

ORIGINAL

IN RE: REQUIREMENT FOR INVESTOR-OWNED  
ELECTRIC UTILITIES TO FILE ONGOING  
STORM PREPAREDNESS PLANS AND  
IMPLEMENTATION COST ESTIMATES.

\_\_\_\_\_ /

OFFICE OF THE CITY ATTORNEY  
776 Northeast 125<sup>th</sup> Street  
Miami, Florida 33161  
Tuesday, November 7, 2006  
2:35 p.m.

SWORN STATEMENT OF: TERRY LYTTLE

Taken before Linda Jackson Roundtree, Notary Public for the State of Florida at  
Large, pursuant to Notice filed in the above-styled cause.

LINDA JACKSON ROUNDTREE COURT REPORTING

DOCUMENT NUMBER-DATE

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APPEARANCES:

V. LYNN WHITFIELD, ESQ.  
CITY ATTORNEY  
776 Northeast 125<sup>th</sup> Street  
North Miami, FL 33161  
On behalf of the City of North Miami.

I N D E X

Witness

Page

TERRY LYTLE

Direct Examination by Ms. Whitfield

3

1 Thereupon:

2

TERRY LYTLE

3 was called as a witness and, after having been first duly sworn, was examined and testified on  
4 his oath as follows:

5

DIRECT EXAMINATION

6 BY MS. WHITFIELD:

7 Q State your name, please.

8 A Terry Lytle.

9 Q Ad what is your professional address?

10 A 810 Northeast 125<sup>th</sup> Street.

11 Q How are you employed?

12 A I'm the Director for Parks and Recreation for the  
13 City of North Miami.

14 Q How long have you been employed in that position?

15 A Three or four months.

16 Q Okay. And prior to that, were you employed with the  
17 City of North Miami?

18 A Yes, I was. I was.

19 Q And How many years have you been employed with the  
20 City?

21 A Fifteen years this month.

22 Q Okay. And in what positions, basically, have you,  
23 just briefly, gone through?

24 A Basically in the agricultural side, tree care,  
25 landscaping and landscape design, maintenance and so on.

LINDA JACKSON ROUNDTREE COURT REPORTING

1 Q Tell us about your educational background.

2 A I don't have a college degree. I, of course,  
3 completed high school, four years of military service, and I've  
4 worked in the agricultural field owning a -- having a partner  
5 and owning a nursery for a number of years, landscaping business, tree maintenance and so on.

6 Q And you supplied me with a document that indicates  
7 that you are a certified -- how do you say -- arborist?

8 A Arborist.

9 Q And what is that, please?

10 A You have to pass minimum educational tests on tree  
11 care through the International Society of Arboriculture, which  
12 is an international organization that sets a standard on whether  
13 you know what you are talking about on trees or not.

14 You have to pass an exam and you have to keep that  
15 current with continuing education units, and then re-certify  
16 every four or five years.

17 Q And when did you first become certified?

18 A Approximately eight years ago.

19 Q And have you gone through the re-certification, too.

20 A Yes, I have.

21 Q And does that require testing, or do you have to have  
22 certain continuing legal -- continuing education courses?

23 A You have to have the CEU's in order to qualify to  
24 take the re-examination.

25 Q And the CEU's are the certified education units?

1           A     That's correct.

2           Q     Now, as the Director of Parks and Recreation, do any  
3 of your duties include overseeing maintenance of any trees in  
4 the City of north Miami?

5           A     The City Parks and Recreation Department is  
6 responsible for taking care of all of the swale trees in the  
7 right-of-ways and the park tree, City property.

8           Q     Primarily what type of trees are found in this area?

9           A     The majority are black olive. And there are  
10 approximately 20 or 30 other species of significance. Primarily  
11 in North Miami, it's black olives.

12          Q     Black olives, are those fast-growing, slow-growing  
13 trees?

14          A     It's a fast-growing, hardwood tree.

15          Q     Can you explain that for me, and those of us who  
16 didn't take the courses, what that means?

17          A     The wood is a hard tree. It roots fairly securely.  
18 It is fairly quickly growing, not like some of the other species  
19 you wait a lot longer to get a full canopy. They have a lot of  
20 drawbacks if a lot are planted, not native.

21          Q     When you say a canopy tree, are those the trees you  
22 see grow up and the branches come over so that they provide a  
23 covering, you see the nicely tree-lined streets?

24          A     Exactly. The canopy is the leaf portion or the  
25 foliage portion of the tree that shades itself, circular, it

1 gives X number of shade on the ground.

2 Q Where the black olives, like palm trees, pretty much  
3 go straight up in the air and the leaves only come out so far, the canopy is different?

4 A Yeah, a palm tree doesn't provide the shade quotient  
5 a tree does.

6 Q Are palm trees fast-growing trees?

7 A Some are, some aren't. Palm tree is not a tree.  
8 There is a difference between trees and palms, monocots and  
9 dicots, two different sets of species that are cultivores.

10 A tree feeds through what they call a cambium, which  
11 is the bark, and they grow out.

12 If you nick a tree, if you cut it, if a car hits it,  
13 it will compartmentalize the damage. It won't heal like a human, but will scar over and try to  
14 prevent decay. A palm tree  
15 won't callus over.

16 Q The trees that North Miami has a lot of, the black  
17 olives in the City of North Miami; right?

18 A The City has black olives, and there's a number of  
19 them throughout Dade County.

20 Q And that would include the private residences also  
21 having black olive trees in them?

22 A There's a lot of black olives in residences, depends  
23 on the area you go within Dade County or what species is  
24 prevalent.

25 Q In order to keep a fast-growing, such as a black

1 olive tree properly maintained, how often is a person required  
2 to prune or trim that tree?

3 A We try to trim the -- The City tries to trim the trees  
4 on less than a three-year cycle.

5 Q When you say, "Less than," is it a year, a year and a  
6 half or what?

7 A It's properly a two-year or better, because we have  
8 the -- or the City expends the funds to have two aerialist  
9 trucks and crews, full-time, a ground crew, which is, literally,  
10 a million or two million dollars worth of funds that the City  
11 provides just to maintain these trees.

12 In addition, we go out to approximately a hundred  
13 thousand dollars a year in additional maintenance by outside  
14 contractor.

15 Q Just to keep the trees maintained in this area?

16 A That's correct.

17 Q Now, are there rules and regulations on when you are  
18 dealing with trees and how much you trim off, how much you  
19 shouldn't trim off and things of that nature?

20 A There are best management practices that are set up  
21 and a standard by DERM.

22 Q And DERM is?

23 A The Department of Environmental Resource Management  
24 within Dade County.

25 Q Okay.

1           A       Now, what they specified and through -- This is Dade  
2 County Ordinances -- they define what effective destruction of  
3 a tree is and excessive pruning, hatracking, and a whole litany  
4 of terms they define.

5           Q       If a tree has to be trimmed so that more than 30  
6 percent of the tree is trimmed off at the one time, is that acceptable under the standards for  
7 DERM?

8           A       More than 30 percent is not acceptable.

9           Q       So, the standard is that you never trim more than 30  
10 percent?

11          A       You shouldn't ever trim more than 30 percent. Not  
12 only is that a DERM standard, but that's an arborist standard,  
13 as well, through the ISA, the International Society of Arborists.

14          Q       Why is that, if you know?

15          A       A tree manufactures it's own food. It's not like -- We can go out to a grocery  
16 and buy us something to eat. The  
17 tree can't do that. So, if you take off 30 percent of the tree,  
18 it has to make up -- use food in reference to make that up.

19          Q       And what percentage of the trees would you say that  
20 you are aware of, in the City of North Miami area, are these fast-growing trees?

21          A       Vast majority, 75 percent are fast-growing. One,  
22 let me specify, black olives, are fairly fast-growing, but it's  
23 a hardwood tree. Those are the ones the City has.

24          Q       Right.

25          A       There are a lot of other species which are invasive



1 species which are extremely fast-growing and not a hardwood.

2 Q Give me an example of that.

3 A Ficus, beschophia, hollies, which is invasive, those  
4 things can grow anywhere from five or six foot a year up to  
5 maybe 18 or 20 foot a year.

6 Q So, they would need trimming even more frequently than  
7 the black olive tree?

8 A That's correct.

9 Q Okay. And you say about 75 percent of the trees in  
10 the area, in the City of North Miami, would be fast-growing  
11 trees?

12 A Yes.

13 Q Some species?

14 A Of sum species; correct.

15 Q Including the Ficus?

16 A Yes.

17 Q And Ficus is pretty predominant in the south Florida  
18 area; isn't it?

19 A Yes, it is.

20 Q Now, let's say that you are on a cycle of six years,  
21 as has been proposed by Florida Power and Light, and you have  
22 these fast-growing trees that are not maintained but every six  
23 years. What type of damage or -- if any, could that cause to the trees?

24 A You're going to have to remove well over the 30  
25 percent because you're going to have to remove at least the six

1 years growth that's been on there, plus some, if you wanted it  
2 to survive another six year cycle.

3           You'll probably have to remove -- The longer the waiting period, the larger the  
4 branch that you have to trim off.

5           There is also a standard that says you shouldn't take  
6 off a branch over a specific size. It ought to be no more than  
7 30 percent of the parent branch you take off.

8           In order for a tree to compartmentalize or prevent  
9 that infection or decay from entering the heart of the tree --  
10 If it enters the heart of the tree, it rots out the center part  
11 of the tree, it's going to lose its support, eventually.

12           And if you cut it off too much at one time, the tree's  
13 response is to massively sprout back a mass of leaves. It's  
14 going to make up what's been taken away from it, and usually you  
15 get what they call witch broom.

16           You've seen a tree looks like a broom, all of a sudden  
17 it would be a long limb and sprout out all over the place. The  
18 new sprouts are not a hazard this year, but the year after, they're not securely attached to where  
19 the previous cut was made, and that's where it will break off in wind.

20           Q     When we start getting hurricane type conditions,  
21 you've got danger of these branches breaking ?

22           A     That's correct.

23           Q     Okay. And now, some of these trees are where there  
24 are electrical lines; correct?

25           A     A lot of the trees, within a city right-of-way and

1 swales, and a lot of them in alleys, which we don't maintain.

2 They are private residence trees.

3 Q But a lot of these are electrical lines?

4 A That's correct. All sorts of utility lines.

5 Q That they interfere with?

6 A Uh-huh.

7 Q Is that yes?

8 A That's correct.

9 Q Now, are you saying that if we cut off -- we wait

10 six years, cut it off over the 30 percent and all the new shoots

11 are coming in and they're growing as fast as the rest of the

12 tree would have grown?

13 A Yes, maybe faster.

14 Q So, pruning is actually done, if I remember correctly

15 a little bit from my classes, to promote growth of plants and

16 trees sometimes?

17 A It not only promotes growth, but it's like grooming.

18 You have to get a good structure in a tree; and if you don't, it could be top heavy, lean to one

19 side or the other or enter

20 decay.

21 So, it's a matter of pruning it correctly, at the

22 appropriate time. Cut too much off, you can enter decay.

23 Q What if you don't cut enough off?

24 A You can always come back the next year and cut more

25 off.

1 Q Let's say you enter a six-year program and the trees  
2 grow up around the lines and you cut just enough off to clear the line, but it's not -- Is there a  
3 minimum that you should be  
4 cutting off?

5 A Well, we don't have a minimum because we don't do line  
6 clearance. FPL crews handle that, but they have a set line,  
7 based on how much away they have to be from the line when they do a pruning.

8 So, they say a 14 KVA line, you have to be 14 foot  
9 away. So, when they come out, typically on a four-year cycle,  
10 they'll come cut 12 or 14 foot, considering it will grow back  
11 again.

12 Q Do you know what the cycle is they're using so far?

13 A No. They were supposed to call us whenever they come  
14 in, and they don't always do that.

15 We've been to FPL because if their crews just go in  
16 there and illegally trim a tree, they cut too much off, it's  
17 just aggravating a problem, aggravates a problem for them, as well as us, and it violates a lot of  
18 standards.

19 Q So, even right now, you're finding that you're having  
20 problems with them because they are cutting too much trees; right now?

21 A That's correct.

22 Q But the trees are being allowed to grow too big?

23 A Uh-huh.

24 Q Is that yes?

25 A That's correct.

1           Q     So, whatever schedule they're using now is already  
2     creating problems that you are concerned about, if they go to a  
3     six-year --

4           A     Yes.

5           Q     Okay. Now, is there any problem with if they have to  
6     wait long and have to cut back more than 30 percent? Is there  
7     any problem with these trees falling over or being lopsided or  
8     anything of that nature?

9           A     Definitely. The street trees, a lot of times, they do  
10    what they call a drop-crotch cut. The branches go out to each  
11    side. There's still canopy for the street and the house, but  
12    you have the big, open space in the area.

13                   All that weight can split a tree. There are a lot of  
14    trees in alleys and right-of-ways in people's yards, where the  
15    residents in this area don't go out and the don't buy the right  
16    type of tree or a tree grows on the fence line and they don't  
17    ever trim it.

18                   So, it's under the utility lines, they'll come out and  
19    remove the whole side of a tree. And these fast-growing hardwood tree, such as a Ficus or  
20    holly, beschophia, the roots don't go in the ground and have the same capacity as an oak or  
21    black olive have in the ground, and they tip over in the wind or  
22    rain. And when FPL takes off one side of a tree, you get a good  
23    rain or wind, and the whole tree comes down on someone's house.

24                   And we've seen that happen over and over again.

25           Q     What kind of effect does a tree have on property

1 values, as far as you know?

2 A It increases the property values. People want to go  
3 into an area that has shade. I haven't documented -- I can say  
4 what I read, and I believe it is that you go into a community --  
5 Coral Gables rates their area as the number one area to live  
6 because of the streets. So does North Miami. It's Tree City  
7 USA for 15 years, based on the canopy.

8 Q Say that again.

9 A It's a Tree City USA for 15 years.

10 Q That's because of the trees located in the city?

11 A The number of trees we have, the amount of canopy we  
12 have and the efforts we expend to maintain them.

13 Q Okay. And if FPL is allowed to continue with their  
14 Six-Year Trimming Program, are you concerned, other than the  
15 City's maintenance, are you concerned about the City and it's  
16 Tree City designation?

17 A I think it could be in jeopardy. We're going to lose  
18 a lot of canopy in people's yards and the alleys and so on.

19 Q Okay. So now, the six-year cycle that FPL is  
20 proposing, do you see any problems with it as it relates to the  
21 Miami-Dade County's Ordinance for Tree Abuse, and why?

22 A I, personally, think that it's in violation of their  
23 codes, that you are going to be taking off more. And in my  
24 experience, Florida Department of Transportation did some  
25 excessive trimming, or FPL, on Northeast Sixth Avenue, and DERM

1 came down on them and issued a warning. And it wasn't anything on a six-year cycle.

2 They just took too much off. So, DERM issued a  
3 letter of warning and said, "No, we're not going to fine them  
4 at this time, but --"

5 Q Would a three-year program be better, in your opinion,  
6 as it relates to the health of the trees and the future of the  
7 trees?

8 A Oh, definitely. It's better for the health of the  
9 tree, better for the structures, property values, liability, a  
10 whole litany of reasons not to destroy the tree.

11 Q You say the City, itself, spends about a million plus  
12 on it's tree maintenance?

13 A Yes.

14 Q So, it is kind of expensive?

15 A Yes, it is.

16 Q Do you think the expense is justified by saving the  
17 trees?

18 A Yes, I do.

19 Q Anything else you think -- Well, let me ask you this,  
20 because you've been here in North Miami for so long. Have you  
21 had occasion, and do you study trees in other areas of the state?

22 A Not north of here, no, I have not had experience north  
23 of here. One thing I can say, and again, this is because the

1 arborist groups are national and we subscribe to the publications, and there's a lot of  
2 networking done with other areas is that South Florida is extremely unique to the rest of the  
3 state of Florida.

4 Q Why is that?

5 A Because we're really in a tropical environment. The  
6 trees don't stop growing here like they do in northern Florida.  
7 Basically, when the temperature drops, they do not actively grow.

8 Here, they pretty much grow 365 days a year. So, they  
9 don't lose the growth time. In fact, here, you won't find growth rings in many trees because  
10 it's a continual growth.

11 If you see growth rings in school, you say, "Here is  
12 the seasons," but you don't see that here because there's no  
13 real season here.

14 Q We have more of a problem with tree growth being that  
15 it's consistent, whereas in northern Florida, there's a period  
16 of time when trees stop growing?

17 A That's correct.

18 Q Because the temperature drops below a certain degree,  
19 like in northern states, when the leaves go off the trees?

20 A Exactly.

21 Q But here, we don't have that issue because of our  
22 tropical area?

23 A Many trees here are tropical trees that grow 365 day a  
24 year.

25 MS. WHITFIELD: Okay. I don't have any further



1 questions. Thank you very much.

2 (Thereupon, taking of the sworn statement was  
3 concluded.)

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9 \_\_\_\_\_TERRY LYTLE

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REPORTER'S DEPOSITION CERTIFICATE

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STATE OF FLORIDA :  
COUNTY OF DADE :

I, LINDA JACKSON ROUNDTREE, Shorthand Reporter, certify that I was authorized to and did stenographically report the foregoing sworn statement; and that the transcript is a true record of the testimony given by the witness.

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 \_\_\_ day of November 2006.

LINDA JACKSON ROUNDTREE  
Shorthand Reporter