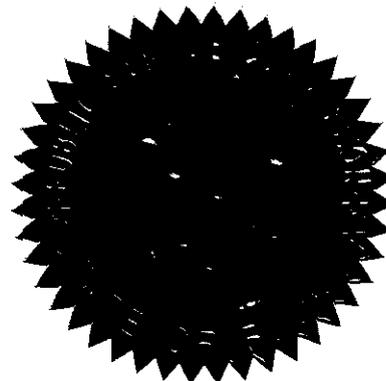


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080317-EI

In the Matter of:

PETITION FOR RATE INCREASE BY TAMPA  
ELECTRIC COMPANY.



VOLUME 3

Pages 301 through 402

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PROCEEDINGS: HEARING

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

DATE: Wednesday, January 21, 2009

TIME: Commenced at 9:40 a.m.

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

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APPEARANCES: (As heretofore noted.)

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

(Transcript continues in sequence from Volume 2.)

CHAIRMAN CARTER: Good morning. We're back on the record. And before we begin, staff, are there any preliminary matters this morning?

MR. YOUNG: Yes, sir.

CHAIRMAN CARTER: You're recognized.

MR. YOUNG: TECO has requested that Ms. Abbott be taken up next week. She's still ill, and I'll let TECO speak further on that matter.

CHAIRMAN CARTER: Mr. Willis.

MR. WILLIS: Ms. Abbott is still ill, and in deference to her we have requested that she testify next week.

CHAIRMAN CARTER: Let's hear from the parties. Mr. Wright.

MR. WRIGHT: We certainly have no objection to accommodating Ms. Abbott if -- I was expecting to take her after Mr. Gillette and accordingly that's how I conducted my preparations. If we could maybe agree not to take Dr. Murry until after lunch, that would help our preparations.

CHAIRMAN CARTER: Mr. Moyle.

MR. MOYLE: I think some of my questions may take care of that with Mr. Wright. And I have probably, you know, an hour or so.

CHAIRMAN CARTER: Okay.

1 MR. MOYLE: But we don't have any objection to  
2 Ms. Abbott if she's ill and we can take her next week. That's  
3 fine.

4 CHAIRMAN CARTER: Ms. Bradley.

5 MS. BRADLEY: No objection.

6 MS. CHRISTENSEN: No objection.

7 CHAIRMAN CARTER: Ms. Christensen?

8 I always save the best for last. Mr. Twomey.

9 MR. TWOMEY: What can I say? Of course we have no  
10 objection.

11 (Laughter.)

12 CHAIRMAN CARTER: Okay. Okay. Then make it so.

13 Anything further, staff, preliminary? Well, you  
14 know, now that I'm a card-carrying member of the AARP, I have  
15 to be nice to my lobbyist here, you know, get good discounts.  
16 Yeah. Let's -- we'll have a sidebar.

17 (Laughter.)

18 Okay. Nothing further? Okay. Let's pick up where  
19 we were, where we left off yesterday.

20 Mr. Moyle, you're recognized.

21 MR. MOYLE: Thank you, Mr. Chairman.

22 CROSS EXAMINATION

23 BY MR. MOYLE:

24 Q Mr. Gillette, good morning.

25 A Good morning.

1 Q Just to confirm, you're still under oath; correct?

2 A Yes.

3 Q We were just getting into talking about the return on  
4 equity issue, and I want to return to that, that subject  
5 matter. As we sit here today, Tampa Electric is fiscally  
6 sound, is it not?

7 A I would say --

8 Q Remember the yes, no, and then explain?

9 A No. With an ROE that's drifted to 8.6 percent at the  
10 end of 2008 and -- or by September of 2008 and with a  
11 projection of 4 percent, I would say we're at least on our way  
12 to having some major challenges unless we receive rate relief  
13 in this case.

14 Q We've had a lot of conversations about ratings and I  
15 just want to make, make sure that it's clear for the record and  
16 also for my understanding, the ratings we're talking about are  
17 ratings of debt that Tampa Electric is going to issue; correct?

18 A That's correct.

19 Q Okay. And that's different from ratings of Tampa  
20 Electric's stock; correct?

21 A That's correct.

22 Q Okay. So other companies, some companies will follow  
23 Tampa Electric and give their opinions about the stock value  
24 and whether the stock is a good buy. All we're talking about  
25 with respect to these ratings of Fitch's and Moody's and

1 Standard & Poor's is ratings of the creditworthiness of the  
2 company as it relates to debt that may be issued or is issued;  
3 correct?

4 A That's correct. And the relative levels of business  
5 and financial risk.

6 I wanted to be sure too I had been responsive to  
7 Commissioner Argenziano yesterday on her question on business  
8 risk as well.

9 Q Okay. I'm a little surprised that you had indicated  
10 that you don't believe Tampa Electric is financially sound as  
11 we sit here today.

12 Have you indicated that to financial analysts that  
13 follow the company's stock?

14 A The financial analysts are -- the answer is yes. The  
15 financial analysts are keenly aware that we're engaged in this  
16 proceeding, and the debt rating agencies and the financial  
17 analysts alike are awaiting the outcome of this case.

18 Q When did you in your opinion go from being  
19 financially sound to financially unsound? Can you put a point  
20 in time on that?

21 A Well, at year-end 2007 our 13-month weighted average  
22 return on equity for Tampa Electric Company was at  
23 11.4 percent, which was within the allowed range plus or minus  
24 100 basis points, around our 11.75 range of ROE. But we  
25 projected in our budgeted surveillance report that we filed in

1 March of 2008 with the Commission that by year end this year  
2 we'd be at 9.4 percent return on equity. And so I would say  
3 right in that time frame when we were doing the 2008 budget we  
4 realized that the ROE was eroding significantly.

5 Q Now I don't know all that much about your business,  
6 but, you know, reading this testimony I presume that you guys  
7 do financial projections. You know, you're saying it might be  
8 4.4 if you don't have any rate increase. Didn't you see the  
9 9.4 projected ROE coming at a future, you know, at a point in  
10 time where you may have been able to take some action prior to  
11 today?

12 A Well, in our business obviously the level of returns  
13 is directly related to the amount of investment that we're  
14 making. And to your point, we have been spending significantly  
15 more in capital expenditures than in the past in the recent  
16 years with the mandates for storm hardening, additional needs  
17 for transmission in the state and generation as well.

18 I mentioned, I think, in my summary that in some  
19 cases the costs of generation have doubled and transmission  
20 have tripled, and as a result of that we did see the potential  
21 with the higher levels of capex that we would in fact need to  
22 be filing for rates. And really that is the mechanism that we  
23 have as a regulated utility when the growth in rate base gets  
24 out of step with the growth in base revenues. And fortunately  
25 for 16 years that hasn't been the case. But I filed an exhibit

1 to my testimony, Document Number 1, that shows a graph of how  
2 in the recent years the growth in rate base has gotten out of  
3 step with the growth in base revenues.

4 Q The -- Mr. Black was asked some of these questions.  
5 I just want to, want to spend a minute on this with you.

6 You're aware that historically speaking, and  
7 Commissioner Skop made this point yesterday, we're dealing with  
8 the facts in this case, and while historical orders of the  
9 Commission can, can be instructive and they're followed by the  
10 parties, I was just curious, you historically have filed for an  
11 ROE that's been higher than the Commission has awarded;  
12 correct?

13 A Yes. They, I think there have been some downward  
14 adjustments. I would say though that going back to some of the  
15 things that Mr. Wright was asking Witness Black about  
16 yesterday, in the, in the '85 case the Commission's decision  
17 was a 14.5 percent return on equity. In the '92 case it was a  
18 12 percent return on equity. And then pursuant to a  
19 stipulation we've maintained an 11.75 percent return on equity  
20 since that time.

21 Q Okay. And so the answer to the question is yes,  
22 there has been downward adjustments. You would agree that the  
23 judgment about an ROE is dependent on market conditions at the  
24 point in time in which the judgment is made; correct?

25 A Yes.

1           Q     Okay.  So those, those past ROEs in terms of their  
2 numbers may not be that relevant, but the point I wanted to  
3 sort of explore with you is did you take into account the fact  
4 that in these past orders the ROE has been adjusted downward in  
5 terms of proposing an ROE in this case?  Mr. Black yesterday  
6 said there was discussion about lower ROEs.  I'm just trying to  
7 understand, you know, did you kind of say, well, given the past  
8 history, you know, there's a couple of points decrease.  Let's  
9 take that into account, go at 12.  If we end up at 9, 9.5, then  
10 we can live with that.  Was that something you considered?

11           A     No, we did not.

12           Q     Okay.

13           A     We, we have retained Dr. Murry and he's going to be  
14 talking specifically about return on equity.  And he did a very  
15 thorough analysis to look at what the appropriate ROE for us  
16 would be.

17                     We also, we also took a look at what the trends are  
18 in our industry in terms of what other utilities are asking  
19 for.  And in pending rate cases there are five other companies  
20 that are asking for ROEs that are 12 percent or above, five  
21 more are asking for 11.75 percent or above.  And the majority  
22 of utilities that are in rate cases right now are asking for  
23 11 percent or above at this point.  And, in fact, all the  
24 utilities in the southeast that are currently in rate  
25 proceedings are asking for 11.75 or above at this point in

1 time.

2 And I think really, interestingly enough, since we  
3 filed the case the events in the financial markets where we've  
4 seen very substantial increases in the cost of debt that  
5 utilities have been doing in the September, October, November,  
6 December time period point to the cost of capital perhaps even  
7 being higher than it was when we originally filed the case.

8 Q None of the commissions or the cases that you're  
9 referring to in terms of the ask, none of the commissions have  
10 approved those asks, have they?

11 A That's true. But in the case of existing ROEs in the  
12 southeast, the majority of the utilities are earning above  
13 11 percent. Gulf Power right here in Florida has an authorized  
14 rate of return of 12 percent.

15 Q Okay.

16 A And there are a number of states that have existing  
17 rate orders in existence for utilities in excess, at or in  
18 excess of 12 percent, and those states include Ohio,  
19 Mississippi, Pennsylvania, Maryland, Louisiana, Florida,  
20 Indiana, Massachusetts and Tennessee.

21 Q You're referring to a document; is that right?

22 A Huh?

23 Q In response to my question, you're looking at a  
24 document, the states you just read off?

25 A No. I'm just looking at -- I'm looking at my notes

1 that were made from an RRA report.

2 Q Okay. And did -- when was that ROE report put  
3 together? Was it after your deposition?

4 A The RRA data has been in existence for some time.

5 Q The document you're referring to, was that put  
6 together after the deposition?

7 A No. Well, the RRA report that we got the information  
8 was in existence before my deposition. We pulled it together  
9 in preparation for the hearing today.

10 Q Okay. Because I had asked you some questions about  
11 this at the deposition --

12 A You did.

13 Q -- and you didn't have this information. I just was  
14 trying to understand what has happened since the deposition and  
15 today.

16 A That's right. Right.

17 CHAIRMAN CARTER: One moment, please.

18 Commissioner Argenziano.

19 COMMISSIONER ARGENZIANO: Excuse me. Could you  
20 repeat for me -- I think you said that you found, however, that  
21 most or the majority of southeastern states were at what  
22 percentage?

23 THE WITNESS: If, if we look in the southeast at what  
24 the utilities are asking for that are in pending rate cases --

25 COMMISSIONER ARGENZIANO: What they're asking for.

1 Okay.

2 THE WITNESS: Yeah. They're all 11.75 or above.  
3 With regard to existing rate decisions in the southeast, the  
4 majority of utilities are currently above 11 percent ROE.

5 COMMISSIONER ARGENZIANO: Okay. Thank you.

6 THE WITNESS: Yes.

7 CHAIRMAN CARTER: You may proceed.

8 BY MR. MOYLE:

9 Q Did you go back when you, when you put together this  
10 information after the deposition and determine what dates those  
11 approved ROEs were done?

12 A We did.

13 Q Okay. And you would agree that those were different  
14 market conditions at the point in time those ROEs were approved  
15 than there are today?

16 A Clearly, clearly there's a range of dates, some, some  
17 of those decisions going back into the '90s. For instance,  
18 our, our data is a piece of that and ours goes back to 1992.  
19 Some are more recent. So the answer to your question is yes.

20 Q Okay.

21 A There's a range of dates and market conditions.

22 Q Isn't it true that most recently Commissions which  
23 have established ROEs have established an ROE in the average  
24 range of around 10 percent?

25 A I believe that there was, there's a document in

1 evidence that shows something like an average of 10.35 percent.  
2 Having said that, in our review of the data, that, that was a  
3 nationwide kind of review.

4           As we look at the southeastern utilities, which are a  
5 different breed because there is significant growth,  
6 significant hurricane risk, the southeastern utilities are, are  
7 above 11 percent.

8           Q     And when you're trying to raise debt, do you raise it  
9 in a southeastern market? Is there a southeastern debt market?

10          A     The answer to your question is no. It's a nationwide  
11 market for debt.

12          Q     Okay.

13          A     And institutional investors are looking all over.  
14 Having said that, institutional investors acknowledge the fact  
15 that we are where we are in the southeast and we're in an area  
16 where there's significant growth and significant risk of  
17 hurricanes.

18          Q     Right. And that risk of hurricanes is not, is not  
19 new. Since 1899 there's been a risk of hurricanes in Florida  
20 affecting Tampa Electric since its existence; isn't, isn't that  
21 true?

22          A     That's true. Having said that, as we discussed a  
23 little bit in my deposition, it's my perception that there is  
24 increased hurricane risk and the National Hurricane Center has  
25 said such things. And I'm not a weather expert, but there is

1 significant evidence in the record that has been discovered  
2 where several forecasters, including Max Mayfield at the  
3 National Hurricane Center, have said we're in an era of greater  
4 hurricane risk.

5 Q Predicting the weather is a little bit like trying to  
6 predict future market conditions, isn't it?

7 A For sure.

8 Q With respect to your 2008 just concluded year, what  
9 was your return on equity?

10 A I don't know at this point in time. The last  
11 surveillance report that I've looked at and that we've filed  
12 was September. And as of September the return on equity on a  
13 13-month weighted average basis was 8.66 percent and on a  
14 year-end basis was 8.55 percent.

15 Q But after the close of the fiscal year you guys  
16 haven't done any internal analysis to try to figure out what it  
17 is?

18 A We're in the process of closing the books for Tampa  
19 Electric and the other operating companies right now and should  
20 have more information fairly soon here. I think we're  
21 scheduled to report earnings to Wall Street on February 6th.

22 Q Now you've talked about some requests that are in for  
23 ROEs. Isn't it true as we sit here today that you're not aware  
24 of any other regulated utility in the country outside of  
25 Florida that presently has an authorized rate of return of

1 12 percent or greater?

2 A That was my testimony at the time of the deposition.  
3 I said I hadn't done a study of that. Obviously now, as you've  
4 pointed out, Mr. Moyle, we have reviewed that and there are in  
5 fact utilities with ROEs at and greater than 12 percent.

6 CHAIRMAN CARTER: Excuse me for a second.

7 Commissioner Skop.

8 COMMISSIONER SKOP: Thank you. Yes, I'd like to  
9 explore that a little bit further, Mr. Gillette, because it's  
10 my understanding also too that there's at least a couple of  
11 utilities in the southeast with ROEs in excess of maybe even  
12 13 percent. I think I saw a recent study. So I'd like to hear  
13 what the most recent data would be.

14 THE WITNESS: Yes. I'll just quote from some of the  
15 RRA statistics. And we've been shifting back and forth a  
16 little bit between what people have filed in rate proceedings  
17 versus what they actually have in effect. And I think the  
18 question was directed at what was actually in effect at this  
19 point in time and I, I ticked off a whole number of states.  
20 And what I was referring to was a document that RRA produced  
21 that showed in Ohio, Ohio Edison currently has an ROE of  
22 13.2 percent; Mississippi, Mississippi Power, 12.88 percent;  
23 Ohio, Ohio Power Company, 12.81 percent; Pennsylvania, PECO  
24 Energy Company, 12.75 percent. And it goes on for each one of  
25 those states.

1           And in what I'm looking at it would appear that there  
2 are one, two, three, four, five, six, seven, eight, nine, nine  
3 above 12 percent and then about five that are, that are at  
4 12 percent.

5           COMMISSIONER SKOP: Just one and then I'll yield to  
6 Commissioner Edgar. I think she has a question.

7           With respect to the data that you had, I knew about  
8 Mississippi, but do you have any specific data on Alabama? I  
9 mean, I thought that Mississippi and Alabama actually kind of  
10 shocked my conscience a little bit, they're so high, but it is  
11 what it is. But I just wanted to see if you had any Alabama  
12 data.

13           THE WITNESS: Yes. I'm looking for Alabama. And I  
14 too recall that Alabama had an ROE very similar to Mississippi  
15 within the Southern Company family of companies. But in the  
16 information that I have in front of me I'm not seeing Alabama  
17 right now.

18           COMMISSIONER SKOP: Okay. All right. Thank you.  
19 I'll yield to the Commissioner.

20           CHAIRMAN CARTER: Let me go to, let me go to  
21 Commissioner Edgar, then I'll come back to you. Commissioner  
22 Edgar.

23           COMMISSIONER EDGAR: I was just wondering, and I had  
24 been going to make this request yesterday and then the time  
25 kind of got away from me, but if it would be appropriate, and

1 I'll look to staff first, to ask for a late-filed exhibit to be  
2 prepared either by staff or FPL (sic.) for, of course,  
3 everybody's consideration and then to be submitted in the  
4 record to give us that information so we're all looking at the  
5 same thing and have it. And that would very clearly list ROE  
6 that is, is being implemented versus and/or ROE that has been  
7 requested just so it's all in one place and clear to us. And  
8 so I'd just toss that out. That's something that I think would  
9 be helpful rather than having bits and pieces of it distributed  
10 through the record.

11 CHAIRMAN CARTER: As a placeholder, Commissioners,  
12 that will be Exhibit Number 93. Commissioner Edgar, give us a  
13 title.

14 COMMISSIONER EDGAR: Well, before I do that, if I  
15 may, Mr. Chairman, let me look to staff to see if, if they have  
16 a suggestion as to how to best put that together.

17 MR. YOUNG: Right. We've requested that TECO provide  
18 copies of what Mr. Gillette is looking at in terms of the ROEs  
19 for the southeastern region, and then we could ask TECO to  
20 provide a comparison analysis of those that were requested and  
21 those that were authorized.

22 COMMISSIONER EDGAR: I think that sounds helpful, but  
23 I think Commissioner Skop has an additional suggestion.

24 CHAIRMAN CARTER: Let me go to Commissioner  
25 Argenziano, then I'll come back. Commissioner Argenziano.

1           COMMISSIONER ARGENZIANO: Thank you, Mr. Chair.  
2 There we go. I asked staff last week, I believe, for the ROEs  
3 for the southeast, and Alabama was, according to staff the  
4 current authorized ROE was 13 to 14.5 percent. But when you  
5 look, it's all over the board. I mean, there are 9.9, 9.7,  
6 10.7, 11.7, 12.75, 8.6. They're all over. So hopefully if  
7 we're referring to the exhibit that's going to be, that is --  
8 is that for the southeast? Okay? Is that just the southeast?

9           COMMISSIONER EDGAR: Actually I was thinking since we  
10 have been discussing some other states that absolutely the  
11 southeast but to include additional information. And I'm not  
12 sure how broad to make that request at this time because I'm  
13 not sure what all is available.

14           THE WITNESS: We've prepared it both ways.

15           CHAIRMAN CARTER: Commissioner Skop.

16           COMMISSIONER SKOP: Thank you, Mr. Chair. And to  
17 Commissioner Edgar's point as well as to Commissioner  
18 Argenziano's, just as a point of information to staff, and the  
19 reason I even know that Alabama's and Mississippi's was so high  
20 is I think at the last NARUC one of the breakout sessions had a  
21 discussion on ROEs and rate cases and they had a composite  
22 handout. And I think I gave that to Mr. Devlin, so he may have  
23 that available, and I think we briefly discussed that  
24 previously. But that might be useful. It showed the  
25 southeast, but it also showed some other states such as Ohio

1 and nationwide. So that might be useful for the discussion.

2 CHAIRMAN CARTER: Commissioner Argenziano.

3 COMMISSIONER ARGENZIANO: Mr. Chair, may -- and  
4 forgive me if this is naive, but ROEs, unless staff -- what I  
5 would, what I want is I don't want just because another state  
6 gave an ROE. We know everything is subject to political whim  
7 also. I want the meat, the nuts and the bolts of why ROEs are  
8 where they are. And when they were granted, you know, the  
9 circumstances were different; for each state there could be  
10 different circumstances. So just because Alabama has 13 to  
11 14.5 doesn't say much to me, you know, without the other  
12 information.

13 CHAIRMAN CARTER: So, if possible, we'll probably  
14 need a Level 2.

15 Mr. Twomey.

16 MR. TWOMEY: Yes, Mr. Chair. I would just suggest  
17 respectfully that I think most people involved in this process  
18 would recognize that the money market is national, it's not  
19 based on a regional deal. And that if we're going to have  
20 these comparisons, I would request that you consider having the  
21 staff, whoever produces this document, to do it on a national  
22 basis. That's the market.

23 CHAIRMAN CARTER: Commissioner Skop.

24 COMMISSIONER SKOP: Thank you, Mr. Chairman. And to  
25 Commissioner Argenziano's point, which I thought was one that

1 was well taken, knowing the particulars in terms of the date in  
2 which the respective commissions had previously authorized ROE,  
3 you know, when I first looked at, without getting into the  
4 merits, but just the Alabama and Mississippi stood out because  
5 of the magnitude of they're extraordinarily high in relation to  
6 some others. But the situations behind those and the dates,  
7 because a lot has changed recently in terms of our financial  
8 outlook in the economy and such, but also recognizing that the  
9 capital markets are very tight.

10           And as Mr. Gillette has pointed out, that if you are  
11 able to borrow -- and, I mean, we've heard at the Service  
12 Hearing, I think Publix is a well-respected, privately held  
13 company even said that they're hard-pressed to access capital  
14 right now.

15           So, again, I think that the, the dynamics in terms of  
16 the sensitivity of what is actually going on with the interest  
17 rates to the extent if there's additional risk premia, if you  
18 are able to borrow, I think all of those are relevant, relevant  
19 factors in the analysis. Because in the past things were  
20 probably a little bit more predictable and now they're a little  
21 bit more clouded in terms of the uncertainty with the markets  
22 as well as the economy. So I think that that would be a useful  
23 comparison as long as it's bounded with the particulars that  
24 Commissioner Argenziano raised. Thank you.

25           CHAIRMAN CARTER: Commissioner Argenziano.

1           COMMISSIONER ARGENZIANO:  And while I appreciate  
2 that, and we mentioned Publix and I understand where you're  
3 going, but Publix is not a guaranteed, they don't have a  
4 guaranteed revenue stream coming in and they have a lot of  
5 competition.  So when we talk about -- and I guess we're going  
6 to get into the experts.  I mean, we have to factor in the,  
7 let's see, I don't know how I'd put it, factor in those very  
8 important circumstances.  Because while Publix may have a  
9 harder time or may, Lowe's may have a harder time, there are,  
10 and I'm not saying that the electric companies may not, but  
11 there are circumstance that differentiate those entities  
12 greatly.  And I guess when we get into the ROE discussion,  
13 that's where that's going to, you know, really show.

14           Traditionally, in my opinion, and correct me if I'm  
15 wrong, but the energy companies have always been a favored way  
16 to go, stock to buy, I mean, because of their certainty and  
17 because of their low risk especially now.  So those things need  
18 to be factored in.  And I don't know if comparing Publix to a,  
19 to a government regulated entity that has such low risk is the  
20 same thing.

21           CHAIRMAN CARTER:  Let me do this.  We're -- let me  
22 see if I can bring us in for a landing.

23           Staff, can you give us some recommendations on how we  
24 need to -- because -- so we can get this document?  And as I  
25 say, a placeholder will be Exhibit Number 93, and bring in the

1 ROEs for the particular southeast but for other states as well,  
2 but also the Level 2 data that Commissioner Argenziano  
3 mentioned as it relates to that. Because obviously if a, if a  
4 Commission is going to grant an ROE, there's going to be a  
5 basis for that.

6 COMMISSIONER ARGENZIANO: May I ask something?

7 CHAIRMAN CARTER: You're recognized.

8 COMMISSIONER ARGENZIANO: And I ask this with all due  
9 respect because I know our staff works hard and they have a lot  
10 on their plate, and I know we haven't done a rate case in a  
11 long time, but isn't that something that you would look at when  
12 you're dealing with a rate case? Isn't that something that we  
13 should have? I mean, I know we're asking for it now. And I  
14 don't mean this with disrespect, isn't it something we should  
15 have checked out thoroughly as far as if we're going to  
16 compare? I mean, that's part of our job. And I would hope  
17 that we, that we have time now to really look at the  
18 comparisons and the Level 2 data also.

19 MR. YOUNG: Madam Commissioner, I know staff has done  
20 voluminous discovery on the ROE issue in terms of  
21 interrogatories and comparison of companies. I know in  
22 depositions we have asked TECO's witness to compare their  
23 companies, the sample companies that he looked at of the ROEs  
24 compared to what we think. And so we've done a, I think we've  
25 done a thorough analysis of the ROE.

1           Now comparing it from a national market in terms of  
2 what every company's ROE or every regulated utility's ROE, I  
3 don't know if we've done that per se. So I think -- and to, to  
4 cure that it's my understanding that the RRA report will do a  
5 comparison geographic -- nationally if we can get that into the  
6 record.

7           COMMISSIONER ARGENZIANO: Mr. Chairman.

8           CHAIRMAN CARTER: Commissioner Argenziano.

9           COMMISSIONER ARGENZIANO: I guess, I guess what I'm  
10 saying is -- and I don't know what your thorough -- you said  
11 you had a thorough investigation of the ROE. Is that through  
12 the company or on your own? And that's what I'm -- if we don't  
13 have that data here now that we're asking for, I'm wondering  
14 what, where did you investigate, what do you have? Because we  
15 asked last week for, or the week before for ROE comparisons. I  
16 felt they're important in this discussion. And I think you had  
17 acquired some from the southeast, and I don't know if that's  
18 the thorough investigation or however you phrased it, I'm not  
19 sure, or did you just rely on the company for ROE comparisons?

20           MR. YOUNG: Both.

21           COMMISSIONER ARGENZIANO: Okay. Then that  
22 information should be available; is that correct?

23           CHAIRMAN CARTER: It should be readily available.  
24 Okay.

25           Commissioner Skop. And then again though so, so

1 we're clear, that will be Exhibit Number 93.

2 MR. YOUNG: 93.

3 CHAIRMAN CARTER: 93, and it will be ROEs for  
4 utilities.

5 (Late-Filed Exhibit 93 identified for the record.)

6 MR. YOUNG: Yes, sir. If I can interject one, for  
7 one second, sir. What we would like, in order to streamline  
8 the process and gather the information we would like the, the  
9 report that Mr. Gillette was talking about, and that's the RRA  
10 report that gives a national ROE. Also we'd like the  
11 comparison of the ROE for the, the utility, regulated utilities  
12 in the southeast. And if TECO can provide when that -- I think  
13 the Commission wants when those ROEs were granted, the ones  
14 requested and the, and the ones authorized.

15 CHAIRMAN CARTER: Okay. One second. Let's kind of  
16 everybody take, take five.

17 MR. MOYLE: Mr. Chairman?

18 CHAIRMAN CARTER: Take five.

19 MR. MOYLE: Can I just ask that --

20 CHAIRMAN CARTER: Take five. Just take five. Hold  
21 on. Just hold on. Take five.

22 (Recess taken.)

23 COMMISSIONER EDGAR: Okay. We are going to go back  
24 on the record. I appreciate everybody's patience while we  
25 worked through some paperwork and our staff made some copies.

1 I believe that per the discussion that we had a few  
2 moments ago our staff has distributed a copy of a document that  
3 is in the record already, and so I will look to our staff to  
4 describe this and we'll go from there.

5 MR. YOUNG: Thank you, Madam Chairman. What's in the  
6 record already is the, is the exhibit from the deposition of  
7 Witness Murry, and it's Exhibit, it was Late-Filed Exhibit  
8 Number 3, which is comparison of some regulated utilities and  
9 their ROEs that he said he compared, some of the companies, the  
10 companies that he used.

11 Also I would like to point the Commission's attention  
12 to a packet I handed out while we were on the break. This is,  
13 this is going to be part of the Late-Filed Exhibit 93. This is  
14 the RRA, this is a sample of the RRA report. The entire report  
15 is forthcoming. Also TECO has agreed to provide a comparison  
16 of ROEs of nationally, of all regulated utilities nationally,  
17 what was requested, the ROE that was requested, the ROE that  
18 was authorized and when it was authorized.

19 MS. CHRISTENSEN: Commissioners, may I be heard?

20 COMMISSIONER EDGAR: Where? Oh, I'm sorry. Yes, Ms.  
21 Christensen.

22 MS. CHRISTENSEN: May I be heard on the document that  
23 was produced by Tampa Electric?

24 COMMISSIONER EDGAR: Yes.

25 MS. CHRISTENSEN: I want to point out a few things.

1 I'm not going to object to the raw data coming in. I think  
2 that that may be informative. But what I want to point out is  
3 that this information was available to the company. It was not  
4 produced in response to any discovery request, nor was it  
5 referenced when the discussion of ROE came up with their  
6 witness, Dr. Murry, regarding ROE or even in Mr. Gillette in  
7 his deposition.

8 I do have some concerns about some of the pages that  
9 are included in this document that appear to have been sorts of  
10 information and not just the raw data. As I said, I think just  
11 a document that includes the raw data of ROEs by state with the  
12 date that they were granted is, is probably something that we  
13 would not object to. But any additional sorts of that  
14 information that are chosen by the company such as the second  
15 document, the second to the last document which has the  
16 southeast only, which I know is something that you all were  
17 looking at, but the subsequent one has the above average only,  
18 which is not something that was discussed today.

19 And, you know, we have a final page that just talks  
20 about pending rate cases, and the only information that's on  
21 that really is what they've requested. It's not, it doesn't  
22 appear to be clear from the document, but that appears to be  
23 what it is. The return on equity that's indicated there is  
24 what's been requested in the pending rate case, not what's been  
25 approved, and it certainly doesn't tell you what the

1 commissions will approve as far as ROEs. So we wanted to make  
2 that clear on the record our concerns about documents being  
3 produced essentially at hearing.

4 COMMISSIONER EDGAR: Ms. Christensen, let me approach  
5 it this way, and I was going to say, and I think we're perhaps  
6 thinking along some of the same lines, to back up for just a  
7 moment and to state the obvious, the first document that our  
8 staff distributed, which is already in the record which is  
9 attached to Witness Murry's testimony, of course later in this  
10 proceeding we will have the opportunity to have Mr. Murry  
11 before us and so there will be the opportunity for him to  
12 discuss this directly and of course for questions on cross to  
13 be posed to him.

14 As for the other document which is not admitted into  
15 the record as of this time, what I'd like to do is look to TECO  
16 and ask them if, if they think the information that our staff  
17 has described, that we are looking for in yet to be produced  
18 Exhibit 93, is it possible for you to bring that, recognizing  
19 that we're all gathered back for this hearing next week, is it  
20 possible for you to bring that exhibit forward next week while  
21 we are still in hearing so that there would be the opportunity  
22 to distribute it and for everybody, all the parties and our  
23 staff to look at it before it's admitted into the record, if  
24 indeed it will be?

25 MR. WILLIS: Yes.

1 MS. CHRISTENSEN: And --

2 COMMISSIONER EDGAR: Hang on. Was that a yes?

3 MR. WILLIS: Yes. Yes. And I would point out that  
4 Mr. Moyle asked for a copy of what Mr. Gillette was looking at.  
5 That's why we provided it to him. We, we were not proffering  
6 that. And we would be happy to do just as you described.

7 COMMISSIONER EDGAR: Thank you. Ms. Christensen,  
8 does that help?

9 MS. CHRISTENSEN: I think that helps to a certain  
10 extent. Until of course we see the document, we won't know  
11 what, the information that it contains.

12 COMMISSIONER EDGAR: Right.

13 MS. CHRISTENSEN: And as I said, raw data is probably  
14 going to be less objectionable than any random sorting  
15 mechanism.

16 But the other thing that I would request is since we  
17 haven't had an opportunity to look at this and review it with  
18 our witnesses, that we may be granted a little latitude when  
19 our witnesses come up to discuss the document, whatever,  
20 whatever is produced at that time, so that we may be able to  
21 get some additional information into the record since we  
22 haven't had an opportunity to look at it, rebut it or discuss  
23 it in any sort of deposition form.

24 COMMISSIONER EDGAR: Sure. And I appreciate the  
25 question and the potential concern that maybe has, has driven

1 it. What I would say is, of course, you know, I'll of course  
2 defer to the Chairman at the time that we come to that;  
3 however, I think that we will all work together to work through  
4 what we, what we need to.

5 Commissioner Skop.

6 COMMISSIONER SKOP: Thank you, Madam Chairman.

7 I just wanted to briefly go back to my Publix comment  
8 and just clarify the intent behind that based on what  
9 Commissioner Argenziano said. I fully agree with everything  
10 that Commissioner Argenziano said. The comparison is an apples  
11 to oranges comparison between Publix and a regulated entity due  
12 to the regulatory compact, the monopolistic aspects granted  
13 under the regulatory compact and the guaranteed, nearly  
14 guaranteed ROE.

15 I think my point was merely to illustrate that if a  
16 well-respected, closely held company like Publix with no debt  
17 and 100 percent equity is having problems accessing working  
18 capital in today's capital markets, that that illustrates that  
19 the problem is prevalent throughout our economy and basically  
20 illustrates that to the extent that if lenders are willing to  
21 lend, it's likely at a higher rate. It wasn't to be an  
22 objective comparison between a regulated utility and a closely  
23 held company, but just merely illustrate that there is a very  
24 tight illiquid capital market out there right now. Thank you.

25 COMMISSIONER EDGAR: Thank you. Commissioners,

1 before we move along, any other thoughts, comments or questions  
2 at this time?

3 Mr. Wright.

4 MR. WRIGHT: Thank you, Madam Chairman. If I could,  
5 maybe just to speed, hopefully speed things up.

6 COMMISSIONER EDGAR: I thought we were done.

7 (Laughter.)

8 MR. WRIGHT: I'm -- well, as compared to what I might  
9 otherwise have to do.

10 COMMISSIONER EDGAR: Go ahead.

11 MR. WRIGHT: I'm, I'm fuzzy and unclear as to, as to  
12 the status of this document as to whether it's being identified  
13 as an exhibit or whether some more complete document is going  
14 to be introduced as an exhibit or both. And I would suggest in  
15 partial response to Ms. Christensen's concern, which I think is  
16 completely valid and with which I agree, is that since the  
17 company has provided a sort with above average only, I don't  
18 know if they break it into average and below average, but I  
19 think it would be helpful for all of us if they would provide a  
20 complete sort into whether it's above average and below  
21 average, if that's the categories they use, that's fine, or if  
22 it's above average, average and below average. That would be  
23 very helpful and I would ask that they do that.

24 COMMISSIONER EDGAR: Okay. Thank you for your, your  
25 comments. And just to clarify in my mind, again, this is a

1 piece of the information that the witness had before him to  
2 help him answer questions, as he has other documents in front  
3 of him that he is referring to. It is not being admitted at  
4 this time. My sense is it is an example perhaps of a piece of  
5 what we may see as part of Exhibit 93. But, again, we have the  
6 commitment from, from TECO to bring us all, you know, a  
7 proposed exhibit that we will have the opportunity to review  
8 and pose any questions or concerns at that time prior to it  
9 being entered in.

10 MR. WRIGHT: Thank you. And do we have, do we have a  
11 title for Exhibit 93 at this time?

12 COMMISSIONER EDGAR: I think we did, but I have  
13 forgotten it. So let me ask staff.

14 MR. YOUNG: Yes, we, yes, we do. It's Exhibit 93,  
15 Witness Gillette, party TECO. Description is comparison of  
16 ROEs for the, for nationally regulated utilities, ROEs when,  
17 excuse me, ROEs that were requested, ROEs that were authorized,  
18 when the ROE was authorized, also the RRA report. I know it's  
19 a long title, but --

20 COMMISSIONER EDGAR: We're going to shorten that  
21 title, but that's a description. So the title will be ROE of  
22 Regulated Utilities Nationally - Comparison, and we will review  
23 it next week.

24 MR. WRIGHT: I apologize for having to pursue this,  
25 but is that the same as the RRA report?

1           COMMISSIONER EDGAR: My understanding is no, but I  
2 will look to staff to make sure.

3           MR. YOUNG: It's two different documents.

4           COMMISSIONER EDGAR: There will be a composite  
5 Exhibit 93.

6           MR. WRIGHT: Thank you.

7           COMMISSIONER EDGAR: Does that, does that help,  
8 Mr. Wright?

9           MR. WRIGHT: Yes, ma'am.

10          COMMISSIONER EDGAR: Okay. Hang on. Commissioner  
11 Argenziano, did you have a --

12          COMMISSIONER ARGENZIANO: I just wondered if staff  
13 could also provide that to us from their perspective what they  
14 find out the average, the midrange, exactly what Mr. Wright was  
15 talking about?

16          COMMISSIONER EDGAR: I think staff will, of course,  
17 look at the document and make sure that before we discuss it  
18 and we all on the record have the opportunity to review before  
19 it's entered in, that they'll have the opportunity for their,  
20 their points as well.

21          COMMISSIONER ARGENZIANO: I guess, Madam Chair, and  
22 somebody help me out here if I'm wrong, but does staff look at  
23 those things independently ever of what the company gives you?  
24 Isn't that something you would look at? That's what I want. I  
25 don't want a mimicry of what the company is giving. Even

1 though I want to look at what the company has, I want staff to  
2 find that out.

3 COMMISSIONER EDGAR: And if I, if I may, let's start  
4 with, with, and ask our attorneys to respond to that. And if  
5 we need additional information, we can go further.

6 MR. YOUNG: I'm sorry. My, my ear just popped, but  
7 can you repeat the question, please?

8 COMMISSIONER EDGAR: Commissioner, will you?

9 COMMISSIONER ARGENZIANO: Yes. I would like staff to  
10 come up with an independent research of the ROEs, whether  
11 they're above average, midrange and so on. I don't want just  
12 what the company hands you. I want staff to go out and get  
13 that for me.

14 MS. BROWN: Madam Chairman, the document that TECO is  
15 producing is an independently constructed document. It's not  
16 TECO's.

17 COMMISSIONER ARGENZIANO: Right. Right.

18 MS. BROWN: And it is my understanding that staff  
19 does review these independent financial informations.

20 COMMISSIONER ARGENZIANO: And I guess, I guess my  
21 concern is that staff doesn't do it on their own in a rate  
22 case. And I don't understand that, to be honest with you. And  
23 I understand it's an independent source, which nobody has told  
24 me where the source comes from except RRA, and I've tried to  
25 find that out. And it could be a very reputable independent

1 company, but the logical question is how are they funded, who  
2 are they, and those are questions that I have. Just coming  
3 from the legislative realm, those are things we always looked  
4 at, and I'm really surprised that staff on their own does not  
5 get that information during a rate case. And not to be, I'm  
6 not demeaning anybody or trying -- I'm just telling you what I  
7 expect as a Commissioner and that's what I would like.

8 COMMISSIONER EDGAR: Well, can I -- if I may, let me  
9 jump in and see. My understanding, and this is my first large  
10 rate case as well while I've been here. As we've talked about,  
11 it's been a number of years since any of us have participated  
12 in this and I'm finding it fascinating, but, of course, a  
13 multistep procedure. And when, when we have finished hearing,  
14 staff will do additional analysis as, as the portion of the  
15 staff who works on drafting a recommendation, and I think at  
16 that point there may be some of the additional analysis and  
17 work that you are describing.

18 COMMISSIONER ARGENZIANO: That's fine. What I'm  
19 asking today on the record is that staff independently get that  
20 information. I think it should be part of a rate case. I  
21 don't, I don't -- I understand that maybe it's done in the  
22 legal realm of a different way, but I want to make sure that  
23 I'm not just -- I just think that would be part of what you do  
24 and that's what I'm asking as a Commissioner. And you work for  
25 me, too, so that's what I'm asking you. If you don't mind,

1 that's what I would like to have.

2 COMMISSIONER EDGAR: Commissioner Skop.

3 COMMISSIONER SKOP: Thank you, Madam Chair. And to  
4 Commissioner Argenziano's point, I'd like to actually hear from  
5 Mr. Maurey because I know he does, he's our subject matter  
6 expert at the PSC on ROE and I have a great deal of respect,  
7 and I think he could give a very straightforward, uncluttered  
8 answer to Commissioner Argenziano and address her concerns. If  
9 Mr. Maurey could be permitted to speak.

10 MR. MAUREY: Thank you. Commissioner, we do look at  
11 authorized ROEs of other, other companies. We're not in a  
12 position to duplicate what RRA does. I mean, they do a  
13 national survey for every commission.

14 But what we will look at are the authorized returns  
15 for comparable companies in a particular case. And we have  
16 done that in this case and it was identified -- it's part of  
17 composite Exhibit 13, but what was handed out at the beginning  
18 of the break.

19 COMMISSIONER ARGENZIANO: There's a miscommunication  
20 or I'm not articulating well. That's not what I'm asking you  
21 to do. I don't want you to duplicate. I do want to know about  
22 where you get source information from. I'm not, I'm not going  
23 to pretend that I've been here so long that I understand where  
24 RRA is, how they, I know -- in working, pulling independent  
25 information for 25 or 30 years. But what I'm asking you to do

1 is on your own that I think would be part of a case would be  
2 that's something you would look at. Just as I guess TECO has  
3 pulled that from RRA, so could you. But I guess what I'm  
4 asking -- and I just actually e-mailed RRA because I have some  
5 questions that you can't answer that I think are logical to  
6 ask, and I want, I just -- I'm not questioning their  
7 reliability. I just want to know who they are and who they're  
8 funded by and how they came about. And that, I hope to get an  
9 answer from them.

10 But I guess what I'm asking is not to replicate that,  
11 is just get it as part of your own, your own investigation of  
12 ROE. Can't you go to RRA and get that same information? I  
13 know it sounds funny, but at least it is independent of getting  
14 it from someplace else and just what I request.

15 MR. MAUREY: Well, we have done that to a limited  
16 extent. To the schedule that was passed out, it's got a stamp  
17 Exhibit 3 from Witness Murry's deposition. And we did that,  
18 staff compiled this information. We called each of these  
19 individual commissions and verified these authorized returns.

20 COMMISSIONER ARGENZIANO: Why is it like pulling  
21 teeth to get that? I'm sorry. But, I mean, I didn't have to  
22 go through all this if staff would have said that from the  
23 beginning. And I guess maybe what you do is you forget, I know  
24 you're busy and you have a lot to do, and maybe you've been  
25 here a long time and don't understand where I'm coming from.

1 But I also think about the people who may be watching from home  
2 and I really want them to have a very good understanding of  
3 where everything comes from. I do get phone calls from people  
4 who say, "Well, I watched that and I don't understand what that  
5 means. How could you rely on the company for their  
6 information?" So I wanted to bring that out.

7 But I also want to know that staff is doing that.  
8 Because if you remember back in November, I asked for  
9 information on ROE and I got an answer that was not  
10 satisfactory. And then Mr. Devlin, I believe, two weeks ago  
11 gave us or just recently gave us a list. So I wanted to make  
12 sure that it was from staff independently. And what I'm asking  
13 simply is that staff get the same, not duplicate RRA, although  
14 I do have questions about who they are and they're logical for  
15 me to ask being a Commissioner who's only been here a year and  
16 a half, and just that you get your own information. That's all  
17 I wanted.

18 COMMISSIONER EDGAR: Commissioner Skop.

19 COMMISSIONER SKOP: Thank you, Madam Chair, and then  
20 I'll yield. I think Commissioner McMurrian has a question too.

21 But just to Mr. Maurey, it's my understanding, I  
22 think Commissioner Edgar touched on this point, that based on  
23 the record evidence in this proceeding upon the close of the  
24 record that staff will perform its own independent analysis as  
25 the basis for making its ROE recommendation to the Commission,

1 and that will utilize its own historical and some of those  
2 other studies that it has as reference material; is that  
3 correct?

4 MR. MAUREY: Based on the record in this case, that's  
5 correct.

6 COMMISSIONER SKOP: All right. Thank you.

7 COMMISSIONER EDGAR: Commissioner McMurrrian.

8 COMMISSIONER McMURRIAN: Thank you. I just wanted to  
9 finally jump in here, I guess. And Commissioner Argenziano  
10 raises a good point about it's easy to get caught up in, if  
11 you've been here a while, and I've been here a while, but we  
12 haven't really done a rate case in a while, so I may be  
13 misspeaking a little bit. But I think the concern here, at  
14 least the way I see it, is staff is doing their independent  
15 analysis. In fact, I know that Mr. Maurey all year long sort  
16 of follows ROE decisions and all in other states.

17 I think the problem within a hearing format is trying  
18 to get everything in the record. And if we don't have a staff  
19 witness to enter in the stuff in the record, then they have to  
20 do it through cross and discovery and that sort of thing. And  
21 I think it makes it more unwieldy for them to do their analysis  
22 and hand it to us because then they have to try to get it in  
23 the record somehow. So I think that's what makes it a little  
24 bit tougher.

25 But as I understand what they've been doing is that I

1 think they probably have been trying to flesh out the  
2 information that all sides have put in the record by asking  
3 questions and things like that. And then at the time of the  
4 recommendation, then they'll use all the information they have  
5 in the record and, and, and sort of flesh out how they see, how  
6 they see the case and what their recommendation would be. But  
7 I don't know if that's helpful at all. I'm trying.

8           COMMISSIONER ARGENZIANO: No. I understand that and  
9 I appreciate that, but I think you're making things more  
10 complicated than they are. All I asked was to make sure that  
11 at some point, I didn't care when -- because all I heard was  
12 that staff was going to take the information from TECO. I just  
13 wanted to simply -- and I think Einstein said it, was just  
14 things should, everything should not be as -- I think  
15 everything should be as simple as it is but not simpler. And  
16 that's all I was trying to say is that at some point I want to  
17 know that the information comes from staff. That's all I  
18 wanted to do. And part of that was to convey to anybody who  
19 could be, care to be watching this wonderful proceeding that we  
20 do not just rely on the utility for information. And you may  
21 forget that, but I hear from those people and that's what I was  
22 trying to say. And I want to know as a Commissioner that  
23 that's where we're getting our information from. That's  
24 simple, just simple. Thank you.

25           COMMISSIONER EDGAR: Mr. Moyle.

1           MR. MOYLE: Thank you, Madam Chair. And I just want  
2 to hopefully make sure that the record is clear as to, as to  
3 what is presently before everyone. The witness, Mr. Gillette,  
4 referred to a document. We took a break. I was trying to make  
5 sure I got a copy of the document because I think it's fair to  
6 look at that. Tampa Electric was gracious and provided a copy  
7 of that document to me. I've had a chance to review it a  
8 little bit but it's the first time I've seen it.

9           I think it would probably be helpful just for the,  
10 for the record if we identify it, not move to admit it, but  
11 identify it as a separate document, as 94 so that the record is  
12 clear.

13           COMMISSIONER EDGAR: We can do that.

14           MR. MOYLE: And for the record it is a document with  
15 a copyright, the first page, Copyright 2009, SNL Financial LC,  
16 and it is a five-page document. And staff said they had passed  
17 out a document to you. I presume what they passed out is the  
18 document I described, correct, five pages?

19           COMMISSIONER EDGAR: Well, staff had passed out two  
20 documents. The one page, which is --

21           MR. MOYLE: Murry Number 3.

22           COMMISSIONER EDGAR: -- staff Exhibit 3 Murry, which  
23 I mentioned that we will have Witness Murry before us probably  
24 next week, and then the additional five pages that you have  
25 just described.

1           So the exhibit, the piece of paper marked  
2 Exhibit 3 Murry is already in, in, in the material that is  
3 before us. And, and this has not -- but per your request we  
4 will mark it as 94 and we will label it SNL Financial LC. Does  
5 that work for you?

6           MR. MOYLE: Yes, ma'am. Yes, ma'am. Thanks.

7           (Exhibit 94 marked for identification.)

8           COMMISSIONER EDGAR: Okay. Are we all clear? Okay.  
9 Did you have further questions for this witness?

10          MR. MOYLE: I did.

11          COMMISSIONER EDGAR: Okay. Go right ahead.

12 BY MR. MOYLE:

13          Q     Mr. Gillette, just so, just so that we're clear, the  
14 document that's been marked as 94 for identification, did, did  
15 TECO sort or manipulate this information in any, in any way?

16          A     The staff in the finance area referred to the 93-page  
17 document from Regulatory Research Associates and did a summary  
18 of it for me, and that's what you have before you.

19          Q     So what we have before us isn't necessarily the raw  
20 data, but it is, it's sort of a combination, a culling and  
21 sorting that your finance staff prepared for you?

22          A     That's correct.

23          Q     Okay. And I, I think Ms. Christensen or Mr. Wright  
24 brought this up. On Page 4 of the document it says Above  
25 Average Only under Currently Outstanding ROE Decisions. Do you

1 see that?

2 A Yeah. I'm sorry. I pulled mine apart. Yes.

3 Q Do you know why they did an above average only sort?

4 A No, I don't.

5 Q Did you ask that this document be prepared?

6 A After the depositions we realized that we needed to  
7 pull together some additional information based on the fact  
8 that we didn't feel like we were as responsive as we could have  
9 been to some of your questions and the other attorneys'  
10 questions, and so the staff did this analysis. And my, my  
11 focus was nationwide and southeast in what I requested.

12 Q Okay. So, so you don't know whether a below average  
13 sort was, was run, or was it run and just not included?

14 A Apparently not because that was what was -- this is  
15 just what was provided me.

16 Q And on the last page at the very bottom there's a  
17 Southeastern Only.

18 A Yeah.

19 Q What, what is that depicting?

20 A It's my understanding these are the pending cases in  
21 the southeast and the requested return on equity by those  
22 companies.

23 Q I was trying to flip through and find the most recent  
24 decision. If you refer to Page 3, down at the bottom it looks  
25 like 7/16/2008 was a New York case, Orange and Rockland Units,

1 and that's a, that's a single A rated company.

2 A I see it.

3 Q What's the return on equity that was awarded to them?

4 A According to this document under the column Increased  
5 Authorized it shows 9.4 percent. That's, and that's -- I  
6 think, as you indicated, this information was sorted and that's  
7 the lowest of the decisions.

8 Q But the document wasn't sorted from highest to  
9 lowest, was it?

10 A I believe it was.

11 MR. MOYLE: And I apologize. Like I said, I've just  
12 had a chance to take a look at it.

13 Madam Chair, I have another document I'd like to just  
14 pass out, if I could. It's already part of the record. It's  
15 part of Mr. O'Donnell's testimony and it's his chart of  
16 authorized returns. If I could distribute that.

17 COMMISSIONER EDGAR: Okay.

18 BY MR. MOYLE:

19 Q While that's being passed out, you, you reviewed the  
20 testimony of Mr. O'Donnell; correct?

21 A I did.

22 Q Okay. And he has a Table 1, Authorized Returns,  
23 which in his testimony he represents those are the most  
24 recently allowed returns on equity granted by utility  
25 regulators from around the country. You don't dispute any of

1 the information contained on Table 1 that's been passed out, do  
2 you, in terms of what it represents?

3 A Not in terms of what it represents, I don't dispute  
4 it. I would say that we kind of divided up the various  
5 testimony of the Intervenor witnesses into subject matter, and  
6 I believe that Dr. Murry has reviewed this part of Witness  
7 O'Donnell's testimony to the greatest degree and addressed it  
8 to some degree in his rebuttal and is prepared to speak further  
9 to it.

10 Q Okay. I'm sure he, I'm sure he will. What I'm just  
11 trying to, trying to ascertain so the record is clear is  
12 that -- you know, we've talked about having to make an ROE  
13 judgment based on current market conditions. And this document  
14 that I've passed out, Page 21 of the testimony of Kevin  
15 O'Donnell, represents the most recent decisions of Public  
16 Service Commissions around the country with respect to ROE;  
17 correct?

18 A That would appear to be the case. I would also say  
19 while we're looking at this document, looking at the date of  
20 the various orders in these cases, it would appear to me that  
21 all of those dates are before what I believe to be a very  
22 significant series of events in the financial markets that  
23 occurred starting in September. Obviously there's been a lot  
24 going on in the financial market since mid-2007, but in, in  
25 mid-September there was a major dislocation in the debt markets

1 for all industry, including utilities, in which the cost of  
2 capital and cost of debt increased very significantly.

3           And in my rebuttal testimony, which was filed later  
4 in time obviously in this case, I've attached a Document  
5 Number 2 that goes through some of the recent debt deals that  
6 have been done and shows both before and after this  
7 dislocation.

8           Q     I appreciate that, and you might be jumping ahead a  
9 little bit.

10          A     Oh, okay.

11          Q     Because I have copies of that document and I was  
12 going to talk about it a little bit further.

13          A     Okay. Okay.

14          Q     But right now I wanted just to focus on that exhibit.

15          A     Yes, sir.

16          Q     And the other thing I wanted to I think make clear,  
17 this Exhibit Number 3 Murry that staffed passed out, Murry is  
18 Tampa Electric's witness; correct?

19          A     That is correct.

20          Q     Okay. And staff indicated that they had compiled  
21 data with respect to return on equity and things like that.  
22 Isn't it true that the utility listing over here are utilities  
23 not that staff went and picked out but are utilities that your  
24 witness identified as proxy companies?

25          A     Yes.

1 Q And if it was going to be an analysis of, of sort of  
2 what the, what the ROE is on average based on all the utilities  
3 in the country, it would be a bigger list than this; correct?

4 A That's correct.

5 Q Let's go to the document that you just referenced, if  
6 we could. And I thought it would be easier for, for everybody  
7 if we had copies of it even though it's in the record, Madam  
8 Chair.

9 COMMISSIONER EDGAR: Do you have copies that can be  
10 distributed?

11 MR. MOYLE: I do.

12 COMMISSIONER EDGAR: Thank you.

13 MR. MOYLE: Madam Chair, I'm also handing out another  
14 exhibit that was attached to Mr. Gillette's testimony, Utility  
15 Credit Ratings chart. And, again, this is already in the  
16 record, it's in evidence. I'm just giving you an excerpt for  
17 convenience.

18 For the record, the handout is Document Number 4,  
19 Witness Gillette, filed 08/11/2008 entitled Utility Credit  
20 Ratings, and the other document is entitled New Issue Summary,  
21 which is Document 2 of Mr. Gillette's rebuttal.

22 COMMISSIONER EDGAR: Commissioner Argenziano.

23 COMMISSIONER ARGENZIANO: And excuse me, if you will,  
24 Mr. Moyle. I just was talking with Larry and found out that  
25 the Public Service Commission is not a member of RRA, so we

1 can't acquire full information from them because we don't have  
2 a subscription. Is that true?

3 MR. WILLIS: Commissioner, can I, can I address that?  
4 We've gotten the authority to, to provide that report to you  
5 but on a -- with a cover that it's being provided in the  
6 context of this case.

7 COMMISSIONER ARGENZIANO: I understand that. I guess  
8 what I wanted to know, are we, are we a member of RRA?

9 MR. MAUREY: The Commission does not subscribe to  
10 RRA.

11 COMMISSIONER ARGENZIANO: Okay. So we have to get  
12 the information that I requested staff to do only from RRA and  
13 then we'd have to get it through the utility? We can't get  
14 that information anyplace else other than RRA?

15 MR. MAUREY: No. There are other subscription  
16 services for this information.

17 COMMISSIONER ARGENZIANO: Do we have a subscription  
18 to any of those others?

19 MR. MAUREY: No, ma'am.

20 COMMISSIONER ARGENZIANO: So then we are, we are a  
21 Public Service Commission who can't even acquire the data we  
22 need unless we get it through a utility; is that correct?

23 MR. MAUREY: Not entirely. We, we -- the exhibit  
24 that we handed out, for lack of a better -- it's stamped  
25 Exhibit 3 from Commissioner Murry's, or I, sorry, Witness

1 Murry's deposition. We did that by phoning each of these  
2 commissions and talking to people.

3           COMMISSIONER ARGENZIANO: Which, of course, is extra  
4 work on staff when they're in a rate case and I understand  
5 that. And perhaps we need to be talking about subscription to  
6 one of these that is necessary, I think, for the Public Service  
7 Commission to do its job. And I'm not -- I'm grateful to the  
8 utility for, for, and this is not any, anything derogatory to  
9 the utility, but as a Public Service Commissioner I want  
10 something totally independent, not selective or whatever. And  
11 I know the company would give us the whole thing if we asked  
12 for it. But I think the tool that our staff would need here at  
13 the Public Service Commission and I need as a Commissioner, and  
14 it took me an hour of frustration to figure out we don't even  
15 have a subscription to something that we really need the data  
16 to, not your fault, I just found out we don't even have the way  
17 of getting it, and that's something I think we need to  
18 consider.

19           COMMISSIONER EDGAR: Commissioner Skop.

20           COMMISSIONER SKOP: Thank you, Madam Chair. I have  
21 the same general concern to the extent that I know Mr. Maurey  
22 works hard and I know that he follows independently cases. But  
23 as Commissioner Argenziano, as Commissioner Argenziano properly  
24 stated, it makes more work for staff. And I know that due to  
25 funding considerations and budget cuts, you know, those

1 subscriptions are expensive. But we need as a Commission to  
2 have our staff have the tools necessary so that they can have  
3 those resources available to conduct their own independent  
4 research.

5           And I know that Mr. Maurey and I had a discussion  
6 about having the Ibbotson data and we, you know, due to  
7 cost-cutting measures didn't subscribe to Ibbotson anymore.  
8 But those, that's another thing in terms of CAPM and risk  
9 premia, that's another valuable resource tool that the  
10 Commission needs to have and our staff needs to have at its  
11 disposal. So I would tend to agree that a subscription both to  
12 Ibbotson and to an independent reporting agency would be  
13 appropriate. It's just a matter of finding the budget to do  
14 so, and that might be a discussion to have with the  
15 Legislature.

16           COMMISSIONER ARGENZIANO: I'd love to go over and  
17 help the Legislature. I bet you I could find some money  
18 available in that budget somewhere. That's really not the  
19 point. I don't want to take us away from that.

20           But if we are asked to do a job and our staff is  
21 asked to do a job, if we don't have the resources to do it,  
22 then nobody can blame us afterwards. And I'm certainly going  
23 to be yelling very loudly that if you want to cut budgets, if  
24 you cut what we need to do our job, well, then don't ask for  
25 the PSC to be able to come up with reasonable independent

1 decisions.

2           COMMISSIONER SKOP: Absolutely. And I know Andrew  
3 works very hard and I've had a lot of discussions with him on  
4 ROE and I was -- again, he needs to have the tools necessary,  
5 as do our staff to do their job efficiently and effectively.  
6 Thank you. And that might even require an online subscription.  
7 Maybe that data is -- instead of having a hard copy, maybe  
8 there's online. But I'll leave that to staff and our Executive  
9 Director.

10           COMMISSIONER EDGAR: Mr. Moyle.

11           MR. MOYLE: Thanks.

12 BY MR. MOYLE:

13           Q     Mr. Gillette, who is RRA?

14           A     Regulatory Research Associates, and I understand  
15 they're a subsidiary of a company called SNL.

16           Q     How much is a subscription?

17           A     I don't know.

18           Q     Do you know whether SNL the company is in any way  
19 affiliated with the utility industry?

20           A     I don't believe so. I believe they're independent.

21           Q     Do you know that for a fact?

22           A     I don't know that for a fact.

23           Q     You had a couple of exhibits and you talked about the  
24 September events and I want to, I want to spend a little time  
25 talking about that. The New Issue Summary, Document Number 2,

1 is this information that you compiled?

2 A This is information that we received from an  
3 investment banking firm. I believe in this case it was UBS.

4 Q And what this shows is, is that a number of utility  
5 companies shows their recent history of going into the, into  
6 the market to secure debt; correct?

7 A Yeah. That's, that's correct.

8 Q Okay. And so if Tampa Electric had been in in this  
9 fourth quarter, then probably they would show up on this list  
10 as well.

11 A That's correct.

12 Q Okay. And, you know, you talk about this access, we  
13 may not have access to the, to the capital markets. You know,  
14 in my review of this list it looks like people were getting  
15 money pretty much throughout the fourth quarter. Can you, can  
16 you -- am I not understanding that correctly?

17 A I would, I would point out looking at this document  
18 there obviously is a lot going on in the fourth quarter with  
19 utility debt issuance. But if you look, there's a period  
20 between the 8th of September, it's about three-quarters of the  
21 way down the page, and the 25th of September during which there  
22 was no utility debt issued. That's a very rare occurrence.

23 Our industry in the United States is a very large  
24 industry, it's a very capital intensive industry, and is on a  
25 regular basis as an industry needing to access the U.S. capital

1 markets for, for debt. And, and during the time when a lot of  
2 the major issues with the banks came to light, the debt capital  
3 markets ostensibly halted trading and, and utilities were  
4 unable to access. And what we saw, and you can see it on this  
5 chart, was that after that two-week hiatus in any issuance, the  
6 markets were very slow to return. The first deals that got  
7 done, as you can see after the 25th, were single A utilities.  
8 And it wasn't until October 20th, which is about two-thirds of  
9 the way down the chart, when Illinois Power came to the market  
10 with a triple B rating, which is the rating that Tampa Electric  
11 currently has issued debt, that they were, that any triple B  
12 issuer was able to access the market.

13           And when Illinois Power accessed the market, they  
14 accessed it, as you can see on that line, again it's  
15 October 20th, at a 609 basis points spread and an all-in coupon  
16 rate of 9.75 percent. And if you compare the Illinois Power  
17 deal to the transactions that were taking place with triple B  
18 rated utilities before the 8th of September, and you can see  
19 there are a number of them down towards the bottom of the page  
20 before the 8th of September, the spreads before the 8th of  
21 September were more in the 300 basis point range and those  
22 utilities were getting costs of debt, the triple Bs, in the  
23 range of 5 and 6 percent. And so I think it's, it's fair to  
24 characterize what has happened during the fourth quarter as a  
25 major dislocation, perhaps unprecedented.

1 COMMISSIONER EDGAR: Okay. Let me intervene for a  
2 moment.

3 Commissioner Skop.

4 COMMISSIONER SKOP: Thank you, Madam Chair.

5 To Mr. Gillette's point, and I guess that's the point  
6 that, that I was looking at in terms of the New Issue Summary,  
7 and I guess from what I see, and just maybe Mr. Gillette could  
8 elaborate on that, it seems that the spread has significantly  
9 increased in the fourth quarter. I guess more companies are  
10 turning to debt because they're not able to issue equities or  
11 additional shares of stock in today's stock market. But the  
12 debt market, it seems that the, the risk premia or the spreads  
13 are increasing dramatically from September to, through the  
14 fourth quarter. Could you elaborate on that, please?

15 THE WITNESS: Yes, sir. As we look beyond that  
16 September 25th date, you can see there are a number of  
17 different issuances by various utilities throughout the country  
18 with different ratings levels and also in different amounts,  
19 and very importantly for different tenors as well. And I, when  
20 I say tenors, what I mean is looking at the third column  
21 there's a maturity date that's shown. And you can see in some  
22 cases the bonds were being issued for five years, in other  
23 cases ten years, and there's even an issue that went through  
24 2048, believe it or not, a 50-year deal by Georgia Power. And  
25 so as a result of that and as a result of the very tenuous and

1 tumultuous market that we've been involved in, you can see that  
2 there's a whole array of different things that are going on in  
3 this information.

4           But I would generally summarize this information to  
5 say that triple B utilities had been issuing in the  
6 5 and 6 percent range, and in a very short period of two weeks  
7 they were in a market, looking at a market where the issuance  
8 cost all-in coupon rates were more in the 8 to 9 percent range.  
9 And triple A utilities who had issued debt in as low as the  
10 5 percent range were faced with issuing debt in a market where  
11 they could do more like 7 or 8 percent, maybe there are some  
12 sixes as well.

13           COMMISSIONER SKOP: Okay.

14           THE WITNESS: And I think, by the way, that's, that's  
15 one other important thing I'd like to highlight, and that is  
16 notice that there's a very significant difference between  
17 single A and triple B issuers when you look at this chart.

18           An interesting point -- and in my deposition there  
19 was a report that I referenced that was put into the record in  
20 this case. Obviously a lot of what's at issue here is we want  
21 to make sure we have access to the market, and we think being a  
22 single A rated utility will give us the best access to the  
23 market.

24           But this JP Morgan report also indicated that they  
25 believe that in this set of market conditions, and this is a

1 very recent report that came out in December of this year, it's  
2 actually more cost-effective to be single A than triple B  
3 rated.

4           COMMISSIONER SKOP: Okay. And just briefly, that's a  
5 little bit longer explanation than I wanted. But to, to focus  
6 the discussion, if you could look at the issuance on 9/4/08 for  
7 Ohio Power Company and the maturity date is September 1st,  
8 2013, for a BBB plus, I guess the spread is 290 points. And  
9 then again looking at the issuance on 12/4 of 2008 for Central  
10 Illinois Light Company, again about the same amount, the debt  
11 just a little bit less, maturity date same time frame, but the  
12 spread has gone up to 734, almost 735 basis points.

13           So, again, what can you -- I guess is there a single  
14 reason to explain why the basis point spread is increased  
15 almost 400 basis points during that time frame, that small time  
16 frame?

17           THE WITNESS: Two things. First of all, debt  
18 investors' perception of risk in the market, and also there's  
19 been a significant drop in Treasury rates.

20           And the way these spreads work, as I'm sure you're  
21 aware, Commissioner Skop, is that the Treasury rate and this  
22 spread are effectively added together to determine the coupon  
23 rate. And so Treasury rates went much lower. And that was the  
24 result of what is typically termed, quote, flight to quality,  
25 end quote. As a lot of the banks were in the process of

1 receiving bailout money and those kinds of things, investors,  
2 being very concerned about even commercial paper, bank type  
3 investments, tried to buy treasuries and bid the cost of  
4 treasuries down very significantly.

5 COMMISSIONER SKOP: Okay. Thank you.

6 COMMISSIONER EDGAR: Mr. Moyle.

7 BY MR. MOYLE:

8 Q This document has a lot of information on it, and  
9 Commissioner Skop had pointed out a couple of things. I  
10 thought I heard you say that part of this is to show there was  
11 a two-week period where no debt was issued, and then  
12 afterwards, when a BBB came in, it was at a rate much higher  
13 than before the two-week hiatus, is that essentially correct?

14 A That's correct.

15 Q I think you may have overlooked a BBB. When you  
16 referred to that Illinois Power, you were referring to the  
17 10/20/08 issuance?

18 A Yes.

19 Q Go down to and look at 10/15/08, Ohio Edison, what is  
20 that company rated?

21 A Let me look. They are BAA1/BBB, so they are  
22 effectively a high BBB. They're a mid-BBB at S&P, and then  
23 that BAA1 denotes on the high side of BBB at Moody's. And  
24 as --

25 Q But they're the same -- with respect to the Moody's

1 they are the same rating, right, BBB?

2 **A** That's correct.

3 **Q** Okay. And let's just spend a minute looking at that  
4 one, because I think that one is probably a little more  
5 reflective in that that was the first BBB issuance to come  
6 after this two-week hiatus.

7 **A** Yes.

8 **Q** If I did my math, if you look, let's say, 9/30/08,  
9 Encore Electric Delivery Company, which is one of the yellow  
10 highlighted ones down at the bottom, they had a 7.5 percent  
11 coupon rate. Do you see that?

12 **A** You said 9/30. I think you meant 9/3.

13 **Q** I'm sorry. Yes, sir; 9/3/08.

14 **A** Yes.

15 **Q** So they were at 7.5?

16 **A** That's correct. It looks like they did a series of  
17 issuances; one at 5.95, one at 6.8, and one at 7.5 in that time  
18 frame, that's correct. And the spreads look like they were  
19 about 300 basis points at that point in time.

20 **Q** Well, if you took the spread between a 7.5 and 8.125,  
21 that's 65 basis points, isn't it?

22 **A** Yes. And I think you can see that over in the  
23 right-hand column. It actually shows the spread for that  
24 particular deal was 427 basis points.

25 **Q** What is that measured from, the 425?

1           **A**     The treasuries at the time.

2           **Q**     Okay.  And what I'm trying to get you to do is  
3 compare the coupon rate of the 9/3/08 Encore Electric Delivery  
4 Company in which they issued 300 million in debt, do you see  
5 that?

6           **A**     Yes.

7           **Q**     That was 7.5 percent.

8           **A**     Right.

9           **Q**     Market has a period of two weeks, the next BBB in  
10 they are in at 8.125, correct, Ohio Edison?

11          **A**     That's correct.  Having said that, again, I would  
12 point out that Encore Electric Company did three deals, it  
13 would appear, on the very same day, and there was a range of  
14 interest rates.  I'm not specifically familiar with these  
15 deals, but I think it is probably fair to say that the utility  
16 was probably out doing a multi-tier funding, and you can see  
17 that -- by looking at the tenors or the maturity dates, they  
18 did deals for five years, they did deals for ten years, and  
19 then they did a deal for thirty years.  And the five and a  
20 ten-year deals were at lower rates.

21          **Q**     Anything more than a year in terms of debt is  
22 considered long-term debt in your business, correct?

23          **A**     That's correct.

24          **Q**     So go up to the 11/18/08 thing that has a little  
25 yellow highlighting there, Southern California Gas Company.

1           **A**    Yes.

2           **Q**    Versus Delmarva Power.

3           **A**    Yes.

4           **Q**    Both of those are secured.  The amount was the same,  
5 correct, 250 million?

6           **A**    That's correct.

7           **Q**    They are both coming due about the same time.  One is  
8 December 2013, the next is March 2014, correct?

9           **A**    That's correct.

10          **Q**    And then there's a B and an A.  Are those ranked the  
11 same, or is there a difference?

12          **A**    Yes.  No, they are not ranked the same.  Basically,  
13 in this proceeding, we have talked in very broad terms about  
14 single A versus BBB.  And there is effectively gradations  
15 within BBB and gradations within single A.  And in this  
16 particular case, if I look at Southern California Gas Company  
17 rated A1/A+, they are at the high end of the single A range,  
18 whereas I look at Delmarva Power and Light, they are BAA1,  
19 which on an equivalent S&P basis would be a BBB+/A-, so I would  
20 say that they are effectively at the high end of BBB or the low  
21 end of single A.

22          **Q**    And the spread there was just over 1 percentage  
23 point, correct?

24          **A**    If you're referring to --

25          **Q**    I'm sorry, just under.

1           **A**     Yes.  If you're referring to the column on the right,  
2  yes, that's the difference in those two secured debt issuances  
3  and spread.

4           **Q**     And if you compared the 5.5 rate to the 6.4, that  
5  would be 90-basis-points difference?

6           **A**     That's correct.

7           **Q**     Okay.  And we are spending a lot of time on this, but  
8  I guess the point is that, you know, these markets look like  
9  they are almost daily markets, correct, in terms of debt?

10          **A**     They are certainly daily markets.  I mean, conditions  
11  change within the day.  But I would hasten to point out that if  
12  we compare the pre-9/8/2008 time period, the September 8, 2008,  
13  time period to the post-September 25th time period, it's clear  
14  to me that there has been a major change.  And as an electric  
15  utility CFO, looking at the market, sitting right now at a BBB  
16  rating, even though we are working very hard to move our equity  
17  ratio, we have got it up to 52.6 percent by year-end, and we're  
18  working to get it to the 55 percent, I would be concerned going  
19  into the market that we probably very easily will be looking at  
20  8 percent or more issuing debt right now.  Where our average  
21  cost of debt, as has been provided and I believe stipulated to  
22  in this proceeding, is 6.8 percent.

23          **Q**     Okay.  And one of the points I wanted to clarify is  
24  that, I mean, the chief concern is it not between the ranking  
25  of a BBB and an A is that the debt will cost you a little more?

1           **A**     Not really.

2           **Q**     Are you testifying that you have a concern that you  
3 may not be able to raise any debt at all as a BBB-rated  
4 company, given the information set forth in here that shows  
5 BBB's raising money, that as we sit here today you don't think  
6 if you went into the market tomorrow as a BBB that people would  
7 say, no, we're not going to buy that debt?

8           **A**     Well, let me explain the concern.

9           **Q**     I mean, do you have a concern that you are not going  
10 to be able to --

11          **A**     Yes, sir, I have a concern. And let me explain my  
12 concern. As we sit right now, on average we are a BBB company.  
13 Fitch has us at BBB+, Moody's has us at BBB, and S&P has us at  
14 BBB-, and I've provided extensive testimony on our concerns  
15 that if we were to have a significant event, for instance, a  
16 hurricane come through our service territory, that the debt  
17 rating agencies would get concerned and possibly take us below  
18 investment grade.

19                   And so I've testified numerous pages about our desire  
20 to, in effect, create a safety net by moving to a single A  
21 rating, and in so doing not provide us more sure access to the  
22 market. And, in addition, based on the JP Morgan study that we  
23 discussed in my deposition, in this market actually provide  
24 lower costs.

25          **Q**     In these tough economic times, you're not aware of a

1 lot of businesses that compete against other businesses that  
2 have the luxury of having a safety net, are you?

3 **A** Pardon me?

4 **Q** I mean, you talk about you want a safety net. In  
5 these tough economic times, are there other businesses that are  
6 competing in the marketplace that have safety nets?

7 **A** Sir, what we're talking about here is we want to  
8 fulfill our obligation to serve in the most cost-effective and  
9 reliable manner. And we are concerned in this market at BBB  
10 that if we had an event like a hurricane, we might be at risk.  
11 And as a result of being downgraded -- and if we go below  
12 investment grade, I am very concerned about access. And so  
13 that's the access, that's the reliability part of what we are  
14 looking to do. But I also mentioned cost-effective. And,  
15 again, in this market we think it's more cost-effective to be  
16 single A, as well.

17 **Q** Now, when we talked during our deposition we asked a  
18 little bit about hurricanes. Isn't it true that you have lines  
19 of credit that you look to and that could help in the event a  
20 hurricane hit your service area?

21 **A** Yes, we do.

22 **Q** And that provides you some ability to deal with the  
23 adverse effects from a hurricane, correct?

24 **A** Yes, sir.

25 **Q** Okay. Now, with respect this utility credit ratings

1 chart, I hear what you're saying about A, but it sort of  
2 strikes me a little bit as unusual that the majority -- if I'm  
3 reading your chart, your exhibit correctly, the majority of the  
4 utility companies in this country are currently rated at BBB  
5 levels, correct?

6 **A** I think you're referring to a new document. Are you  
7 referring to Document Number 4?

8 **Q** I am, sir. Number 4.

9 **A** As part of my direct testimony?

10 **Q** Yes, sir.

11 **A** Yes, in fact, it does show that. And that's why in  
12 my deposition we are discussing, you know, the recent events in  
13 the market, and the recent changes as elucidated by the JP  
14 Morgan study, and I think probably the desire of a lot of  
15 people that are sitting in my chair right now to get to higher  
16 ratings levels.

17 **Q** Okay. The market, the debt market, you're not going  
18 into that market until November of 2009, correct?

19 **A** That's correct. That's what's in our rate case  
20 budget.

21 **Q** And so we don't know if it's going to be higher or  
22 lower in November of 2009 as we sit here today, correct?

23 **A** We do not.

24 **Q** And you're aware that the new president, Mr. Obama,  
25 has proposed a significant economic stimulus package that,

1 depending on who you listen to, is between 750 billion and a  
2 trillion dollars?

3 **A** Yes.

4 **Q** Do you think that that event could have a positive  
5 impact on the debt markets?

6 **A** It could. But I think I would also supplement my  
7 answer by saying there is an awful lot that needs to be sorted  
8 out in the economy and the financial markets that I don't  
9 believe has been sorted out yet.

10 **Q** In my opening statement I talked a little bit about  
11 the impact on ratepayers. I understand you're the CFO of Tampa  
12 Electric, and you have to look out for the company and its  
13 shareholders, that's your primary responsibility, correct?

14 **A** No. My primary responsibility is to look out for all  
15 of our constituents, including the customers.

16 **Q** Okay. Well, let's look at it this way. From a  
17 customer's standpoint, if the Commission approves an ROE of 12  
18 percent, I think we have already established each point is  
19 30 million, correct?

20 **A** That's correct.

21 **Q** So let's say they come in and they do it at  
22 9 percent. The ratepayers would have to start paying that this  
23 summer in all likelihood, correct, those additional rates which  
24 would reflect that approved ROE?

25 **A** Yes. I hope by answering your question yes I'm not

1 stipulating to the 9 percent, however.

2       **Q**     No, we'll give you some latitude on that.

3               So they start paying for it right now or this summer.  
4 If you get the 12 percent and you get an A rating, which I  
5 think we have established we don't know whether the rating  
6 agencies are going to do that or not because they don't tell  
7 you, you'll get possibly some lower borrowing costs, correct?

8       **A**     That's correct. Our future borrowing costs will be  
9 lower.

10       **Q**     And isn't it true that the ratepayers wouldn't see  
11 the benefit of that future borrowing cost until there was  
12 another rate case filed, correct, in terms of money out of  
13 their pocket?

14       **A**     In terms of the amount. If we have another rate case  
15 that we would ask for based on our cost of debt, that's  
16 correct. I would hasten to say, though, that as we look at our  
17 capital expenditure needs and our needs for external financing,  
18 I have testified, and there is a lot of evidence in the record  
19 that we are going to go through a period of extreme amounts of  
20 needs for external financing.

21               I testified and I said in my summary yesterday that  
22 over the next two years we expect that 60 percent of the  
23 required funds at Tampa Electric will need to be raised  
24 externally. And as we look over the next five years, that's  
25 47 percent of our funds will need to be raised externally.

1           When you combine that with the anticipated need to  
2 refinance various of Tampa Electric's bonds, we expect to be in  
3 the market over the next five years for about \$1 billion of  
4 bonds. And so I would submit that ratepayers should be very  
5 interested in that and very interested in us getting good  
6 deals, not only in the November deal that we have in our  
7 budget, but over the next five years. And the Commission's  
8 decision in this case will have a direct effect on that.

9           **Q**     I have a few more questions, and I think -- we're  
10 hopefully getting close, and I apologize it has taken me a lot  
11 of time to get through this. In our deposition, your  
12 deposition I talked to you a little bit about your annual  
13 reports. And really what I want to do, I have a copy of the  
14 annual report, the most recent one that you had filed. If I,  
15 you know, could approach.

16           I'll represent this is an excerpt of the most recent  
17 annual statement that Tampa Electric has filed, and I'm trying  
18 to understand better this access to --

19           **COMMISSIONER EDGAR:** Mr. Moyle, make sure that you're  
20 at the microphone so the court reporter and the transcript can  
21 pick you up.

22           **MR. MOYLE:** I'm sorry.

23 BY MR. MOYLE:

24           **Q**     This is an excerpt, is it not, sir, of your most  
25 recently filed annual report?

1           **A**     Yes, it is.

2           **MR. MOYLE:**   And I would refer you to the second page  
3 of the exhibit, which I'd like to have marked as 95, if I  
4 could, Madam Chair.

5           **COMMISSIONER EDGAR:**   Yes, sir.   We will mark as 95 --  
6 do you have a title?

7           **MR. MOYLE:**   Excerpt of 2007 Annual Report.

8           **COMMISSIONER EDGAR:**   Thank you.

9                     (Exhibit Number 95 marked for identification.)

10          BY MR. MOYLE:

11           **Q**     On Page 32, would you just read into the record the  
12 bold statement that starts about being exposed to interest  
13 rates?

14           **A**     The one at the bottom of the page or the top?  
15 There's two bold statements there.

16           **Q**     The bottom of the page.

17           **A**     Okay.   "We are vulnerable to interest rate changes  
18 and may not have access to capital at favorable rates, if at  
19 all."

20           **Q**     And isn't it true that that statement has been made  
21 to investors for a number of years in Tampa Electric's annual  
22 reports?

23           **A**     Yes.   We provide these types of risk factors and,  
24 yes, we have made these kinds of statements.   I would say that  
25 these statements are perhaps more poignant given the financial

1 markets that we're in right now, given our very significant  
2 levels of capex, given some of the hurricane risks that we're  
3 concerned about, and given the fact that we are likely to be  
4 required to do significant amounts of renewables and maybe  
5 changes to our equipment on carbon emissions.

6 **Q** And these annual statements you filed, they are all  
7 true, correct, the statements you put in them?

8 **A** Yes.

9 **Q** And the investment community, I went back and found a  
10 whole bunch of years where you had this same statement in your  
11 annual reports. I guess -- I'll just ask you to confirm that  
12 you put the investment community on notice for quite sometime  
13 that you may not have access to capital, correct?

14 **A** Yes, we have.

15 **Q** But despite putting them on notice, you always have  
16 had access to capital, correct?

17 **A** At Tampa Electric, as we have remained investment  
18 grade, that is the case. At TECO Energy --

19 **Q** I'm asking -- TECO Energy is not in this case.

20 **A** Okay. We have not.

21 **Q** I'm just asking about Tampa Electric.

22 **A** We have had issues.

23 **Q** At Tampa Electric you have always had access to  
24 capital?

25 **A** That's correct.

1           **Q**     Okay. Now, I think you said this appears in your  
2 annual reports regularly. I'm trying to understand, if you  
3 look at Page 14 of your direct testimony, Lines 4 to 8.

4           **A**     Yes, sir, I see them.

5           **Q**     You seem to be suggesting that if you get an A rating  
6 that the concerns about access to capital are resolved. Is  
7 that right?

8           **A**     I think we would be a lot more comfortable. I would  
9 still expect that we would have this type of disclosure in our  
10 annual report, though.

11          **Q**     So the comment about debt ratings in a single A range  
12 would ensure that Tampa Electric has adequate credit quality to  
13 raise the necessary capital?

14          **A**     Yes. I mean, that's my testimony. You read directly  
15 from it.

16          **Q**     And I was just trying to reconcile it with what is in  
17 the annual report that says you may not have access to capital.

18          **A**     Well, I mean what we do here is, in my view, as a  
19 layperson kind of a lawyer thing.

20          **Q**     In terms of the SEC filing?

21          **A**     That's correct.

22          **Q**     It's a lawyer thing, and investors look at your  
23 annual report --

24          **A**     Well, sure they do. Sure they do. But I would say  
25 that the investors that are reading Page 32 of our SEC filings

1 are sophisticated investors and they understand the risks.

2 Q Do you have to review the annual reports and sign off  
3 on them as CFO of the company?

4 A I certainly do.

5 Q All right. Just a couple of other areas, and I think  
6 we will be done, briefly. If I could refer you back to your  
7 Exhibit 94 for identification. This document also has the  
8 equity, the percentage of equity as compared to debt for all of  
9 these utility companies, correct?

10 A Yes, it does.

11 Q And you're seeking a 55 percent -- that's on the  
12 column that says common equity/total capital, is that correct?

13 A That's correct.

14 Q In reviewing this, I didn't see, really, hardly any  
15 other companies that were at a 55 percent equity ratio. You  
16 would agree with that, correct?

17 A I'd agree with that, but there is a reason for it,  
18 and let me supplement my answer by saying what's listed here I  
19 think in our case and for most cases in all of these cases is  
20 the regulatory adjusted capital structure. And in this case  
21 the equivalent of the financial jurisdictional equity ratio  
22 that we have filed of 55.3 percent pursuant to our MFRs is  
23 actually 50.21 percent. And so I think it's a little bit of  
24 apples and oranges.

25 I think the comparable number to the numbers that are

1 in this column is the overall regulatory equity ratio, because  
2 that's what regulatory research associates would pick up. And  
3 so the comparable number in this case in our rate proposal is  
4 50.21 percent.

5 Q One of the witnesses on behalf of the intervenor  
6 suggested that you take money from your parent company, you  
7 borrow it at whatever rate you can get it, and then you put it  
8 into the regulated company and call it equity and then earn,  
9 you know, 10, 12, 8, whatever the Commission grants return on  
10 that money. Is that currently being done?

11 A No, sir, it's not.

12 Q Has it been done in the past?

13 A No, sir, it hasn't. And I spend from Pages 28 to 38  
14 of my direct testimony rebutting the presumption that any debt  
15 at the parent company was used for equity investments in the  
16 utility.

17 Q I know your direct is in there, I don't need to get  
18 into it, but your testimony is that it has never been done in  
19 the history of Tampa Electric Company where the parent has  
20 borrowed money and then injected that money into the regulated  
21 utility in the form of equity?

22 A That's correct. And, in fact, the holding company  
23 was formed when I started with the company, and so I have had  
24 direct experience for that time period.

25 Q Are you responsible for overseeing the pension fund

1 that Tampa Electric has for its employees?

2       **A**     The Board of Directors is ultimately responsible.  
3 They have delegated certain responsibilities to a committee  
4 that is termed the funded benefits committee, and I'm one of  
5 three individuals in the company that sits on the funded  
6 benefits committee.

7       **Q**     What is the targeted rate of return for your pension  
8 fund to be able to earn enough money off of your investments so  
9 that your pension is actuarially sound?

10       **A**     As high as possible. Having said that, for our  
11 actuarial assumptions we assume a return of 8.25 percent, which  
12 bears no resemblance to an individual company's return of  
13 equity.

14       **Q**     Well, let me just make sure I understand. You're  
15 saying, okay, with our pension money if we can invest it and  
16 get 8.2 percent, we're good to go for pension purposes?

17       **A**     That is a portfolio return, and that portfolio that  
18 we have is a wide distribution of equities and debt. Our  
19 investments in the pension plan are roughly 60 percent equity  
20 and 40 percent debt, and we expect lower returns on the debt  
21 portion of the portfolio, higher returns on the equity portion  
22 of the portfolio for an average of 8.25 percent.

23       **Q**     Are you aware that Mr. Maurey, who was asked some  
24 questions previously, are you aware that he has recommended in  
25 another case against imputing debt?

1           **A**     I'm not aware of that.

2           **Q**     Do you remember the RFP Bid Rule process, were you  
3 involved in that?

4           **A**     Only passingly.

5           **Q**     Now, Standard and Poor's, you have a witness who we  
6 are going to hear from, I believe, next week because she is ill  
7 about Standard and Poor's. I was thinking about Standard and  
8 Poor's. They play a big role in this case if we are trying to  
9 get it so that you get a single A rating. I'd testify -- or I  
10 didn't testify, but made the point in my opening that each  
11 point is \$30 million. Just kind of doing rough math, if you go  
12 with Mr. Herndon at 8 percent, four times three is \$120 million  
13 that could be in play because of the Standard and Poor's  
14 opinion, correct?

15          **A**     Well, I would submit to you that if this Commission  
16 were to take 400 basis points off our 12 percent and grant us  
17 an 8 percent, we would have huge problems at Wall Street and  
18 with the rating agencies, and we would likely be downgraded, I  
19 should say, I fear possibly below investment grade, and our  
20 cost of debt could be as high as some of the deals that we saw  
21 in the September time period for less than investment grade  
22 companies that were 12 percent and higher.

23          **Q**     Are we going to be able to ask -- do you have a  
24 witness from Standard and Poor's that we can inquire about some  
25 of the things that have been referenced?

1           **A**     Well, Ms. Abbott, our witness on financial integrity,  
2 was employed by a rating agency for many years.

3           **Q**     Was it Standard and Poor's?

4           **A**     She actually worked for Moody's Investor Service, but  
5 she is very familiar with the practices of all three of the  
6 ratings agencies.

7           **Q**     Did you ask Standard and Poor's whether they would  
8 come testify before this Commission?

9           **A**     It is my understanding that rating agency personnel  
10 are specifically prohibited from testifying in proceedings of  
11 this nature.

12          **Q**     And you are not asking that Standard and Poor's  
13 judgment be substituted in this case for that of the  
14 Commission, are you?

15          **A**     Absolutely not.

16          **Q**     Just a couple more questions and I will be done. Do  
17 you know what the current T-bill rate is?

18                 **COMMISSIONER EDGAR:** Mr. Moyle, I apologize, but you  
19 said just a couple more questions at least a couple of times,  
20 and we do need to break for lunch. So I want you to have the  
21 opportunity to ask whatever it is within reason that you need  
22 to ask, but we are going to need to break soon. So can you  
23 give me an idea?

24                 **MR. MOYLE:** A couple more, and I'll try to really  
25 stick to that. And, I'm sorry.

1           **COMMISSIONER EDGAR:** You don't need to apologize. My  
2 understanding is our staff was expecting a break around noon  
3 and I would be suspecting some others are, too. So it is just  
4 whether we break now or not, or in a few moments.

5           **MR. MOYLE:** I have spent a lot of time with this  
6 witness, and I would want some of my colleagues to have the  
7 chance to ask questions.

8           **COMMISSIONER EDGAR:** We will make sure that there is  
9 that opportunity.

10          **MR. MOYLE:** Give me just a couple more minutes and  
11 I'll wrap it up.

12          **COMMISSIONER EDGAR:** Okay.

13 BY MR. MOYLE:

14          **Q** Do you know the current T-bill rate of short-term  
15 debt?

16          **A** Well, there is a number of different rates. There's  
17 is a three-month LIBOR a three-month Treasury, there is a  
18 ten-year Treasury, a 30-year Treasury.

19          **Q** A three-month Treasury.

20          **A** I think the short-term treasuries are very low right  
21 now, the one percent range.

22          **Q** I think I saw something in the paper today that  
23 indicated it might even be less than that, one-tenth of one  
24 percent.

25          **A** Okay. Yes, T-bills -- 30-day T-bills have been very

1 low. A three-month LIBOR which is another kind of short-term  
2 indicator has been about one percent.

3 **Q** And wouldn't you agree that some of that is just  
4 people are concerned about keeping the money that they have so  
5 they will say, look, I'll invest it for 30 days, 90 days, and  
6 won't take much interest at all, you know, one percent. Didn't  
7 the T-bills take zero percent for the first time ever, people  
8 invested it with the idea that all they would do is get their  
9 money back after a period of time?

10 **A** They did, and that is the so-called flight to quality  
11 that I referenced.

12 **Q** Okay. You did not attend the service hearings,  
13 correct?

14 **A** That's correct.

15 **Q** And I'm asking just for your view on this. Do you  
16 see how people might have trouble concluding that a 19 percent  
17 return on equity before taxes of a regulated utility which  
18 faces no market competition and receives more than half of its  
19 expenses annually through special recovery clauses, like the  
20 fuel and purchased power clause, is too high?

21 **A** I can understand that. Having said that, I think,  
22 you know, a customer of ours having been in our service  
23 territory a long time has been there during periods of when we  
24 were earning, you know, 14-1/2, 12, 11.75 percent. And what's  
25 important, I think, for customers in this is that their local

1 utility is able to compete in the market for capital, both debt  
2 and equity, and we believe that it is, in fact, the 12 percent  
3 rate of return and the 55 percent financial jurisdictional  
4 equity ratio that will allow us to compete in the best way on  
5 behalf of our customers.

6 **Q** As long as you have been with the company, the  
7 customers haven't been hurting as badly as they are today,  
8 isn't that right?

9 **A** From an individual financial economic perspective --

10 **Q** Yes, sir.

11 **A** -- these are tough times.

12 **Q** And unprecedented in your history with the company,  
13 correct?

14 **A** There has been other tough economic times, but I  
15 would say at the individual level and as reflected in our  
16 growth, which has slowed to virtually nothing, yes, these are  
17 unprecedentedly difficult times.

18 **Q** The final question I have, and we have had a lot of  
19 ROE discussion, I appreciate your patience on that, and I think  
20 it has been a good conversation. But the last time that an ROE  
21 has been established by this Public Service Commission, and  
22 presumably some of these charts, you know, they have when the  
23 ROEs are established, and I think we have agreed they are on  
24 facts and market conditions at the time. But the last time  
25 this Commission established an ROE in a litigated case was over

1 15 years ago, correct?

2 **A** That is incorrect. In May of this year they  
3 established an ROE for Florida Public Utilities, which is a  
4 distribution-only company, at 11 percent.

5 **Q** I'm sorry, I was referring to Tampa Electric Company.  
6 I didn't make that clear in my question. The last time Tampa  
7 Electric's ROE has been established has been over 15 years in a  
8 litigated case?

9 **A** That's correct.

10 **MR. MOYLE:** Thank you, Madam Chairman. That's all I  
11 have.

12 **COMMISSIONER EDGAR:** Thank you.

13 Commissioner Skop, did you have a question?

14 **COMMISSIONER SKOP:** Yes. Thank you, Madame Chair.  
15 And just very briefly. And I appreciate Mr. Moyle finishing  
16 his questions in a timely manner.

17 Mr. Gillette, I guess yesterday we had a little bit  
18 of a discussion about the imputation of off-balance sheet power  
19 purchase agreements to adjust equity. And I did find some  
20 support, although it was nonbinding precedent from a prior rate  
21 case settlement that suggests that that might be appropriate.

22 I guess the question I had, first to you and then  
23 second to Mr. Moyle, with respect to the S&P 25 percent  
24 recommendation, is there an exhibit that would articulate that  
25 S&P has actually stated that, and could you refer me to that

1 specific exhibit?

2 **THE WITNESS:** Yes, Commissioner. There's an  
3 attachment to my rebuttal testimony entitled Document Number 1,  
4 which is an S&P document, and on the second page of that we  
5 have actually underlined the language on the 25 percent.

6 **COMMISSIONER SKOP:** Thank you. And then to Mr.  
7 Moyle, you had mentioned Moody's in a late-filed exhibit  
8 yesterday. Can you direct me to where that exhibit would be?

9 **MR. MOYLE:** Yes, hold on.

10 **COMMISSIONER SKOP:** Or if you could do so after  
11 lunch.

12 **MR. MOYLE:** Yes. Actually it was contained in the  
13 testimony of, I think, Mr. Wright's witness, Mr. O'Donnell, it  
14 was an excerpt in there. And if the parties don't object, I  
15 can give you the reference off-line.

16 **COMMISSIONER SKOP:** Okay. And, like I say, the  
17 reason I'm asking that is, again, that got teed up in a lengthy  
18 discussion yesterday. It is somewhat of an issue of first  
19 impression, but, again, I did find some support as nonbinding  
20 precedent. But it didn't discuss the percentages that might be  
21 used to make any equity adjustment, so I was little surprised  
22 to find some support there. But, again, I just wanted to get  
23 clarification to see what Standard and Poor's actually said,  
24 and the other document that you sent to Moody's that you  
25 referenced yesterday. So, thank you.

1           **MR. MOYLE:** I have it. It is Page 57 of  
2 Mr. Woolridge's testimony, Lines 9 through 14.

3           **COMMISSIONER SKOP:** Thank you.

4           **COMMISSIONER EDGAR:** Okay. We are going to break for  
5 lunch here in a moment, and we will come back at 1:30. If I  
6 may, Mr. Wright and Mr. Twomey, just for planning purposes,  
7 will you have questions on cross for this witness?

8           **MR. TWOMEY:** Yes.

9           **MR. WRIGHT:** Yes, ma'am.

10          **COMMISSIONER EDGAR:** Okay. And are there questions  
11 from staff for this witness?

12          **MR. YOUNG:** Yes, ma'am.

13          **COMMISSIONER EDGAR:** Okay.

14          **MR. WILLIS:** For planning purposes, as well, since we  
15 have got a lot of folks up here, could we have some indication  
16 of how far you think we'll get through the witness list today?

17          **COMMISSIONER EDGAR:** I'm sorry, Mr. Willis, I didn't  
18 catch the end of your question.

19          **MR. WILLIS:** I said how far we will get through the  
20 witness list today.

21          **COMMISSIONER EDGAR:** I wish I had that crystal ball.  
22 What I would like to do is at the lunch break confer with the  
23 Chair and see what his desire is and then when we come back  
24 from lunch maybe we can have a discussion.

25          **MR. WILLIS:** Thank you.

1 COMMISSIONER EDGAR: Thank you.

2 Commissioner Skop.

3 **COMMISSIONER SKOP:** Thank you, Madam Chair.

4 And then also I do have one additional question with  
5 respect to the parent company debt adjustment, but I will  
6 reserve that until after lunch, or the appropriate time.

7 **COMMISSIONER EDGAR:** Okay. Then we will certainly  
8 come to you when we come back from lunch break. And so with  
9 that we are on recess until 1:30.

10 (Lunch recess.)

11 **COMMISSIONER EDGAR:** We are back on the record. And  
12 when we stopped for lunch, I believe, Mr. Wright, that it was  
13 at the point for you to ask your questions on cross.

14 **MR. WRIGHT:** Thank you, Madam Chairman.

15 CROSS EXAMINATION

16 BY MR. WRIGHT:

17 **Q** Good afternoon, Mr. Gillette.

18 **A** Good afternoon.

19 **Q** I want to start by asking you a few questions  
20 following up on some questioning and discussion you had with  
21 Mr. Moyle and with the bench. If we could start with what has  
22 been marked for identification as Exhibit 94, which as I  
23 understand it is the Regulatory Research Associates Report of  
24 ROE requests, awards, ratings, et cetera.

25 **A** I am hoping that mine is in order, because I had the

1 original and it got pulled apart for copies. So we might have  
2 to track page numbers a little bit.

3 **Q** All right. Well, good.

4 **COMMISSIONER EDGAR:** Mr. Wright, would you like a  
5 copy of the Xeroxed one so that you are looking at the same  
6 thing? Would that be helpful?

7 **THE WITNESS:** It might not hurt. The only two pages  
8 I have pulled off -- thank you.

9 **MR. WILLIS:** Commissioner Edgar, before we resume,  
10 could we take an assessment of where we are and what we're  
11 likely to complete this afternoon, so that we can --

12 **COMMISSIONER EDGAR:** We may try. My thinking is  
13 that -- obviously we would like to see how far we get with Mr.  
14 Gillette. I am hopeful. I would think that we could go until  
15 between 5:00 and 6:00. No later than 6:00-ish tonight. And  
16 if, you know, in the 5:00 to 6:00 range there is a more  
17 appropriate breaking place, then I would reserve the right to  
18 do so.

19 Does that help, or do you have a more specific  
20 question?

21 **MR. WILLIS:** That helps. But a specific idea of  
22 which is a point beyond which we will not get to so that we can  
23 release some of the witnesses.

24 **COMMISSIONER EDGAR:** Sure.

25 As I said, I'm hopeful with Mr. Gillette. I would

1 like to -- my understanding is that Ms. Abbott is not available  
2 today. I would like to reserve the right to call Mr. Murry if  
3 we get to that point today, but I really don't think that we  
4 will get beyond that.

5 **MR. WILLIS:** Okay. That is helpful, and that helps  
6 with our logistics. Thank you very much.

7 **COMMISSIONER EDGAR:** Okay. You are very welcome.

8 And, Commissioner Skop, did you want to interject?

9 **COMMISSIONER SKOP:** Yes. Thank you, Madam Chair.

10 Just previously I had raised a prior reference to a  
11 prior Commission order, and just as a point of information  
12 wanted to get that order number with respect to some support  
13 but not binding precedent on the imputation of power purchase  
14 agreement and to the equity adjustment. But that order number  
15 is PSC-05-0945-S-EI, and at least on the sheet I have it's Page  
16 21, Attachment A. But there is also a page number at the  
17 bottom that says 13. But the paragraph in reference is  
18 Paragraph 13. Thank you.

19 **COMMISSIONER EDGAR:** Thank you, Commissioner.

20 Commissioner Argenziano.

21 **COMMISSIONER ARGENZIANO:** Just for information  
22 purposes, because I brought it up before, I had e-mailed RRA,  
23 and I would like to share their response. There are two  
24 responses. RRA is a private independent organization that  
25 provides research regarding the electric and gas public utility

1 industries. RRA has been in business since '82, and currently  
2 we are a subsidiary of SNL Energy. And if you would give me a  
3 minute to go to the next response. I believe this is from a  
4 Dennis Spurduto (phonetic). I believe that we are funded  
5 virtually entirely by subscriptions. Also, the majority of our  
6 subscription revenue is derived from investors followed by  
7 utilities, others, such as large industrial commercial energy  
8 users, and state commissions in order.

9 So that may shed some information which I was looking  
10 for. And the reason I want to do that is because if I'm going  
11 to depend on their information I want to know who they are, who  
12 they are funded by, and I think it's a logical question.

13 Thank you.

14 **MR. MOYLE:** Madam Chairman, could we just get the  
15 spelling of the name of the energy company that they are  
16 affiliated with, or that is their parent, or whatever.

17 **COMMISSIONER ARGENZIANO:** It says SNL Energy, and  
18 what I find out is I believe they are not an energy company,  
19 per se. I think they are a research company, and they are  
20 also -- let's see, it is also a unit of SNL Financial, so I'm  
21 trying to look into it a little bit more so I have a better  
22 understanding who they are. It seems a little convoluted, but  
23 it goes down and down and down, but that is the response I got  
24 from them. Thank you.

25 **COMMISSIONER EDGAR:** Thank you.

1 Commissioner Skop.

2 **COMMISSIONER SKOP:** Thank you, Madam Chair. And with  
3 the SNL, I don't think we are referring to Saturday Night Live.  
4 But just in relation to that prior Commission order, I just  
5 wanted to quickly opine. Frankly, I was kind of surprised to  
6 see it, but that is what the parties to the settlement  
7 agreement agreed upon, so.

8 **COMMISSIONER EDGAR:** Okay. Anything further before  
9 we move forward? Are you still with us, Mr. Gillette?

10 **THE WITNESS:** I'm here.

11 **COMMISSIONER EDGAR:** Thank you.

12 Mr. Wright, you're up.

13 **MR. WRIGHT:** Thank you, Madam Chair.

14 BY MR. WRIGHT:

15 **Q** Mr. Gillette, is it your understanding that this is a  
16 complete listing of the last awarded ROEs for at least all of  
17 the utility companies for which RRA collects data?

18 **A** If you're referring to the first three pages --

19 **Q** Yes, sir, that was my intention.

20 **A** Yes, I believe that is, in fact, the case.

21 **Q** Do you know whether there are other utilities out  
22 there for which RRA does not collect data, other investor-owned  
23 companies that are subject to state regulatory rate of return  
24 regulation for which RRA does not collect data?

25 **A** It's my understanding that RRA attempts to be

1 comprehensive and cover all utilities. And it is also my  
2 understanding that the staff people from Tampa Electric that  
3 prepared this exhibit, this summary for me, were attempting to  
4 be comprehensive. However, I was unsure when Commissioner Skop  
5 asked me earlier about Alabama, because as I said earlier, I  
6 didn't see Alabama on the chart.

7 **Q** Let me just ask a question this way. For all  
8 practical purposes, would it be your belief and understanding  
9 that this is a nearly complete list of all the currently  
10 outstanding, most recent ROE decisions for the vast majority of  
11 investor-owned public utilities in the country?

12 **A** Yes.

13 **Q** Thank you. I want to ask you just a few questions  
14 about sorts here. If you look at what is numbered Page 4 of  
15 the packet that you have.

16 **A** Yes, sir.

17 **Q** That's the packet -- that's the page that has the  
18 section titled headed before average only.

19 **A** Yes.

20 **Q** Am I correct to understand that that is a grouping  
21 according to the rankings of the state utility regulatory  
22 commissions as being above average?

23 **A** That is my understanding. I understand that RRA does  
24 a regulatory assessment looking at the constructiveness and  
25 balancing the needs of companies and customers, and does a

1 ranking, and I believe Ms. Abbott, as a document attached to  
2 her direct testimony, filed a fairly current list of those  
3 rankings. And my understand is that Tampa Electric's staff  
4 people that prepared this for me just took those that were in  
5 Ms. Abbott's testimony as above average.

6       **Q**     Thank you. Just to be clear, when I first saw it and  
7 it said above average, I didn't know whether it referred to  
8 authorized ROE or bond rating or anything else, so I just  
9 wanted to clarify that the above-average grouping is according  
10 to RRA's ranking of the state utility commissions.

11       **A**     Right. And I will say while I was being  
12 cross-examined earlier by Mr. Moyle, I was unsure myself of  
13 what the above average was, and I obtained some clarification  
14 on that during lunch.

15       **MR. WRIGHT:** Thank you. I would like to ask if  
16 either Mr. Gillette or Tampa Electric could -- I will preface  
17 this by saying we sure don't have any objection at all with  
18 this information coming in. I would like to see it in the  
19 record and will make a motion at the appropriate time for such.  
20 I would like to ask could you prepare some additional sorts for  
21 us and for the Commission? And specifically I would like to  
22 request a sort of the average group and the below average group  
23 comparable to the above average group sort. And then I would  
24 like to see a sort by date order, and that can either be most  
25 recent at the top or most recent at the bottom, just so it's in

1 date order and we can see what, if any, trends might be  
2 observed from that.

3 **COMMISSIONER EDGAR:** Mr. Willis, would you like to  
4 help with the response?

5 **MR. WILLIS:** I think we can do that.

6 **MR. WRIGHT:** If I might suggest that we identify the  
7 more complete document with the additional sorts that I just  
8 requested as a substitute Exhibit 94 to be a late-filed. That  
9 would be great. Or we can have this one and we can have  
10 another document and call it 96.

11 **COMMISSIONER EDGAR:** Okay. It would actually be 93  
12 if we were going to do a -- I'm going to call it a consolidated  
13 substitute. But before I do that, let me look to staff and see  
14 if they have a preference.

15 **MS. BROWN:** Commissioner, I think your discussion  
16 earlier indicated that TECO would bring this exhibit during the  
17 hearing and it would not be a late-filed exhibit.

18 **COMMISSIONER EDGAR:** Then I misspoke. A document to  
19 be put forward as an exhibit to be considered next week to be  
20 entered into the record. That's probably a little more  
21 accurate. Thank you, Ms. Brown.

22 **MS. BROWN:** And I don't think we have any problem  
23 with the additions Mr. Wright would like to see.

24 **COMMISSIONER EDGAR:** Mr. Willis.

25 **MR. WILLIS:** That's fine with us.

1           **COMMISSIONER EDGAR:** Okay. It does make some sense  
2 to do it as a substitute consolidated 93, but if for no other  
3 reason just for my own thinking to keep it straight let's mark  
4 it as 96. Mr. Wright.

5           **MR. WRIGHT:** I am just slightly confused. Composite  
6 93, as I have written it down, includes comparisons of  
7 nationally regulated utilities, et cetera, and what has been  
8 called the RRA report. That gave me the impression that there  
9 was a document that is identified as the RRA report that  
10 already exists, and that's why I was trying to work with 94.  
11 And so I was thinking maybe this document with the additional  
12 sorts I have requested could be a substitute 94 that could come  
13 in next week. Does that make sense?

14           **COMMISSIONER EDGAR:** That does make sense to me, and  
15 that clarification is useful to me because I wasn't completely  
16 on the same page. However, we had marked 94 just for  
17 purposes -- because we had referred to that specific document  
18 that was before us for ease of -- so that we all knew what we  
19 were talking about at the same time, hopefully. So let's keep  
20 94 as it is, and there may be some duplication, but yet I think  
21 there is some rationale to marking separately.

22           Mr. Moyle, does that address the point you wanted to  
23 make?

24           **MR. MOYLE:** Yes, ma'am. I thought it was cleaner for  
25 the record.

1           **COMMISSIONER EDGAR:** I agree. Mr. Gillette.

2           **THE WITNESS:** I'm sorry, just one clarification.  
3 Just so there are no surprises, when we put together this  
4 document we used for all of the ROE information the larger RRA  
5 report that has verbiage, and text, and those kinds of things,  
6 but we also pulled from other RRA information some of these  
7 ratings, and the above average things, and those kinds of  
8 things. And I'm not completely clear as to whether all of the  
9 information that is on this sheet is contained in one single  
10 SNL report.

11           **COMMISSIONER EDGAR:** Mr. Wright.

12           **MR. WRIGHT:** And, Madam Chairman, that is certainly  
13 fine with us. So I think I do understand correctly that there  
14 is this document, the RRA report to which Mr. Gillette just  
15 referred, and that will be part of 93. And then now I'm asking  
16 that we identify 96, which I would suggest be titled expanded  
17 RRA ROE report with additional sorts.

18           **COMMISSIONER EDGAR:** Expanded RRA ROE with additional  
19 sorts, and that is clear to me, and I think that we are all  
20 clear. Okay. Mr. Wright.

21           **MR. WRIGHT:** Thank you, again, Madam Chairman.

22                   (Exhibit Number 96 marked for identification.)

23 BY MR. WRIGHT:

24           **Q**     Following along with some conversation you had with  
25 Mr. Moyle, Mr. Gillette, I want to ask you, you were discussing

1 a reported equity ratio of 50.21 percent, which is the equity  
2 ratio I see reflected on the Company's Schedule D1A for 2009,  
3 as compared to the 55.83 percent value which has also been  
4 discussed in this case. And I would like to ask you to explain  
5 what the difference between those two values is.

6 **A** The Schedule D1A, or MFR D1A includes the other  
7 so-called regulatory sources of capital, which include customer  
8 service, customer deposits, deferred income taxes, tax credits,  
9 and the like. And that's opposed to the financial  
10 jurisdictional equity ratio that we have been talking about  
11 which typically is quoted and just includes debt and equity.

12 **Q** Thank you. I understand that. So you have reviewed  
13 Professor Woolridge's testimony, have you not?

14 **A** Yes, I have.

15 **Q** So the comparable numbers in his testimony would  
16 be -- 48.89 percent is comparable to your 55.83, and his  
17 44 percent is comparable to your 50.21?

18 **A** I believe so.

19 **Q** Thank you for helping me out with that.

20 Just a quick follow-up with respect to Exhibit 95. I  
21 just want to be clear as to the procedural aspect of this.  
22 Mr. Moyle asked you do you sign off on this, and you answered  
23 that yes, correct?

24 **A** Just to be clear, I'm getting my exhibit numbers  
25 mixed up, is --

1           **Q**     I'm sorry, it is your 10K.

2           **A**     Yes, I sign off on the 10K.

3           **Q**     And I just want to be clear as to what sign off means  
4 in that context. Do you actually sign something that avers the  
5 veracity of the contents of the report?

6           **A**     Yes. The whole concept has taken on a new life.  
7 Subsequent to the Sarbanes-Oxley 404 regulations, and the SEC  
8 now requires both the CEO and CFO to attest to the financial  
9 statements, and I sign a certification every quarter.

10          **Q**     Thank you. And does Mr. Ramil sign the document,  
11 also?

12          **A**     As it turns out, it's actually Mr. Hudson, our CEO.  
13 John Ramil is our COO, so it's Mr. Hudson and I.

14               **MR. WRIGHT:** Thank you. Madam Chairman, my  
15 colleague, Mr. Moyle, is distributing a fairly simple exhibit  
16 that I would like marked for identification I guess as Exhibit  
17 97.

18               **COMMISSIONER EDGAR:** Yes.

19               **MR. WRIGHT:** And the short title would be U.S.  
20 Treasury yield curve rates, 1/16/2009.

21               **COMMISSIONER EDGAR:** Okay. We will mark this Exhibit  
22 97, U.S. Treasury yield rates, 1/16/09.

23                       (Exhibit 97 marked for identification.)

24 BY MR. WRIGHT:

25          **Q**     Mr. Gillette, you have seen information like this

1 before many times, I'm sure, correct?

2 **A** Yes, I have.

3 **Q** Okay. And you will agree it is what it is, it shows  
4 the yield rates for United States Treasury securities at  
5 different maturities?

6 **A** I will agree.

7 **Q** For the time period indicated, January 2nd through  
8 January 16th?

9 **A** Yes.

10 **Q** Thank you. That's all I have on this for the  
11 present. We will come back to it. Thank you.

12 I just want to clear up a couple of other things  
13 about the return on equity and the effect of grossing that up  
14 for taxes. I believe you already testified that the 12 percent  
15 after-tax return on equity corresponds to roughly a 19 percent  
16 pretax return on equity?

17 **A** That is correct.

18 **Q** Would it be slightly more accurate to multiply the  
19 12 percent after-tax return by the NOI multiplier?

20 **A** What I would typically do is multiply by 1.63, but I  
21 think in the regulatory venue that's how it gets done.

22 **Q** Well, and the Company's proposed NOI multiplier is, I  
23 believe, 1.63490, or something like that.

24 **A** Okay.

25 **Q** So with that clarification, would you agree that the

1 number is more like 19.6 percent?

2 **A** Yes.

3 **Q** Thank you. I have one quick question regarding -- at  
4 least I expect it to be a quick question -- regarding the  
5 company's MFR Schedule A1. Was this document updated during  
6 the course of the case? The reason I ask is that the version I  
7 have says that the company's projected earned rate of return  
8 for 2009 is 5 percent, but I understand now it's the company's  
9 position it is 4.38 percent.

10 **A** I don't believe I sponsored A1, so I don't have it in  
11 front of me, but I think what you are saying sounds correct.

12 **Q** Just so we're talking on the same page, the company's  
13 position is that without rate relief and with the other  
14 assumptions embedded in its MFRs, you would earn 4.38 percent  
15 in 2009 absent a rate increase?

16 **A** Correct.

17 **Q** Thank you. I have some questions following a line  
18 that Mr. Moyle pursued with you yesterday and again this  
19 morning that relate to what we call the imputed debt  
20 adjustment, or on my side of the table the equity penalty  
21 regarding purchased power agreements.

22 **A** Yes, sir.

23 **Q** In your discussion yesterday you made a reference to  
24 fixed capacity payments, correct?

25 **A** Yes.

1           **Q**     Isn't it true that none of your power purchase  
2 agreements are take-or-pay contracts?

3           **A**     It has been some time since I have been directly  
4 engaged with our individual contracts, but as I remember those  
5 that I had direct involvement in, there is a requirement for us  
6 to pay the capacity charge so long as the capacity is  
7 available. In the case of Hardy, whether we utilized the  
8 energy from Hardy or not, and then in other cases, for  
9 instance, in some of our cogeneration-based contracts, I think  
10 there is a requirement to take the energy as it is available.

11          **Q**     Well, when you refer to taking the energy as it is  
12 available, that refers only to energy purchases, correct?

13          **A**     That's correct. Having said that, at the same time,  
14 the capacity payment is a fixed part of the contract so long as  
15 the capacity is available, and that is why I believe the rating  
16 agencies consider those payments to be like debt.

17          **Q**     In that context, will you agree that the seller  
18 making the capacity available equals the seller performing its  
19 obligations to do so under the power purchase agreement?

20          **A**     Yes.

21          **Q**     Will you also agree that if the seller does not make  
22 the capacity available, you don't have to make the capacity  
23 payment?

24          **A**     It depends.

25          **Q**     On what?

1           **A**     It depends on the provisions of the individual  
2 agreement. Different of the agreements have different  
3 provisions with regard to the availability of capacity such  
4 that, for instance, there might be a required 85 percent  
5 availability. And so long as the plant is 85 percent available  
6 or above, the utility would be required, or Tampa Electric  
7 would be required to pay the capacity payment. But then if the  
8 availability is lower than, say, for instance, 85 percent, then  
9 there might be some declining block, you know, or declining  
10 amount of capacity payment that the utility would be required  
11 to pay.

12           **Q**     Isn't it true that if the facility just flat goes  
13 off-line, you don't have to make the capacity payments under  
14 any of your power purchase agreements?

15           **A**     I don't know that for sure. I would say if the  
16 capacity was off-line for a long time, there would be either an  
17 availability provision or some type of force majeure provision  
18 that might obviate the need for us to pay capacity payments.  
19 On the other hand, in the power plant operating arena, you  
20 know, major forced outages typically don't go much more than  
21 for a month or two. And in that case I would say that in the  
22 case of the contracts that we have, it's likely that there  
23 might be some decrease vis-a-vis the mechanism that I just  
24 testified to of the capacity payment, but I'm not sure that it  
25 would go completely away. And, in fact, I doubt it would.

1           **Q**     If a seller, be it a QF, IPP, EWG, or any other  
2 species, is not performing its obligations with regard to the  
3 capacity, do you have to make the capacity payments?

4           **A**     It depends on the contractual conditions.

5           **Q**     Do any of Tampa Electric's power purchase agreements  
6 of which you are personally aware require you to pay capacity  
7 payments if the seller is not performing its capacity  
8 obligations?

9           **A**     Again, I think it depends on the contract and the  
10 particular outage situation. I'm sorry, I'm not trying to be  
11 difficult, but I think it really does depend on the duration of  
12 the outage and the contractual terms.

13                   **COMMISSIONER EDGAR:** I am sorry, but Commissioner  
14 Skop, I think, would like to jump in, and I'm going to allow  
15 him to, and then we will come back to you.

16                   **COMMISSIONER SKOP:** Thank you, Madam Chair. Just  
17 real briefly. And I apologize, but I think that the point  
18 should be well taken on this issue.

19                   Mr. Gillette, is it true that in terms of negotiating  
20 contracts for renewables or cogen that the utility typically  
21 puts in language that protects the ratepayer to the extent that  
22 such payments as alluded to by Mr. Wright would not be paid if  
23 the provider was not providing the capacity or the energy?

24                   **THE WITNESS:** We certainly would attempt to do that,  
25 and I think maybe to cut through this from a practical

1 standpoint, if a cogenerator or a power purchaser is out for a  
2 very long period of time, I think we can all be reasonably well  
3 assured for purposes of this hearing that we, as Tampa  
4 Electric, would have a mechanism to discontinue the payment of  
5 capacity charges.

6 **COMMISSIONER SKOP:** And then also, too, in that same  
7 regard, typically when a cogenerator comes on-line there's a  
8 capacity tests, or periodic capacity tests that verify that  
9 they are capable of delivering what they say they are going to  
10 deliver. And I would equally expect that in such contracts  
11 there is language that protects the ratepayer and the utility  
12 if they don't meet those performance targets. Is that correct?

13 **THE WITNESS:** That is correct. Typically an annual  
14 test.

15 **COMMISSIONER SKOP:** Thank you.

16 **COMMISSIONER EDGAR:** Mr. Wright.

17 **MR. WRIGHT:** Thank you, Madam Chairman.

18 BY MR. WRIGHT:

19 **Q** In response to a question by Mr. Moyle yesterday, you  
20 said that there was some risk of a lag in recovering payments  
21 under power purchase agreements from your customers. Do you  
22 recall making that statement?

23 **A** I do.

24 **Q** What lag?

25 **A** Well, we file both fuel and purchased power on a

1 prospective basis, as this Commission is well aware, and there  
2 is a true-up to the actual expenses that are paid every year.

3 **Q** Are you ever involved in the approval process for  
4 power purchase agreements for cost-recovery purposes, i.e., are  
5 you aware the company signs a contract then comes to the Public  
6 Service Commission and asks for the Commission's approval of  
7 the PPA for cost-recovery purposes, are you aware of that  
8 process?

9 **A** In my current role, I don't get directly involved on  
10 a regular basis in fuel adjustment or capacity recovery clause  
11 matters. In a prior life I was fairly involved in that in  
12 Tampa Electric.

13 **Q** Is it your general understanding at least that that  
14 is how it works?

15 **A** And, I'm sorry, but I'm going to have to ask for you  
16 to repeat how that works.

17 **Q** Sure. Is it your understanding that when a utility,  
18 Tampa Electric Company, signs a power purchase agreement at  
19 least with a QF or a renewable energy producer, you then file  
20 that contract for approval for cost-recovery purposes with the  
21 Commission?

22 **A** That is my understanding.

23 **Q** Okay. And with respect to purchases from independent  
24 power producers or wholesale generators, you might sign the  
25 contract and then submit the contract and projected payments in

1 the course of either the fuel or capacity cost-recovery  
2 dockets?

3 **A** Yes.

4 **Q** And you do make that filing on a projected basis?

5 **A** Yes. And the payments can be higher or lower  
6 depending on the actual output and amount of power that's  
7 bought.

8 (Transcript continues in sequence with Volume 4.)

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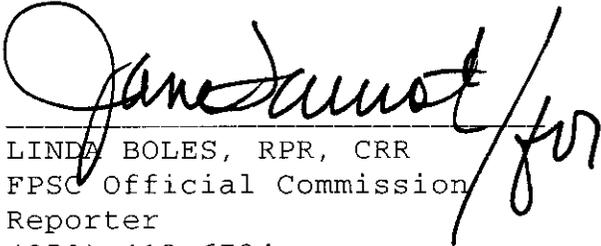
WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 22nd day of January, 2009.

  
\_\_\_\_\_  
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