go, we'll go down the line of  
8 Intervenors and have everybody make a statement.

9 MR. McLEAN: Thank you, sir, and good morning. And I  
10 can say on this occasion that it is genuinely a pleasure to  
11 appear before you. It has not always been thus.

12 I'll be very brief, and I want to be to the point and  
13 please forgive me for being a little unusually to the point.  
14 Without the intervention of Attorney General Charlie Crist  
15 there would not have been a settlement. It's just that simple.  
16 Without the brilliant negotiating and organizational skills of  
17 Solicitor General Chris Kise there would have been no  
18 settlement. Senior Assistant Attorney General and Public  
19 Counsel Emeritus Jack Shreve brought regulatory wisdom and  
20 semi-calm guidance to the negotiating process. Without Jack,  
21 no settlement. Thanks to the Florida Legislature -- thanks to  
22 the Florida Legislature, our point man, Charlie Beck, had staff  
23 and resources to present a quality case to the Commission, and  
24 that quality case was the strength upon which all Intervenors  
25 relied ultimately. Without the Florida Legislature, no

1 settlement.

2           Commissioners, there's strength in number and in  
3 expertise. Without the strength of the AARP, the Florida  
4 Industrial Power Users Group, the Florida Retail Federation and  
5 the several other Intervenors, no settlement.

6           Finally, Commissioners, without the good faith,  
7 reasonable and thoughtful positions taken by the Florida  
8 Power & Light negotiating team headed by my friend Bill Walker  
9 there would have been no settlement. On behalf of the citizens  
10 of the state of Florida, I thank our fellow Intervenors,  
11 especially Charlie Crist, for entering the case, I thank the  
12 Florida Legislature for ensuring strength on our side of the  
13 table, and I thank Florida Power & Light for being worthy but  
14 reasonable, flexible and honorable adversaries.

15           Finally, Commissioners, when it comes time, on behalf  
16 of the citizens of the state of Florida I will urge you to find  
17 today's settlement serves the public interest. Thanks.

18           CHAIRMAN BAEZ: Thank you, Mr. McLean.

19           Mr. Wright.

20           MR. WRIGHT: Thank you, Mr. Chairman, Commissioners.  
21 Good morning, and, as Mr. McLean said, it is a good morning. I  
22 would like to start by thanking Attorney General Crist for  
23 entering the case, and likewise thanking Solicitor General  
24 Chris Kise and Public Counsel Emeritus, Special Attorney  
25 General Jack Shreve for all their hard work and participation



1 in these settlement negotiations.

2 I also want to thank Harold McLean, Charlie Beck,  
3 Tricia Merchant, Earl Poucher and everybody else at the Public  
4 Counsel who put together their very, very strong case, without  
5 which this settlement would not have come about.

6 I want to thank the other Intervenors for  
7 participating here: Mike Twomey, representing the AARP, and  
8 thanks very much to the AARP for supporting this effort to hold  
9 the line on electric rates; all the other consumers' attorneys,  
10 John McWhirter and Tim Perry of FIPUG, Ken Wiseman representing  
11 the hospitals, Alan Jenkins representing the Commercial Group;  
12 and also, as Harold put it, our worthy and flexible  
13 adversaries, Wade, Natalie and everybody else at FPL, for  
14 helping us get there; and also thanks to the Federal Executive  
15 Agencies represented by Major Paulson.

16 This is a good settlement. It balances the interests  
17 of consumers and the company, particularly in light of the  
18 current state of world energy markets and particularly in light  
19 of the other rate increases that we are presently facing.

20 Again, I want to thank everybody who worked hard and  
21 long hours to make this settlement happen. I thank the Retail  
22 Federation for letting me participate. And, like Public  
23 Counsel McLean, I too will urge you to approve this settlement.  
24 Thank you.

25 CHAIRMAN BAEZ: Mr. Jenkins.

1 MR. JENKINS: Thank you. Let me see if we can do  
2 this. It's kind of tough being tall sometimes.

3 CHAIRMAN BAEZ: I think Mr. Wright was giving you his  
4 seat, so if you want to --

5 MR. JENKINS: Good. Alan Jenkins, the Commercial  
6 Group composed of BJ's, Lowe's, Wal-Mart and J.C. Penney. We  
7 just echo the comments that have been received and stress the  
8 importance of rate stability for our companies to plan on and  
9 also for the power company as well to plan on, and we think  
10 this is a good settlement for everyone in Florida. Thank you.

11 CHAIRMAN BAEZ: Major Paulson.

12 MAJOR PAULSON: Thank you, Mr. Commissioner. The  
13 Federal Executive Agencies support the settlement. We endorse  
14 the comments of the Attorney General and the other Intervenors  
15 you've heard from. The largest federal clients are Kennedy  
16 Space Center, Patrick Air Force Base and Cape Canaveral Air  
17 Force Station, and this settlement will allow them to plan  
18 their budgets accordingly and with confidence in what their  
19 future costs would be, and we very strongly encourage you to  
20 approve the settlement.

21 CHAIRMAN BAEZ: Thank you, sir.

22 Mr. Wiseman.

23 MR. WISEMAN: Thank you, Mr. Chairman. Good morning,  
24 Commissioners. Kenneth Wiseman for the South Florida Hospital  
25 Healthcare Association. We too would like to thank the Office

1 of the Attorney General in particular for all the assistance  
2 that they provided in getting to this result. We think it's a  
3 good result. I, I would go through the names of all the  
4 individuals, but I think that's been done already. But I want  
5 to express our thought, our thanks as well to all the  
6 Intervenors in the case and FP&L as well.

7 We think this is a good compromise for all the  
8 parties, as the Attorney General pointed out, we think it's  
9 good for the citizens of Florida and for the businesses of  
10 Florida. And so we support the settlement as well and hope  
11 that you will approve it. Thank you.

12 CHAIRMAN BAEZ: Mr. Perry.

13 MR. PERRY: Thank you, Mr. Chairman, Commissioners.  
14 Likewise, FIPUG would echo the statements made by the Attorney  
15 General, the Public Counsel, Mr. Wright and Mr. Paulson, as  
16 well as Mr. Wiseman. We'd like to thank both parties,  
17 Intervenors and the company, for coming together and working  
18 hard to negotiate a settlement, and we would urge you to  
19 approve that settlement. Thank you.

20 CHAIRMAN BAEZ: Mr. Twomey.

21 MR. TWOMEY: Mr. Chairman, Commissioners, good  
22 morning. Mike Twomey for AARP. I want to echo or basically  
23 adopt all the previous statements, and I'll be brief.

24 In my view, the settlement wouldn't have been  
25 possible without the groundwork laid by all the parties to this

1 case on the consumer side, but especially the Office of Public  
2 Counsel and Deputy Public Counsel Charlie Beck, who prepared a  
3 very strong case to bring this case to litigation and set the  
4 foundation for settlement talks.

5           As stated before though, I join the notion that a  
6 settlement would not have been possible without the  
7 intervention in this case of Attorney General Charlie Crist.  
8 The prestige of his office made the negotiations possible, I  
9 think. And, furthermore, as mentioned by Mr. McLean, Solicitor  
10 General Kise did a masterful job in the negotiations, with the  
11 able assistance of, of Jack Shreve. I can't overstate the  
12 importance of their work in bringing these negotiations to a  
13 fruitful outcome. And, again, on behalf of AARP I want to  
14 thank the Attorney General and all of his personnel.

15           Lastly, as mentioned by some of the others, the  
16 utility was gracious, accommodating, they negotiated in good  
17 faith, in an excellent manner, and AARP believes this  
18 settlement is an excellent one both for the utility, especially  
19 for its customers in the state of Florida, and we would urge  
20 your acceptance of it. Thank you.

21           CHAIRMAN BAEZ: Thank you, Mr. Twomey.

22           Mr. Keating, I'm going to look to you at this point.  
23 We do have a stipulation before us -- well, first of all, let  
24 me, let me ask the Commissioners, do you all have thoughts or  
25 comments at this point that you'd like -- because we're going,

1 we're going to discuss -- after we, we take the, the exhibits  
2 or whatever needs to be admitted into the record at this point,  
3 we're going to take up what our next steps are going to be.  
4 But if you have any thoughts or comments at this point, please  
5 feel free.

6 COMMISSIONER BRADLEY: Well, are you asking for  
7 comments as it relates to the settlement itself or comments  
8 about procedural matters?

9 CHAIRMAN BAEZ: Well, comments generally,  
10 Commissioner. I don't think we're in a posture to vote on the  
11 petition, certainly not at this point -- on the stipulation,  
12 certainly not at this point. Maybe we can have a chance to  
13 discuss that after. I was just merely extending the -- oh,  
14 Mr. Litchfield has been skipped over. My apologies, sir. So  
15 many -- you know, when I start off with the left, I know  
16 Mr. Twomey always bats cleanup, so it's very easy to forget.

17 MR. LITCHFIELD: Fair enough. And I think it's, I  
18 think it's fair of you to assume that if we're here with a  
19 settlement, that Florida Power & Light Company also endorses  
20 that, and indeed we do. We have signed on to a document that  
21 we think fairly balances the many and often competing interests  
22 that are seated at this table. We, too, would extend our  
23 appreciation to the leadership offered by the Attorney  
24 General's Office and the Office of Public Counsel and really  
25 all of the representatives here of the various organizations

1 that have participated in this docket.

2           We, we certainly recognized over the last two or  
3 three days a very serious and demonstrative commitment on the  
4 part of these parties to work towards a settlement, and I think  
5 that clearly enabled us to get there. I think another thing  
6 that clearly enabled us to get there was having had a framework  
7 within which we have been working over the last several years  
8 of really incentive-based regulation that have been approved in  
9 the past by this Commission. So with that framework it made it  
10 very easy for us to move into a settlement agreement that I  
11 think fairly captured and balanced the interests here. So with  
12 that, I would ask that you adopt the settlement.

13           CHAIRMAN BAEZ: Thank you, Mr. Litchfield.

14           Commissioner Bradley, you were about to say  
15 something.

16           COMMISSIONER BRADLEY: Well, preliminarily I'd like  
17 to, I would like to take this opportunity to thank the, the  
18 many parties who have been involved in these very serious and  
19 ongoing negotiations. You know, I think that what they've done  
20 is our job for us. They've done what's best for the great  
21 state of Florida. And I think that they, in my opinion, have  
22 arrived at the same conclusion that this Commission would have  
23 arrived at if we had deliberated this process throughout its  
24 entire term. So I want to again, just again thank the many  
25 parties for doing my job for me. You've arrived, in my

1 opinion, at a good settlement again for all of the stakeholders  
2 here in the state of Florida. So thank you again.

3 CHAIRMAN BAEZ: Commissioner Deason.

4 COMMISSIONER DEASON: Thank you, Mr. Chairman. First  
5 of all, I want to congratulate all the parties for what I know  
6 was very long, hard hours that must have gone into reaching a  
7 settlement. And having participated to some degree on the  
8 other side under Mr. Shreve's tutelage when I was in a former  
9 life, I know the process that goes in before a settlement can  
10 be reached. And I have an appreciation for the fact that with  
11 all of the various Intervenors that we've had there's been  
12 unanimity, that that speaks volumes towards the validity of the  
13 settlement.

14 However, having said that, obviously this, this  
15 Commission has the responsibility to, to make the final review  
16 of that to ensure that it is in the public interest, even  
17 though at this point I don't doubt it, but I think we have a  
18 responsibility to ensure that. And then, second of all, maybe  
19 perhaps even more importantly is to make sure that there are no  
20 ambiguities in the settlement. And I say that not because I  
21 think there was any attempt on anybody's part to place  
22 ambiguities, I think that the -- and having reviewed the  
23 stipulation and settlement briefly this morning, it seems to be  
24 very thorough and understandable. But, nevertheless, I believe  
25 we need an opportunity for our staff and ourselves to review it

1 because we're going to have to administer this stipulation if  
2 it is indeed approved for a number of years, and we need to  
3 ensure that there is as clear an understanding of it as  
4 possible. By doing so it may prevent further question if some  
5 event arises in the future as to exactly how the stipulation is  
6 to be interpreted. So I look forward to the opportunity for  
7 our staff to review that and then for this Commission to review  
8 that. And I would think that we want to do that as quickly as  
9 possible, but at the same time give ample time for a thorough  
10 review.

11 CHAIRMAN BAEZ: Thank you, Commissioner Deason.

12 Commissioner Edgar.

13 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

14 I would also like to thank all of the parties for the  
15 long hours that I know you've been putting in over the past  
16 months, weeks, and especially what must have been a very, very  
17 long weekend. Thank you. And thank you also for bringing the  
18 different perspectives that each of you have to the table for  
19 these discussions. I'm looking forward to having a little more  
20 time to read and understand the details so that I also am  
21 comfortable on a go-forward basis. Thank you.

22 CHAIRMAN BAEZ: Thank you, Commissioner Edgar.

23 Ladies and gentlemen, if you haven't had a chance,  
24 for those of you who have never been to a Public Service  
25 Commission hearing before, I would call your attention to



1 the -- well, let's point at that one, the stack of papers right  
2 by the court reporter there. That constitutes on balance, I  
3 think, some exhibits that would ordinarily and will be later on  
4 accepted into the record and they will form the part -- would  
5 have formed the basis for our decision. My point to you is  
6 this: Be assured that there is a stack perhaps 30 times that  
7 at several places in Tallahassee. Just as a measure of  
8 appreciation for all the hard work, all the paperwork, all the  
9 discovery involved in a case such as this, it's, it's almost  
10 the simplest of things to present what, what amounts to perhaps  
11 a dozen pages or so. But never let it be lost the, the amount  
12 of work that goes into reducing a stack of paper 30 times that  
13 high into a document only, only this high. There's a lot that  
14 goes into it. And I think that the fact that so many  
15 distinguished people are here certainly in support of this  
16 settlement and stipulation is a testament to a whole lot of  
17 hard work on behalf of the people of the state of Florida.

18           Having said that -- and I, too, will join in thanking  
19 all the parties for their hard work. Having said that, my  
20 colleague, Commissioner Deason, and the rest of the  
21 Commissioners have pointed up a very important fact. At this  
22 point the stipulation and settlement has one more step to go,  
23 and as Commissioners, as a Commission and as an agency as well  
24 we would be remiss if we did not take this at this point under  
25 consideration, recognizing fully obviously the weight of the,

1 of the support that is behind it.

2           Commissioners, if there are no objections, what I  
3 would suggest in order to allow the staff to have ample time  
4 to, to at least delve into whatever questions they may have or  
5 develop whatever questions they may have and for us as well to  
6 have an adequate time to clarify whatever concerns we may have  
7 at the outset, I would propose that we at some point later on  
8 this morning recess and reconvene for, for consideration of the  
9 stipulation and settlement at 1:30 on Wednesday, if there are  
10 no objections from any of you or any questions of the parties  
11 on that count. Seeing none, we are, I think, a step away. And  
12 I don't know what, what you would rather do, Mr. Keating, what  
13 your suggestion would be, to take up the record issues here or,  
14 or at least, or postpone them until we reconvene. I don't know  
15 if there's a better way to do it.

16           MR. KEATING: With the stipulation and settlement we  
17 can go one of two ways. We could admit the prefiled testimony  
18 and exhibits into the record. At this point we could wait  
19 until Wednesday. Another option -- although I've gotten the  
20 indication that the parties would not object to moving those  
21 prefiled testimonies and exhibits into the record.

22           CHAIRMAN BAEZ: And let's just -- let me just confirm  
23 at least by, by a nod of heads that that, in fact, is the case.  
24 There is no objection to moving the prefiled testimony and  
25 exhibits into the record? And if there are no objections, show

1 the record accepting those prefiled testimony exhibits provided  
2 by all the parties.

3 Is there anything else outstanding? I guess we have  
4 stipulated exhibits as well that we need to --

5 MR. KEATING: Yeah. I would ask -- and given that  
6 the stipulation settlement was just provided this morning, we  
7 haven't given it a whole lot of thought. The documents you see  
8 on the tables are the staff proposed exhibits to stipulate into  
9 the record that we would have proposed had the hearing gone  
10 forward with the prefiled testimony and exhibits being moved  
11 into the record. I think if there's no objection from the  
12 parties, staff would still propose that these be stipulated  
13 into the record.

14 CHAIRMAN BAEZ: Is there any objection to having  
15 staff stipulated exhibits accepted into the record?

16 Can you walk us through that briefly? I mean, I  
17 don't know if there are -- if we have to do it individually or  
18 we can just take them as proposed by the staff.

19 MR. KEATING: Well, for purposes of clarification on  
20 the record, maybe we would want to go back to the prefiled  
21 exhibits. And I don't know if, I don't know if those need to  
22 be numbered or not. One easy way to do that would be to simply  
23 indicate that they would be numbered sequentially in the order  
24 that they're presented in the prehearing order beginning at  
25 Page 149.

1           CHAIRMAN BAEZ: We'll let the record show that the  
2 prefiled exhibits accompanying the testimony that was prefiled  
3 will be numbered sequentially in order as, as set forth in the  
4 prehearing order.

5           MR. KEATING: And because that's more exhibits than I  
6 can count in under a minute, I would just ask that the staff  
7 proposed consolidated exhibits, I believe there are four of  
8 them, would be numbered sequentially following the last number  
9 given to the prefiled exhibits.

10           CHAIRMAN BAEZ: Let the record so reflect that staff  
11 proposed stipulated exhibits four in total be numbered  
12 sequentially thereafter.

13           Are we done with that?

14           (Exhibits 1 through 306 marked for identification and  
15 admitted into the record.)

16           MR. SHREVE: Mr. Chairman.

17           CHAIRMAN BAEZ: Mr. Shreve.

18           MR. SHREVE: Mr. Chairman, I'd just like to take this  
19 opportunity to say that, one thing, we think it's really good  
20 that you're going to review that, and there have always been  
21 things in that review that we've been able to clear up, and I  
22 think that's great that we take that opportunity.

23           I'd also like to say that as many of these cases as  
24 we've been involved in and stipulations we've had, I don't  
25 think we have ever had almost every segment of the population

1 represented as well as we have here. We have three people  
2 coming in from out of town, Major Paulson, David Brown, Ken  
3 Wiseman, representing every aspect of the community that makes  
4 up Florida Power & Light's constituents. The case that was put  
5 on by Harold McLean and Charlie Beck couldn't have been better  
6 and, as someone mentioned, laid the basis for everything. I  
7 will say that everybody's mood is a lot better now than it was  
8 at 1:00 this morning. And I'm very -- I can't tell you just  
9 how much leadership was furnished by Chris Kise and his  
10 negotiating techniques, and this really was good the way it was  
11 all handled. And I would also like to thank the Attorney  
12 General for the opportunity to really provide what I think is a  
13 service in this settlement to the people of the state of  
14 Florida and thank everybody for their cooperation. It's really  
15 good.

16           CHAIRMAN BAEZ: Well put, Mr. Shreve. I don't think  
17 there's anything more to say. The, the sheer number of  
18 Intervenors obviously proposed a daunting task. We had quite a  
19 time at the prehearing conference, so, so many different  
20 aspects. I'm sure we can all harken back to that day.

21           I would also be remiss if I didn't point out the hard  
22 work of the Commission staff as well up to this point. It all  
23 begins and ends with them in their capacity to, to, to accept  
24 and to process things in the manner in which they do. So kudos  
25 to them as well.

1 At this point, Mr. Keating --

2 MR. KEATING: I just wanted to get one point of  
3 clarification. The recommendation from staff to be provided  
4 Wednesday afternoon, I just wanted to make sure that an oral  
5 recommendation would be acceptable.

6 CHAIRMAN BAEZ: Well, as I had pointed out in  
7 previous conversations, I certainly can't type that fast. I  
8 wouldn't expect you too as well. It, it is, in fact --  
9 Commissioners, unless you have, unless you have any objections,  
10 we would entertain an oral recommendation on behalf -- from,  
11 from staff. Mr. Shreve?

12 MR. SHREVE: I just wanted to mention one group that  
13 this could not have been possible without, and that's Bill  
14 Walker and really Bill Feaster. They worked tirelessly during  
15 this period of time to get it. And, once again, I'd just like  
16 to emphasize the leadership of the Attorney General in  
17 producing this great product for the people of the state of  
18 Florida.

19 CHAIRMAN BAEZ: Thank you, Mr. Shreve.

20 Ladies and gentlemen, at this point the Commission  
21 will accept the presentation of the stipulation, we will take  
22 it under consideration. Ladies and gentlemen and parties, we  
23 will recess the hearing at this point, and we will reconvene on  
24 Wednesday -- what day would that be?

25 MR. KEATING: August 24th.

1 CHAIRMAN BAEZ: The 24th, August 24th at 1:30 p.m.  
2 Thank you very -- thank you all.

3 COMMISSIONER BRADLEY: Now, Mr. Chairman, before we  
4 adjourn though, at that time certain exactly what are we going  
5 to do?

6 CHAIRMAN BAEZ: Well, I think I would expect staff to  
7 have an oral recommendation, Commissioners will be open to  
8 questions and we'll have clarifying answers from the parties as  
9 well.

10 COMMISSIONER BRADLEY: Thank you.

11 CHAIRMAN BAEZ: Thank you. We're in recess.

12 (Recess taken at 10:25 a.m.)

13 (Transcript continues in sequence with Volume 2.)

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1 STATE OF FLORIDA )  
2 COUNTY OF LEON )

CERTIFICATE OF REPORTER

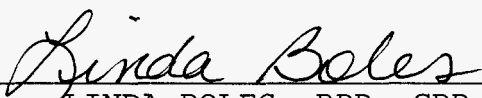
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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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 23RD DAY OF AUGUST, 2005.

  
LINDA BOLES, RPR, CRR  
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