BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080317-EI

In the Matter of:

PETITION FOR RATE INCREASE BY
TAMPA ELECTRIC COMPANY.
_______________________________/

VOLUME 13

Pages 1949 through 2151

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

PROCEEDINGS: HEARING

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

DATE: Wednesday, January 28, 2009

TIME: Recommenced at 9:00 a.m.
Recessed at 8:10 p.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

APPEARANCES: (As heretofore noted.)

DOCUMENT NUMBER-DATE
00744 JAN 29 09
FPSC-COMMISSION CLERK

INDEX

EXHIBITS

NUMBER		ID.	ADMT.
32-48	Appendix 1 and JRW-1 through JRW-16		1992
49	Larkin Appendix 1	2044	2068
50	HL-1	2044	2068
51	Schultz Appendix 1	2109	2149
52	HWS-1	2109	2149
53	Curriculum Vitae of Stephen A. Stewart	2144	2144
119	Woolridge FPL exhibit	1957	1992
120	U.S. Treasury Yields, 1/27/09	1976	1993
121	HL-2	2049	2068

P R O C E E D I N G S

(Transcript continues in sequence from Volume 12.)

CHAIRMAN CARTER: Commissioner Skop, you're recognized, sir.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just quickly so I can follow along with the discussion and the examination.

Mr. Woolridge, I'm looking for it in the voluminous information I have, but can you briefly repeat what your calculations for both the DCF and the CAPM models would be in terms of the appropriate ROE that you calculated, or can you refer me to what specific page if you --

THE WITNESS: Yes, I can. And actually, it's easier if you just go to the exhibit number. It's Exhibit JRW-10, page 1.

COMMISSIONER SKOP: And that's what I'm looking at. But typically, is there a range? Did you provide a range or just one specific number?

THE WITNESS: I just used a specific number.

COMMISSIONER SKOP: Okay. And with respect to that exhibit on JRW-10, page 1 of 6, the dividend yield is asterisked, and it's at 5.2 percent, and the asterisk refers to page 2 of Exhibit JRW-6. And I flipped there briefly, and I don't know whether it's a typo or not, but I see on page 2 of that exhibit a water utility chart, so I'm wondering if that's a typo in that asterisk.

THE WITNESS: Yes. I'm sorry. That is page 2 of this exhibit, JRW-10.

COMMISSIONER SKOP: Okay. Thank you. And I'll reserve any questions towards the end of the discussion. Thank you.

CHAIRMAN CARTER: Thank you. Ms. Bradley.

MS. BRADLEY: Mr. Woolridge, let me ask you -- are we coming to me first or them first?

MS. CHRISTENSEN: TECO? Wasn't TECO --

CHAIRMAN CARTER: Oh, I was in that mode from going so long. Hang on. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Mr. Woolridge, with respect to that dividend yield, having taken a quick glance at the yields that were used for the electric proxy group, and noting that the dividend yield has increased significantly as the market has declined for various publicly traded companies, are those yields still accurate? I mean, because they're dated April through November 2008, and we're in early January, where the yields have increased significantly, or can you briefly comment on that?

THE WITNESS: They have not increased significantly since that time. I mean, if you want to compare, say, electric utilities to companies in general, this particular group of electric utilities, the 13 that I've used, they haven't -- they declined -- I just updated a study I did on these companies, and over the last six months of 2008, they lost 3 percent of their value, where as the S&P 500 lost 26 or 27 percent of its value. So they lost value early in the September, October time frame. After that, they stabilized.

CHAIRMAN CARTER: Thank you. And thank you, Ms. Bradley, for reminding me. I had gotten into a spin.

Mr. Willis or --

MR. BEASLEY: Mr. Chairman, we would request to go last. I think the other parties are aligned, and I believe the Attorney General's Office has adopted pretty much the positions, all of the positions of OPC, and so we would like to go last if we could.

MS. CHRISTENSEN: Commissioners, I would object to that. I think the normal course is that --

CHAIRMAN CARTER: I'm going to sustain the objection. You may proceed.

MR. BEASLEY: All right, sir.

CROSS-EXAMINATION

BY MR. BEASLEY:

Q. Good afternoon, Dr. Woolridge.

A. Hello.

Q. On page 59 of your testimony, one of your four principal criticisms of Dr. Murry's testimony regarding ROE and his recommendation is that he uses what you consider to be an inappropriate group of comparable companies; is that correct?

A. Yes.

Q. In that regard, you say that Dr. Murry should not have relied on four of the companies that he relied on because they derive too much of their revenues, in your opinion, from non-regulated utility activities; is that correct?

A. No. It's from other non-electric sources.

Q. Yes.

A. And those -- I mean, as I said in my opening, that's not one of the biggest issues I have with Dr. Murry's testimony, but there were some companies there whose percent of regulated electric revenue was low. That was my opinion.

Q. But that is one of the four principal concerns stated on page 59 that you have difficulties with Dr. Murry's conclusion on ROE?

A. Yes.

Q. And those included the OGE Energy Corporation, PEPCO Holdings, SCANA Corporation, and Wisconsin Energy. Is that --

A. Yes.

Q. -- your testimony? Have you reviewed Mr. O'Donnell's testimony on ROE in this proceeding?

A. No.

Q. Let me give you an exhibit, if I could, if we could distribute to the witness an exhibit from Mr. O'Donnell's testimony.

CHAIRMAN CARTER: Are you going to use it for cross-examination, or do you need a number for identification?

MR. BEASLEY: Just for cross-examination, sir. It's going to be an exhibit of Mr. O'Donnell.

CHAIRMAN CARTER: Okay. You may proceed.

BY MR. BEASLEY:

Q. Dr. Woolridge, Mr. O'Donnell includes three of the four companies in his group of comparable companies that you contend that Dr. Murry should not have used, doesn't he?

A. Yes.

Q. Dr. Woolridge, isn't it true that in the recent Florida Power & Light rate proceeding before this

Commission, you used in your comparable company group all four of the companies that you have criticized Dr. Murry for including in his group in this case?

A. I do not recall.

MR. BEASLEY: Let me distribute another exhibit. And I would like to have this marked for identification, if I could.

CHAIRMAN CARTER: Okay. Commissioners, for the record, that will be Exhibit Number 119. Title, short title?

MR. BEASLEY: Dr. Woolridge's Florida Power & Light exhibit.

CHAIRMAN CARTER: Okay.

(Exhibit 119 was marked for identification.)

BY MR. BEASLEY:

Q. Dr. Woolridge, have you had an opportunity to review that document?

A. Yes, I have.

Q. You included in your comparable companies in that case all four of the companies that you criticized Dr. Murry for including in this case in his comparable companies; is that correct?

A. Yes. I mean, if you look at this group, obviously, this group has a much lower percent of revenues from regulated electricity. In this particular proceeding, I've tried to create a group that's a fairly pure group of electric utilities. I don't remember exactly, but I believe in the FP&L case, Dr. Avera was the witness, and I think I pretty much just used his group, so that the group wasn't an issue. But in most cases -- I don't think the group itself is the biggest issue here, and I think I've highlighted that. But I just tried to keep a fairly -- put together a fairly pure group of electric utilities. That's what I've done in this case.

Q. Is your answer yes, that you included the same four utilities that you criticized Dr. Murry for including in this proceeding in your exhibit in the Florida Power & Light case?

A. I believe I said yes, and then I explained it.

Q. All right. Let's look at the percentages of revenues derived in this case that you mention on pages 17 and 18 of your testimony compared to those shown in the FPL exhibit. It's true, isn't it, that the percentages are approximately the same in both the FPL case and in this case for those four companies?

A. Yes.

Q. Thank you. Dr. Woolridge, on page 4 of your testimony at lines 11 through 13, you fault Dr. Murry for relying on forecasted earnings per share growth rate of Wall Street analysts and Value Line, saying that these forecasted earnings are upwardly biased; is that correct?

A. Yes.

Q. And isn't it true that you rely on forecasted Value Line projections and analysts' forecasts on pages 31 through 33 of your testimony?

A. Oh, yes. I do use them, but again, I recognize that there's other indicators of growth, and I represent the fact that these things are upwardly biased.

Q. Okay. Well, on page 5 of your testimony at lines 4 through 6, this time you fault Dr. Murry for relying on historical data, saying that that historical data is upwardly biased. That's true, isn't it?

A. Well, historic measures of returns. I think I have about 10 or 15 pages explaining how historic returns overstate expected market returns, and I think that's -- I highlighted that in my summary at the beginning.

Q. And on page 11 of your testimony at line 21 through page 12, line 2, you reject the company's use of projected 2009 test year capital structure that will be in place when the new rates set by the Commission are in place; is that correct?

A. Yes.

Q. And it's true, isn't it, that you instead rely on a historical two-year average for your capital structure?

A. Yes.

Q. That produces a lower equity component, does it not?

A. Yes.

Q. On pages 13 and 14 of your testimony, you revert back to the latest available LIBOR rates as your basis for determining short-term debt capital costs or debt costs; is that correct?

A. I've looked at current LIBOR rates, yes.

Q. And you fault Tampa Electric for using historical LIBOR rates through 2008?

A. Yes, because they don't reflect current rates. And in fact, if I updated them today, the numbers would be lower.

Q. And on page 4 of your testimony, you say that you used both historical and projected growth rates in your DCF analysis; isn't that correct?

A. Yes.

Q. But isn't it true that you actually exclude the historical growth to get your final average that you use for your DCF growth rate at the top of page 33?

A. In the end, yes. I feel that the historic growth rates had some figures which were extremely low, so I relied on three different measures of expected growth rates, which include Value Line projections of dividends, earnings, book value per share, as well as internal growth and analysts' projections of earnings growth. So I took into account a number of projected figures and not just the analysts' growth rates.

Q. Isn't it true that in your testimony in this case, you have switched back and forth between historical data for some purposes and forecasted data for others?

A. No.

Q. Haven't I given you just about five examples or six examples where you've done that?

A. Well, I have used where -- for example, I've reviewed the historical figures in terms of the DCF growth rate. As it turns out, obviously, analysts and Value Line know what these numbers are when they make projections of the future. But, no, I would say that's just not true. I have used projections of expected stock returns. I've used historic stock returns.

I would say, in fact, probably the truth is actually true for Dr. Murry's testimony, where for the DCF growth rate, he has used analysts' projections of earnings per share, and then for the -- to develop a risk premium, he simply uses historic returns. So in one case, he rejected -- he rejects historic growth rates for the DCF model. On the other hand, he rejects projections of market returns for the capital asset pricing model.

Q. I'm talking about in your testimony. In deciding whether to use historical data or forecasted data for any particular calculation, it's true, isn't it, that you've simply opted for that which produces the lower result?

A. No, that's totally untrue. What I did was, I did what was appropriate. On the capital structure, it's very clear that you have to have a capitalization that reflects the capitalization of the company as it has been financed and the capitalization of the proxy companies you're using in your group. And it's clear the proposed capitalization includes some assumptions of the future. The company has recommended a common equity ratio which is well above that of publicly traded electric utilities.

Q. Dr. Woolridge, on page 48 of your testimony, you state that stock prices are relatively high at the present time relative to earnings and dividends.

A. Yes.

Q. My question to you is, isn't it true that stocks in general as measured by the S&P 500 have lost about 35 to 40 percent of their valuation over the last year?

A. Yes. And PE ratios and dividend yields are still high.

Q. You also say on page 48 that interest rates are relatively low. Would you agree that the current yield on triple-B rated corporate bonds are around 9 percent?

A. No. That is clearly out of date. First of all, I think it's more relevant to look at triple-B public utility bonds. And the most recent data I have was last week, and they were 6.75 percent.

Q. I asked you about triple-B rated corporate bonds, and you're saying that's totally out of date. I want to hand you a copy of the Wall Street Journal excerpt from this past Friday and ask you to tell me what the triple-B rated corporate bonds latest yield is.

A. For the numbers listed here, which is from the Friday, January 23, 2009, they rated triple-B corporates. They said the latest -- now, I don't know what that is. They say latest. I assume it's a --

Q. Isn't it the latest yield?

A. It doesn't say it's a yield.

Q. The top line doesn't say yield?

A. No, it doesn't. But I would think -- it looks like a yield number, but those numbers aren't -- first of all, I don't know what index they use and where they're getting their numbers. I use Bloomberg as a source. If I look at the most recent Bloomberg numbers, public utility bonds, triple-B public utility bonds are at 6.75 percent, and corporates are a little bit higher. And that's part of the -- I think the issue that has come out earlier in this hearing, that the public utility sector and the bonds have done quite well in the last month or so. The public utility triple-B rating that I've seen most recently last week on Bloomberg was 6.75 percent.

Q. Is the yield that I just handed to you for triple-B rated corporate bonds 9.120 percent?

A. Yes, but I don't know what index. They don't really say where they're getting that, you know, what -- I mean, obviously, there's different indexes, for corporate bonds, for public utility bonds. And I use Bloomberg numbers, and these are certainly not in line with what I see on Bloomberg.

Q. But they are reported for triple-B rated corporate bonds?

A. Yes.

Q. Could you turn to your Exhibit JRW-7 attached to your testimony?

A. Yes.

Q. The first page of that exhibit, which is A rated public utility bonds, it's true, is it not, that there is no information in that exhibit except for data from 2007 and earlier?

A. That is correct. That is an exhibit I update annually. If I updated it to last week, last week, according to Bloomberg, A rated public utility bonds, long term, were yielding 6.0 percent.

Q. If you look at the second page, that's the Dow Jones utilities dividend yield. The same is true there, that there's nothing on that exhibit that's any later than calendar year 2007; is that correct?

A. That is correct. I prepared this testimony in November, so I didn't have 2008 data for it.

Q. The same is true on the third page of that exhibit for the Dow Jones utilities market to book and ROE? That's all 2007 and earlier; correct?

A. Yes.

Q. So all the data in this exhibit came from 2007 or earlier?

A. Yes. I was showing a long-term perspective. The 2008 data wasn't available, so I couldn't put it in there.

MR. BEASLEY: Those are all the questions we have, Madam Chair. I would like to move admission of -- well, I'll wait.

COMMISSIONER EDGAR: Yes, let's wait and do those at the end, if that's okay. That helps me.

Ms. Bradley.

MS. BRADLEY: Thank you.

CROSS-EXAMINATION

BY MS. BRADLEY:

Q. A few minutes ago Commissioner Skop asked you about the loss for the period -- I think it was July 1 of '08 to January 1 of '09, and you indicated that the electric utility stocks had suffered much less loss than the general stocks?

A. Yes.

Q. Can you determine the risk associated with one versus the other of those stocks?

A. Well, I mean, you've got to look at the volatility. In that case, I compare like the volatility of the S&P to the volatility of the 10 stocks. And the overall market has been much more volatile than the electric utility sector, obviously, in particular, the stocks that I follow. I mean, clearly, the S&P has been very volatile. Especially in the September to November time frame, it was extremely volatile. The volatility has settled down a lot since then. But during that time frame, clearly, the overall market was much more volatile than the electric utility sector.

Q. Is there any way to quantify that risk?

A. Well, I mean, there's different ways. As a matter of fact, I use the coefficient of variation as a measure of volatility, because you have different mean values, so you have to standardize them by the mean, and that's what the coefficient of variation does. And I find that, you know, using that as a measure, certainly the S&P has been much more volatile, two to three times as volatile as utility stocks, but I don't think that should surprise anybody.

MS. BRADLEY: Thank you. No further questions.

COMMISSIONER EDGAR: Mr. Moyle.

MR. MOYLE: Thank you. I have a few.

CROSS-EXAMINATION

BY MR. MOYLE:

Q. Can I refer you to the two exhibits that Tampa Electric just provided to you?

A. Yes.

Q. One was, I guess, a document that you were involved with in a previous case, and I just was looking at the chart in the column on return on equity. Alliant Energy had a 6.8 return on equity; is that right?

A. Yes.

Q. Are you aware, has Alliant Energy been unable to raise debt in any capital markets that you're aware of as we sit here today?

A. I don't know.

MR. BEASLEY: Madam Chair, I would object to that question on the grounds that it's friendly cross-examination. I didn't present that document to Dr. Woolridge for any reason other than to talk about the four companies that he criticized Dr. Murry for including in his testimony.

COMMISSIONER EDGAR: Mr. Moyle.

MR. MOYLE: Well, I mean, it's a Tampa Electric document. I just got it handed to me a couple of minutes ago. I had a couple of follow-up questions related to the document. I think it's, you know, an issue in the case. I think Dr. Woolridge also is at a position that's a little -- it's better than Dr. Murry's position, but it's not as good as the position advocated by my client, FIPUG, with respect to ROE. So I don't know if I would call him adverse, but he's at a higher number than Mr. Herndon is.

COMMISSIONER EDGAR: Thank you, Mr. Moyle, for that additional advocacy on behalf of your client. I'm actually going to sustain the objection, and I would like you to move on.

MR. MOYLE: Okay.

BY MR. MOYLE:

Q. Is it true that the trend, based on your expertise, has been coming down in the country for commissions awarding ROEs?

MR. BEASLEY: I renew the objection, Madam Chair. That is friendly cross, and it's -- my objection is consistent with the one that Ms. Kaufman presented earlier.

COMMISSIONER EDGAR: I'm sorry. With -- oh, with Ms. Kaufman. I didn't quite catch the end of your statement. Mr. Moyle, I think he has a point.

MR. MOYLE: All right. Well, I know the Chairman had said he would give a little leeway. Mr. Twomey got a little leeway. I don't think I've gotten a question out yet. But, you know, I'll defer to your judgment on it, obviously.

Is that question objectionable just in terms of asking him, you know, from sort of an overall trend, what the ROE has been doing? I mean, he's talked about markets and things like that.

COMMISSIONER EDGAR: It's last week all over again.

MR. MOYLE: I'm sorry? It's what? Oh.

COMMISSIONER EDGAR: Deja vu. I will sustain the objection on the line of questioning that I think originated this discussion. Mr. Moyle, do you have any other questions?

MR. MOYLE: I do have one. There has been a lot of testimony in this case about the high ROE as a need for something that will help finance debt, and I want to ask him, if I can -- I'll tell you the question I want to ask him is whether he's aware of credit enhancing vehicles --

COMMISSIONER EDGAR: Not to me. Pose the question to the witness.

MR. MOYLE: Okay.

COMMISSIONER EDGAR: And if there is an objection, we will move on it, and if not, we'll go forward.

BY MR. MOYLE:

Q. Sir, are you aware that debt such as bonds can be enhanced through credit enhancement vehicles or insurance for bonds?

A. Yes.

Q. And isn't it true that that credit enhancement and insurance can be purchased for a fraction of the cost in terms of the basis points for the issuance of the bonds?

MR. BEASLEY: Madam Chair, I renew the objection. It's friendly cross, and it's not really adding to the proceeding.

MS. CHRISTENSEN: May I be heard on this? I mean, I know I'm in an unusual position, but I did want to point out, there really is no objection called friendly cross. There's repetitive, you know, overly burdensome, but friendly cross is not an actual hearing objection.

COMMISSIONER EDGAR: Okay. Ms. Christensen --

MS. CHRISTENSEN: And I do realize --

COMMISSIONER EDGAR: Ms. Christensen, quite frankly, it was your objection that got us into this position.

Mr. Moyle, do you have questions along a different line?

MR. MOYLE: I had one other question that's on a different line.

COMMISSIONER EDGAR: One more try, Jon.

MR. MOYLE: Okay. I'll tell you what. I won't ask that question. I'm done.

COMMISSIONER EDGAR: Mr. Wright.

MR. WRIGHT: Thank you, Madam Chairman. I have a few lines of questions. Just as an initial proffer, I have a few lines of questioning for this witness that address specifically differences and some clarifications as between his testimony and my witnesses', plural, testimony, Mr. O'Donnell's and Mr. Herndon's.

CROSS-EXAMINATION

BY MR. WRIGHT:

Q. Mr. Woolridge, I would like to ask you to look at page 13 of your testimony. Near the top of that page in line 5, you make the statement -- you make a reference, "My capital structure, with a common equity ratio of 48.89 percent." Now, are you aware that Mr. O'Donnell has recommended an equity ratio of 44 percent in this case?

A. I think I was aware of that, yes.

Q. This is a potential source of confusion. Is that equity ratio of 48.89 percent, is that an equity ratio that relates only to investor sources of capital?

A. Yes.

Q. I'm sure you've reviewed the company's testimony.

A. Yes.

Q. And in their MFRs, isn't it correct that the company's testimony shows, using the total capital structure, an equity ratio of 50.21 percent for the 2009 test year? It's D-1a.

A. I know it's about that. I don't know if that -- I don't have that MFR with me. I'm just looking a -- I know it's about that. I don't know if it's exactly that or not.

Q. My question for you is, what number in your testimony or exhibits is comparable to the company's 50.21 percent? I think the answer is found on your Exhibit JRW-4, but I'm confused between your testimony on page 13 and JRW-4, I just want that clear for the record.

A. On JRW-4, at the bottom, I show the capital structure including all sources of capital and the capital structure which has investor sources only.

Q. And so what's your common equity ratio for all sources of capital?

A. 42.498 percent.

Q. Thank you. At page 53 of your testimony, Dr. Woolridge, you testify that the appropriate equity cost rate for the proxy group is in the 8.2 percent to 9.8 percent range. Is it an accurate characterization of this testimony plus your testimony at lines 3 and 4 on page 53 that the appropriate range for the cost rates for return on equity for Tampa Electric Company is between 8.2 percent and 9.8 percent?

A. Yes.

Q. I want to ask you about your CAPM results. The CAPM results -- and I'm looking at page 1 of 10 of Exhibit JRW-11. Your CAPM result is where you got the 8.2 percent; correct?

A. Yes.

Q. And you go on to testify that you chose a 9.75 percent recommended rate of return because of recent stock market volatility; correct?

A. Yes.

Q. Now, I think you've already testified to this, and this is a predicate to a follow-up question. You've testified that utility stock volatility has been less than the general stock market volatility.

A. Yes.

Q. Shouldn't that lead you to recommend a lower return on equity, i.e., lower within your appropriate range, say, closer to 8.2 percent?

A. No. The point of saying that is, we all have -- Dr. Murry and myself, we have an estimate of the market risk premium. The market risk premium reflects the risk of the volatility of the overall market. And so in a CAPM type approach, that volatility is reflected in the equity risk premium. And the fact that the volatility of the September to November time frame -- I mean, in that case, that's the reason I picked the higher end of the range, is because, obviously, back then, the stock market was very volatile, especially relative to bonds.

Q. You used the 30-year Treasury bond interest rate as your risk-free rate; correct?

A. Yes.

Q. If you were to update your CAPM study as of today, what would the Treasury bond rate be? I'm going to have a --

MR. BEASLEY: I'm going to have to object to this. It's additional direct testimony of the witness, in addition to being friendly to the interests of Mr. Wright's client.

COMMISSIONER EDGAR: I'll allow.

MR. WRIGHT: Thank you.

Madam Chairman, a document very much like this has already come into evidence. It's simply the United States Treasury daily Treasury yield curve rates. I would ask that this be marked, and I believe that's going to be 120. It's the most current available. It was printed today, so it's through yesterday.

COMMISSIONER EDGAR: Okay. Yes, it will be 120. Title, Mr. Wright.

MR. WRIGHT: U.S. Treasury yields as of 1/27/2009.

COMMISSIONER EDGAR: Thank you.

(Exhibit 120 was marked for identification.)

BY MR. WRIGHT:

Q. Dr. Woolridge, I'm looking at the table, and it appears to me that the most recent 30-year Treasury bond yields are right around 3.3 percent; correct?

A. Yes.

Q. Now, if you were to apply that to your CAPM analysis, wouldn't that produce a lower indicated return on equity?

A. Yes.

Q. In fact, just following your model by itself, it would knock it down under 8 percent, wouldn't it?

A. Yes. But, I mean, if I was updating this, I would also update the equity risk premium study as well, so I wouldn't do one without the other.

Q. Now, you did rely more on the DCF methodology than perhaps -- well, let me put it this way. Is it true -- you give the DCF methodology more weight than the CAPM; correct?

A. Yes. In terms of the upper end of my range, yes.

Q. And why is that?

A. Because the result -- I mean, at the time I did this study, it was the middle of November. Obviously, that was a time of high market volatility, so I picked the upper end of the range to represent that high level of market volatility.

Q. Methodologically, would it be your professional opinion to give less weight to CAPM versus DCF, i.e., or give more weight to DCF versus CAPM?

A. From a general framework, yes. I just believe that it gives a better indicator of an equity cost rate.

Q. Have you updated your DCF analyses?

A. No.

Q. Finally, I have a couple of questions for you about your comparable group, which as we've already discussed, or you've already discussed with Mr. Beasley, is somewhat different from Mr. O'Donnell's. I do note that both of you included Progress Energy in your comparable group; correct?

A. Yes.

Q. Are you familiar with a document that has already come into evidence, and this relates to Progress Energy in particular, a document that has already come into evidence as Exhibit Number 99? And it's the Wall Street Journal article from January 13th.

A. Yes.

Q. You've seen this article; yes?

A. Yes. I read it and passed it on to my counsel.

Q. And you're aware that in this article that there's a report that Progress Energy, Inc., as the article states, recently issued 10-year bonds with a coupon rate of 5.3 percent?

A. Yes.

Q. What is Progress Energy, Inc.'s current debt rating?

MR. BEASLEY: Mr. Chairman, if I could, I'm not sure which article Mr. Wright is referring to, and it hasn't been introduced during the course of Dr. Woolridge's testimony up to this point, I don't believe.

MR. WRIGHT: It's already in the record as Exhibit 99. It came in through my cross-examination of Mr. Gillette, Mr. Chairman.

MR. BEASLEY: It hasn't been addressed by Dr. Woolridge until just now, as Mr. Wright --

MR. WRIGHT: I've asked him --

CHAIRMAN CARTER: Let's see how far you're going.

MR. WRIGHT: Thank you, Mr. Chairman.

CHAIRMAN CARTER: And just in case, I've done you guys a great favor. I've appealed to our friends at DMS, and they're going to unlock the doors for you at 6:00 so you can get back in. So I'm being nice, so you be nice. You may proceed.

MR. WRIGHT: Thank you, Mr. Chairman, and thank you for your niceness.

BY MR. WRIGHT:

Q. Dr. Woolridge, I think the pending question is, what is Progress Energy, Inc.'s bond rating?

A. Triple-B plus.

Q. What is Progress Energy Florida's current bond rating?

A. Triple-B plus.

Q. What is Progress Energy Carolinas' current bond rating?

A. Triple-B plus.

Q. Thank you. What's your source for having that information?

A. Standard & Poor's.

Q. Published report, website?

A. Website.

MR. WRIGHT: Thank you, Mr. Chairman, and thank you, Dr. Woolridge. That's all the questions I have.

CHAIRMAN CARTER: Thank you. Commissioners, I'm going to go to staff first and then --

MR. BEASLEY: Mr. Chairman, I have a follow-up, if I could, regarding a document that Mr. Wright distributed to the witness after my cross-examination.

MS. CHRISTENSEN: Objection.

CHAIRMAN CARTER: It's highly irregular. Let me hear the basis of your --

MR. BEASLEY: I just want to inquire as to when the witness received this document.

CHAIRMAN CARTER: Which document would that be?

MR. BEASLEY: This would be the document marked Exhibit 120 that was furnished to him by Mr. Wright during his questioning. It will be very brief.

CHAIRMAN CARTER: And the basis for that is?

MR. BEASLEY: Just to determine whether the witness has reviewed this prior to taking the witness stand and being presented the document by Mr. Wright.

MS. CHRISTENSEN: Commissioner, I renew the objection. I think it's -- as you said, it's highly irregular to allow somebody to go back and ask supplemental questions over additional cross-examination.

MR. BEASLEY: It's a question about a document, Mr. Chairman, that I could not ask a question about before because I hadn't seen it when I concluded my cross-examination.

CHAIRMAN CARTER: Ms. Helton.

While she's look through her book on procedure, I'm inclined not to go down this road. I'm just telling you what my inclinations are. It's highly irregular. And, of course, obviously, you know, the Supreme Court is across the street to do those kinds of things, but I'm just going to -- I'm going to rule against that.

MR. BEASLEY: We'll withdraw the question.

CHAIRMAN CARTER: You can always -- I mean, it is what it is, and that's all it is. So let's do this. Redirect?

Wait a minute. Staff, and then I'll come back to the bench. Sorry.

MR. YOUNG: Staff has no questions.

CHAIRMAN CARTER: Okay. Commissioners? Commissioner Skop, you're recognized, sir.

COMMISSIONER SKOP: Thank you. Good afternoon, Dr. Woolridge. Just some quick questions with respect to your analysis. And I've had a few minutes to look over it and to review your assumptions.

Would you agree that the inputs into both the DCF and CAPM models are subjective inputs and could cause variation in the result that both of those models would provide?

THE WITNESS: Yes.

COMMISSIONER SKOP: Okay. And focusing on your analysis and the assumptions you chose -- and I'm going to limit this strictly to the CAPM result of 8.2 percent return on equity. I guess, subject to check, my math would be a 330 basis point reduction over the current ROE of TECO. And I was wondering if I could get your expert opinion as to if that rate of return were accepted by the Commission, what regulatory signal would such a reduction of 330 basis points send to the capital markets?

THE WITNESS: I don't think it would be particularly good, and I haven't recommended that number. And again, I feel it's because of the market volatility and the fact that the risk premiums are above the 4.5 percent I estimated at that time. That's why I've recommended 9.75. But I agree. If it was 8.2, that would be below what I would expect and I think the market would expect.

COMMISSIONER SKOP: Okay. And then following up on a previous line of questioning that has occurred, I believe, yesterday, and I believe it's in -- I don't know if you have this in front of you, but it would be Hearing Exhibit 98 on page 116. The suggestion that was posed to a prior witness was that in lieu of using the traditional CAPM or DCF models, which again could be influenced by what choice of variables, and the results differ according to what assumptions are made, that a more appropriate benchmark might be to look towards recent rate case authorized returns from various commissions in the Southeast. Could you -- that's listed on page 116. Again, I don't know if you have that available to you, but just generally, what would you think about looking towards those in lieu of a critical analysis on the models?

THE WITNESS: Initially, I do not have the document you're talking about.

MR. MOYLE: I can give it to him.

COMMISSIONER SKOP: Can we do that?

And for the purposes of the record, it would be on page 116 of Exhibit 93, and it would be the last five entires at the bottom reflecting the five most recent rate case decisions, showing the requested return on equity versus the authorized return on equity by the respective commissions.

THE WITNESS: Well, a couple of thoughts I would have. First of all, I'm familiar with this database that has been discussed here, and there has been some discussion about cases that are there, what they're missing or whether the numbers are right. One of the things you have to recognize is that in every rate case it's different. There are different elements. Many of these are settlements, and in settlements, you have something else going on. So to say these are exact numbers I have a little bit of trouble with. And obviously, presumably, there's hearings and there's adjustments and there's agreements that are made.

So just looking at these, first of all, it's very circular. These particular ones that are listed on 116 are all from 2007. A lot of times they come from states where they may have commissions that tend to grant higher ROEs for a particular risk factor or something. So I think I generally disagree with this approach, just because if you're involved in these cases, you know there's a lot more going on than just in the end there's a number, and it's a function of the models that are used and the special circumstances of the cases.

COMMISSIONER SKOP: Okay. And just one final question in follow-up. And I respect that point of view. With respect to if that benchmark were to be looked at, would you agree that the authorized returns on equity, the most recent, noting they were in late 2007, which a lot of time and circumstances have changed since then, are higher than the recommended ROE that you've recommended, in your opinion?

THE WITNESS: And if you update this to 2008, you're going to find the numbers are lower. There's a broad range. I mean, there's a broad range of these decisions.

COMMISSIONER SKOP: No, I understand. And I'm not trying to press you in any direction. I'm just trying to get your expert opinion with respect to what tools the Commission should use and weigh over others in trying to ascertain what the appropriate ROE would be, in light of extreme market volatility and some of the things that have a profound impact on the respective models. You know, what should the Commission do to make the appropriate ROE choice?

THE WITNESS: I mean, I think as a Commission, you'll see ranges. I mean, I'm sure as a Commission, you go through a lot in terms of making these decisions. And obviously, using up-to-date information is important, but understanding what the elements of the case is. I mean, I was just involved in a case in Connecticut during this market turmoil, and the proposed decision came out two days ago, and the ROE is 8.75 percent. Now, that's a proposed decision, and it's going to go one way or another, but as you know as a Commission, you deal with a lot of factors one way or another when you set an ROE.

COMMISSIONER SKOP: Okay. Thank you.

CHAIRMAN CARTER: Commissioners, anything else from the bench? Redirect.

MS. CHRISTENSEN: Hopefully briefly.

REDIRECT EXAMINATION

BY MS. CHRISTENSEN:

Q. Dr. Woolridge, I think you were just having a discussion with Commissioner Skop regarding looking at the ROEs particularly out of the Southeast. In your opinion, is it that appropriate just to look at one particular region of the country for determining what an appropriate ROE would be?

A. Well, I think different commissions have different attitudes and also different risk factors they deal with. I mean, I think from a recommendation standpoint, looking at ranges are probably more important than looking at specific numbers, because sometimes these numbers that are published by RRA may have a number of decisions from one commission or one company. And so there's unique risk factors, but I think the range is probably something to consider.

Q. Okay. Dr. Woolridge, you've testified in other states. Do they use DCF and CAPM modeling in arriving at their ROE decisions?

A. I mean, virtually every state I've testified in, you see the DCF and the CAPM model. Sometimes you see additional models, different measures, different -- risk premium models, comparable earnings models, but definitely the two that are standard are DCF and CAPM.

Q. And I think there was some questioning from Mr. Beasley regarding your choice to eliminate some of the companies, and you stated you were trying to reach a more purely electrical group. Can you explain why you chose to do that with Tampa Electric and not with FPL?

A. I don't remember. I mean, the FPL case was four or five years ago. And as I look at that group, it looks like a group that Dr. Avera would have selected. So I assume that I probably -- instead of making the comparable group an issue, I used his group. I'm not sure.

But in my case, I'm just trying to find fairly pure electric utilities. For example, the utilities that were used in FP&L, a number of those are huge electric utilities. Well, you know, Tampa Electric is not a huge electric utility, so I don't think they would be comparable. Obviously, their percent of regulated electric revenue was all over the map. So in this case, I've just tried to find a fairly pure set of electric utilities.

Q. Okay. I just want to make sure I understand. When you talk about pure electric utilities, you're talking about what?

A. Well, utilities that are primarily electric utilities, they don't have a lot of gas, unregulated revenues, and that sort of thing.

MS. CHRISTENSEN: Okay. I have no further redirect.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Yes, just a quick question. That brought to mind some questions that I asked yesterday. Of the evaluation methods that are used, the CAPM, DCF, and risk premium, how come risk premium is not used more often if CAPM and DCF are so subjective and could be manipulated, so to speak?

THE WITNESS: First of all, the CAPM is a version of the risk premium model.

COMMISSIONER ARGENZIANO: Right.

THE WITNESS: And there's different ways of addressing a risk premium model, and they're all subjective. There's subjectivity in all these things.

It's not an exact number.

COMMISSIONER ARGENZIANO: Okay. But isn't the -- I guess in the risk premium, isn't there a factor which is, I guess, more -- I don't know the term to use?

THE WITNESS: No. It's subjective too.

COMMISSIONER ARGENZIANO: But not as easily manipulated if it's based on, let's say, Treasury bills that are averaged over an identified period and factored in?

THE WITNESS: But the issue is what's the risk premium, when do you measure it, how do you measure it. I mean, it's sort of like in the capital asset pricing model: The big issue is what's the market risk premium, what's the equity risk premium, how do we measure it. It's the same thing. The concept is the same thing, what is the equity risk premium.

COMMISSIONER ARGENZIANO: Okay. Then I guess the question would be, is it -- I don't know if "manipulated" is the right word, but you can put inputs where you want and change so much CAPM and DCF, it appears to me from what I'm learning very quickly. And it seems to me with risk premium, if you -- it seems to permit reliance on a more identifiable factor. If you're using the Treasury bills, isn't that a more -- can you not manipulate it?

THE WITNESS: No. No.

COMMISSIONER ARGENZIANO: Can you manipulate it as much?

THE WITNESS: Oh, yeah. It's a matter of what's the equity risk premium, how do you measure it. It's the same issue.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Thank you. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair. And would that be influenced in the CAPM by the choice of beta also, to the extent that if you pick your beta wrong, you would have that direct --

THE WITNESS: Yes. I mean, there's a lot of sources of beta. I mean, I think Dr. Murry and I both use Value Line. But probably the issue with beta, it's measured with error as well, because you use historic data and they make adjustments to it. So it's measured with error as well.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Just to ask the question, not get back on beta.

CHAIRMAN CARTER: Beta. I was hoping he didn't say that, but he used the B word.

COMMISSIONER ARGENZIANO: I won't go there. But beta really has no predictive value, does it?

THE WITNESS: Beta basically says this: Electric utilities are less volatile than the market. The question is, beta captures how much less volatile. How do we measure? We regress five years of stock returns on the market and then use -- there's an adjustment factor to account for the fact that betas historically have moved towards one. But if you go to Yahoo or something like that, they publish betas, but they don't make any adjustments. It's a pure regression. So they measure it over different time frames. Sometimes they use weekly results, not yearly results. Obviously, risk changes over time, and so it's measured with error like anything else.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Okay. I'm beginning to regret getting the doors unlocked for you guys.

No, just kidding, just kidding. Let's deal with our exhibits. Ms. Christensen?

MS. CHRISTENSEN: Yes. Commissioner, I would ask to move Dr. Randall -- Dr. Randy Woolridge's Exhibits, number 32, I believe, through 48 into the record.

CHAIRMAN CARTER: Thirty-two through 48. Any objections? Without objection, show it done.

(Exhibits 32 through 48 were admitted into the record.)

MR. BEASLEY: Mr. Chairman, I would like to move Exhibit 119 into the record.

CHAIRMAN CARTER: 119, any objections? Without objection, show it done.

(Exhibit 119 was admitted into the record.)

MR. WRIGHT: And, Mr. Chairman, I move Exhibit 120.

CHAIRMAN CARTER: Hold on. Mr. Wright, do you have a witness that you can authenticate this, because I really would rather give the parties at least far more advance notice than -- you know.

MR. WRIGHT: Well, Mr. Chairman, this is a print of a readily available website of the United States Government Treasury Department. Except for the updated dates, which actually show higher yields than those that Mr. Gillette identified without any objection by anybody last week, all it does is show five extra days of information that actually show higher rates on the bonds. It's authentic. I don't really think it's subject to debate, and it's completely appropriate within the scope of evidence allowed under the Florida APA.

MR. BEASLEY: Mr. Chairman, my only problem was we weren't aware of it, we weren't allowed to ask any questions about it, and it seems like that should be at least permitted.

CHAIRMAN CARTER: Ms. Helton?

MS. HELTON: My suggestion, Mr. Chairman, would be to let it in, and then we can give it the weight that it's due.

CHAIRMAN CARTER: Okay. Show it done.

(Exhibit 120 was admitted into the record.)

MR. YOUNG: Mr. Chairman?

CHAIRMAN CARTER: Yes, sir.

MR. YOUNG: I'll wait until you're through with Dr. Woolridge.

CHAIRMAN CARTER: Any further questions for this witness from any of the parties?

You may be excused. Thank you.

Yes, sir, Mr. Young.

MR. YOUNG: Mr. Chairman, what Ms. Martha Carter Brown just handed out to everyone was staff's Exhibit Number 117. It's staff's RRA report generated 1/12/2008 -- I mean 2009. I'm sorry. I should know that. That's my birthday, but I should know that.

CHAIRMAN CARTER: Are you trying to get an early birthday present out of us? Is that the plan?

Okay. Just for the record, this is Exhibit 117 staff has provided for you.

Call your next witness.

MS. CHRISTENSEN: Commissioner, the Office of Public Counsel would like to call Mr. Hugh Larkin to the stand.

Thereupon,

HUGH LARKIN, JR.

was called as a witness on behalf of the Citizens of the State of Florida and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CHRISTENSEN:

Q. Mr. Larkin, when you're ready.

A. Yes, I'm ready.

Q. Okay. Can you please state your name and your business address for the record?

A. My name is Hugh Larkin, Jr. My business address is 15728 Farmington Road, Lavonia, Michigan, 48154.

Q. And did you cause to be prefiled direct testimony November 26, 2008, in this docket?

A. Yes, I did.

Q. And do you have any changes to your testimony?

A. Yes, I do. I have three changes I want to make. On page 3, line 21, I want to take out the words "debt with a," and on the next line, to take out "corresponding increase to," so that the sentence will now read, "The first of these is to add 77 million to the company's equity."

My next change is on page 38, line 8. I would add "capitalized and" after the word "costs," so that the sentence reads, "The net amount of storm costs capitalized and charged to the reserve for depreciation was $35,689,935."

And the last change is on page 46, line 15. After the word "ratepayers," I would add "due to," so that the sentence reads, "The Commission should not build into rates charges to ratepayers due to economic downturns."

Q. Mr. Larkin, with those modifications, if I were to ask you the same questions today, would your answers be the same?

A. Yes, they would.

MS. CHRISTENSEN: I would request that Mr. Larkin's prefiled testimony be entered into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

DIRECT TESTIMONY OF HUGH LARKIN, JR.

ON BEHALF OF THE CITIZENS OF FLORIDA

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

TAMPA ELECTRIC COMPANY

DOCKET NO. 080317-EI

I INTRODUCTION

Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

A. My name is Hugh Larkin, Jr. I am a Certified Public Accountant licensed in the States of Michigan and Florida and the senior partner of the firm of Larkin & Associates, PLLC, Certified Public Accountants, with offices at 15728 Farmington Road, Livonia, Michigan 48154.

Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory Consulting Firm. The firm performs independent regulatory consulting primarily for public service/utility commission staffs and consumer interest groups (public counsels, public advocates, consumer counsels, attorney general, etc.). Larkin & Associates, PLLC, has extensive experience in the utility regulatory field as expert witnesses in more than 800 regulatory proceedings including numerous electric, water and sewer, gas and telephone utilities.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC COMMISSION?

A. Yes. I have testified before the Florida Public Service Commission on numerous occasions during the last 32 years.

Q. HAVE YOU PREPARED AN APPENDIX WHICH DESCRIBES YOUR QUALIFICATIONS AND EXPERIENCE?

A. Yes. I have attached Appendix I which is a summary of my regulatory qualifications and experience.

Q. BY WHOM WERE YOU RETAINED?

A. Larkin & Associates, PLLC was retained by the Florida Office of Public Counsel ("OPC"). Accordingly, I am appearing on behalf of the Citizens of Florida ("Citizens").

II PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. Our firm was asked by the Public Counsel to analyze the $228,167,000 rate increase requested by Tampa Electric and provide our analysis of what rate increase is justified. The increase requested amounts to a 26.4% increase in base rates over the projected 2009 base rate revenue. This increase would be in addition to the fuel cost increases already being passed on to ratepayers.

Q. WHAT ARE THE RESULTS OF YOUR ANALYSIS AND WHAT IS YOUR RECOMMENDED INCREASE FOR TAMPA ELECTRIC?

A. We are recommending that the Commission allow a rate increase no greater than $38,689,000 for the Tampa Electric. This recommendation is shown on my Exhibit HL-1, Schedule A, line 8. My Exhibit HL-1 incorporates the recommendations of Dr. J. Randall Woolridge and Helmuth W. Schultz, III. I am sponsoring Exhibits HL-1 and HL-2.

Q. HOW WOULD YOU CHARACTERIZE THE COMPANY'S REQUESTED INCREASE?

A. I would characterize the Company's filing as grossly overstated. The Company has included a number of gimmicks and cost over statements that have added significantly to the Company's revenue requirement request.

Q. WHAT PARTICULAR REQUESTS DO YOU VIEW AS THE MOST EGREGIOUS?

A. 1) The Company has made two adjustments to its capital structure which I would consider gimmicks or attempts to end run prior Commission policy. The first of these is to add $77 million to the Company's ~~debt with a corresponding increase to~~ equity. The Company states that this adjustment is necessary to account for additional risks associated with long-term purchased power agreements that are not accounted for as liabilities on the Company's balance sheet. Dr. Woolridge has addressed this in his testimony and has stated that such an adjustment is not reasonable or necessary.

2) The second adjustment to the capital structure was made to the Company's short-term debt and deferred income tax components to reduce those components for what the Company states are the debt and deferred income tax associated with financing under recoveries of fuel and purchased power costs. The effect of this adjustment is to raise the overall cost of capital and thereby allow the Company to earn a rate of return through the cost of capital in addition to the rate of return which the Commission allows when these under recoveries are passed on to ratepayers in subsequent fuel proceedings. This is an end run of the Commission's prior policy of not allowing receivables from customers for under recovered fuel in the working capital requirements. Also, as discussed by Dr. Woolridge, the Company's request for a 12% return on equity is well above current requirements.

3) In addition, Tampa Electric has included in the filing the annualization of certain costs for construction projects, which in my view, violates the projected test year principles and my understanding of past Commission policy. These annualizations have the effect of increasing the revenue

requirement by approximately $29 million. Even though the Company has been asked on two separate occasions to provide references to Commission orders which allow these types of annualizations, the Company has refused to do so.

4) The Company is also proposing certain changes to the rate structure to invert the energy and fuel charge, change service charges and consolidate lighting tariffs and changes to interruptible customer rates and time of day rates. Even though changes to rate schedules are common in the industry, particularly after changes in fuel costs or base rates, the Company proposes to increase plant in service by $2.4 million and amortization expenses by approximately $550,000 to account for estimated cost to change the Customer Information System for the above listed changes. The impact of the rate base addition and the amortization would increase rates by $630,000.

5) The Company is proposing a 400% increase in the storm damage accrual. The accrual would increase from $4 million to $20 million annually. This increase has been requested even though the Company has only experienced one year in which storms have struck its service territory, and the reserve was more then adequate to reimburse the Company for costs normally recognized by this Commission as recoverable as storm damage.

6) The Company is also asking for an automatic adjustment clause to recoup investments in transmission facilities referred to as a "Transmission Base Rate Adjustment Clause". I am unaware of this Commission or any other state utility commission in the country authorizing an automatic adjustment clause for the recovery of transmission facilities. As discussed in detail later in this testimony, base rates are designed to recoup this type of cost. With the lead time involved in a transmission project, if the Company were not earning within its authorized ROE it would have plenty of opportunity to seek a rate increase. However, customers will pay more for transmission if the Company is earning within its authorized ROE and the Company was also permitted to recoup transmission costs through an automatic adjustment clause.

7) The Company is proposing through an outside consultant a change in the amortization of investment tax credits which would increase rates by $3,365,000. The Company has been audited by the IRS for numerous years and the IRS has never challenged the amortization of the investment tax credit. This is a proposed change for a problem which does not exist and will increase rates. Mr. Schultz addresses this issue in his testimony.

8) The Company is proposing another tax change. Although it does not have a major impact on revenue requirements ($230,000), the Company is proposing, through the same outside consultant, a change in the calculation of deferred income taxes. This change, as testified to by Mr. Schultz, is not justified. It is based on private letter rulings to other utilities and not to Tampa Electric. Even if one were to apply those letter rulings to Tampa Electric, the factual situation set out in those letter rulings does not match this Commission's ratemaking methodology.

9) The Company is proposing to add to rate base a deferral for dredging costs for which there is no justification. The Company states that the dredging costs will amount to $6.9 million and occur every five years. However, the last time the Company incurred dredging costs was in 2002 and the net cost was $1,288,169.73, far less than the requested $6.9 million. Additionally, under the Company's purported five year schedule, dredging would have occurred in 2007, not 2009.

10) Finally, the Company wants to collect a bad debt provision on Sale for Resale. These are sales to municipalities and have not been subject to bad debt provisions in the past. It is unlikely that this type of customer would fail to pay their bill.

III TRANSMISSION BASE RATE ADJUSTMENT CLAUSE

Q. TAMPA ELECTRIC HAS REQUESTED THAT THE COMMISSION APPROVE WHAT IT TERMS A "TRANSMISSION BASE RATE ADJUSTMENT" ("TBRA"). IS AN AUTOMATIC ADJUSTMENT CLAUSE FOR TRANSMISSION INVESTMENT EITHER NECESSARY OR JUSTIFIED?

A. Definitely not. The justification for Tampa Electric requesting an automatic adjustment clause to recover transmission investment is contained in the testimony of Witness Regan B. Haines. Starting at page 40, Mr. Haines discusses the history of transmission planning in the state of Florida; this includes the failure of the implementation of a Regional Transmission Organization ("RTO") which would have been known as GridFlorida. He states that the Florida Public Service Commission is interested in promoting wholesale competition in peninsula Florida and to that end will monitor and promote areas where efficiencies may be gained in a cost-effective manner. One of the processes which the Commission quoted in its GridFlorida order was the initiative that regional transmission planning be reviewed and monitored by the Florida Reliability Coordinating Council, Inc. ("FRCC"). The FRCC is the regional reliability coordinator with the authority to act and direct actions in accordance with relevant North American Electric Reliability Council ("NERC") requirements. NERC sets reliability standards for most entities transmitting energy in the United States and Canada. The FRCC has specific procedures and guidelines to support and supplement NERC reliability standards that ensure reliability for the region is maintained by all operating entities which might affect the reliability of the bulk power transmission system in Florida.

Q. WHAT RELEVANCE DOES THE FRCC HAVE TO TAMPA ELECTRIC'S REQUEST FOR AN AUTOMATIC ADJUSTMENT CLAUSE FOR TRANSMISSION INVESTMENT?

A. Tampa Electric states that because the FRCC is reviewing regional transmission planning documents and that the Federal Energy Regulatory Commission ("FERC") has required the development of a cost allocation methodology for regional transmission expansion which the FRCC has developed to comply with the FERC requirements, this process might require Tampa Electric to incur transmission expansion costs. Tampa Electric implies that the FRCC review may somehow impose costs on Tampa Electric for transmission development over the next five years, which it states would be "... virtually impossible to predict Tampa Electric's share of expected expenditures accurately."[1] Presumably, this is the basis for Tampa Electric's request for an automatic adjustment clause for transmission investment.

Q. IS IT YOUR UNDERSTANDING THAT THE FRCC CAN IMPOSE CONSTRUCTIONAL REQUIREMENTS ON TAMPA ELECTRIC?

---

[1] Testimony of Regan B. Haines, p. 47.

A. No, it is not. The facilities which are constructed on the Tampa Electric system are fully under the control of the Company and the Florida Public Service Commission. While the FRCC may suggest that a particular construction project be undertaken by Tampa Electric, they cannot require them to do so. Tampa Electric states the following:

> However, given the regional planning process and the dynamic nature of generation and transmission needs for the next five years, it is virtually impossible to predict Tampa Electric's share of expected expenditures accurately.[2]

The fact that FRCC is reviewing regional transmission plans does not impose any additional financial requirements on Tampa Electric. Construction expenditures over lengthy periods of time have always been difficult to project. However, that does not require or support an automatic adjustment clause.

Q. THE COMMISSION HAS APPROVED OTHER AUTOMATIC ADJUSTMENT CLAUSES. CAN YOU DISCUSS THOSE CLAUSES AND HOW THEY DIFFER FROM TRANSMISSION COST EXPENDITURES?

A. Yes. The major automatic recovery clause which the Commission has authorized is the Fuel and Purchased Power Cost Recovery Clause. This clause is designed to compensate for day-to-day fluctuations in the cost of fuel which cannot be anticipated in base rates. Since fuel varies both as to price and the amount consumed almost on a daily basis, it is not

[2] Ibid.

possible to anticipate the actual level or cost of fuel for any length of time. The clause is necessary to ensure that there is a reasonable matching of fuel costs with fuel revenues. The fuel clause recovers both internally generated fuel costs, that is, fuel used in generators on the Company's own system, and also the fuel component of Purchased Power Cost.

The Commission has also authorized a Capacity Cost Recovery Clause. This clause is designed to recover the capacity component of Purchased Power Cost. This clause was designed in order to allocate capacity cost to customer classes based on demand rather than energy consumption. Like the fuel costs, capacity costs related to Purchased Power are difficult to predict and control on a long-term basis and cannot be accurately anticipated in order to be included in rate base.

The Commission has authorized a Generating Performance Incentive Factor ("GPIF"). The GPIF program is part of the Fuel Cost Recovery Clause. It was designed to promote the efficient operation of electric generating units. By promoting the efficient operation of the electric generating units, fuel costs are reduced and thus, a benefit is given to ratepayers through the reduction of fuel costs.

The Environmental Cost Recovery Clause ("ECRC") is designed to recover environmental costs. This clause was designed to allow investor-owned utilities the opportunity to recover costs incurred in complying with new environmental requirements. This clause allows the utility to recover incremental changes in environmental regulations that result in cost increases. Since environmental costs are not under the control of the utilities, but are mandated by regulatory agencies, the clause allows the company to recover environmental costs not under its control and not included in base rates.

The Energy Conservation Recovery Clause ("ECRC") allows the investor-owned utility the opportunity to recover costs associated with Demand Side Management Programs. Demand Side Management Programs are designed to effectively reduce electric consumption and/or lower peak demand. This is beneficial to ratepayers since lower demand and consumption will reduce the need for new generating facilities and purchased power.

In addition, recently enacted Florida law created clause recovery of certain nuclear construction costs and costs associated with coal gasification projects. This law provides that the recovery of these costs is necessary outside of base rates.

The above paragraphs briefly summarize the reason and purpose of the six adjustment clauses which are available for use by electric utilities in

Florida. Each of the clauses provides recovery of costs outside of base rates. Although each of these costs is under the control of the utility, the Commission or Legislature have decided to diminish the utilities exposure to the under-recovery of these costs. Some of the clauses provide a benefit to ratepayers through the reduction of costs. There is no need to remove transmission costs from base rates which will, in effect, reduce the Company's risk to plan and properly build transmission facilities. There is also no benefit to ratepayers to do so.

Transmission facilities are planned several years in advance. First, a cost benefit analysis must be made to determine whether the proposed transmission facility is really needed and necessary. After it is approved, the right-of-way for a transmission facility must be purchased and environmental concerns dealt with and then the utility can estimate the cost associated with constructing this facility. This takes several years and is not a cost which is unknown, or uncontrollable by a utility. If, in fact, base rates are not sufficient to provide a return on these facilities, then the utility has ample time to file a rate request which incorporates the projected cost of this construction and any operating expenses. There is no need for an automatic adjustment clause since the time frame in determining the need and construction of any facilities allows the utility ample time to request changes in base rates, if necessary.

The Company, at present, recovers almost 60% of its revenue requirements through adjustment clauses. Adding another clause will shift additional risk to ratepayers and add additional administrative costs to the Commission staff and the OPC. The timeframe for reviewing and auditing another clause would be relatively short and will place additional burdens on the Commission.

I am recommending that the Commission not allow the Company's requested Transmission Base Rate Adjustment ("TBRA"), because it is bad public policy for the reasons stated above and there is no justification for such a clause.

IV <u>RATE BASE</u>

<u>Annualization of Plant-In-Service</u>

Q. WOULD YOU PLEASE DESCRIBE WHAT THE COMPANY IS PROPOSING REGARDING CERTAIN PLANT ADDITIONS WHICH WOULD OCCUR IN THE MONTHS OF MAY, SEPTEMBER AND DECEMBER OF 2009?

A. The Company is proposing to annualize the costs of two combustion turbines ("CTs") that are currently scheduled to go into service in May of 2009, three combustion turbines, that are scheduled to go into service in September 2009, and a rail facility that is scheduled to be finished in

December of 2009. That is, the Company is stating that these facilities should be assumed to be in-service as of January 1, 2009, and not the actual in-service date. This has the effect of increasing the Company's rate request by approximately $29 million.

Q. HAS THE COMPANY BEEN ASKED TO PROVIDE REFERENCES TO COMMISSION ORDERS OR PRECEDENT WHICH ALLOWS FOR THE ANNUALIZATION OF PLANT AS IF IT HAD BEEN IN SERVICE FOR THE ENTIRE TEST YEAR?

A. Yes. However, the Company has refused to provide any references. When asked, the Company has stated on two occasions that:

> The company objected to this request on the grounds that it cannot respond to the request without disclosing materials prepared in anticipation of litigation and the mental impressions and trial strategies of its attorneys, all of which are privileged and beyond the scope of discovery.

Obviously, if the Company cannot provide documentation as to the basis of these adjustments, they should not be approved by the Commission.

Q. WHAT IS YOUR UNDERSTANDING OF THE COMMISSION'S POLICY REGARDING THE USE OF FUTURE TEST YEARS?

A. Up until the early part of 1981, this Commission used a historical test year to set rates in rate cases. Annualization adjustments, such as what the Company is proposing, were used to adjust an historical test period so that the test year was representative of the costs that would be incurred when the new rates were implemented. Additionally, corresponding changes in the number of customers and revenues were also annualized along with certain expenses. At one point before 1981, the Commission sought to use an end of test year rate base with historical average revenues and expenses. This methodology was rejected by the Florida Supreme Court because of the mismatching of investment and earnings. Subsequently, the Commission adopted a projected test year. This methodology, which uses forecasted data for a subsequent 12-month period, matched average rate base investment to average expenses and revenues. Thus, the projected test year is supposed to result in a matching of the Company's projected investment with its projected earnings during the future test period on a month-to-month basis and annual basis.

Generally, a Company brings on plant as new customer growth can support the additional kilowatts generated by the new plant plus meeting the required reserve margin. When the costs of new plant is included in rates without accounting for the new customer growth that would otherwise support the new plant, current customers end up paying more than they should for the additional plant. Under Tampa Electric's annualization proposal, the cost of the new plant would be put in rates without accounting for the new customer growth that would otherwise support those costs. As a result, the increased costs are spread over a smaller customer base and the current customers pay more than their fair share.

Thus, no annualizations of plant additions should be allowed when plant additions are revenue-producing or growth-related assets designed to increase the Company's ability to generate, transmit and deliver additional kilowatt hours of generation. If the Commission allows an adjustment for revenue-producing plant that increases capacity without an adjustment to recognize the increased customers and/or demand, this will overstate the revenue requirements used to create the rates charged to customers. This type of allowance will create a mismatch between the projected test year revenues and expenses and the projected investment related to assets (such as the CT's) that generated the test period revenues. The end result in setting rates should be an appropriate matching of the period used for forecasting generally coinciding with the period in which rates would become effective, there would be a matching of investment and operating revenues and expenses.

Q. WHAT DOES THE COMPANY STATE REGARDING THE PURPOSES OF ADDING THE COMBUSTION TURBINES AND THE RAIL FACILITY?

A. The Company states that the two combustion turbines to be added in May and the three to be added in September are necessary to maintain the Company's reserve at 20% as agreed to in a stipulation regarding Tampa

Electric, Florida Progress and FP&L. See Order No. PSC-99-2507-S-EU, issued December 22, 1999, in Docket No. 981890-EU. In order for the reserve margin to be in a state of decline, that is, the reserves decreasing below a 20% reserve margin there has to be growth in sales. In other words, if, in fact, these combustion turbines are necessary and used and useful, the Company must be projecting additional sales so that the utilization of the combustion turbines is a necessary addition to the Company's generation portfolio. The sales growth would be generating additional income as sales growth would require the CTs be in service to meet demand. By annualizing these plant additions and pretending that they went into service on January 1, 2009, any sales growth which the Company experiences because of the availability of the CT's in 2010 will not be reflected in the test year. Sales growth in the year 2010, when these units will provide a full year of service and beyond, will not be matched with the cost because that cost will have been already reflected in rates established for the test year 2009 when these assets would only be in service for part of the year. Revenues generated from these facilities in 2010 and beyond will be a windfall to the Company.

In addition, there are cost savings which the Company did not reflect in the annualization of these units. Company witness Mark J. Hornick states, at page 12 of his testimony:

> These machines offer a more economic option for meeting the company's operating reserve requirements than by spinning reserve, which requires keeping large units running.

Q. PLEASE ADDRESS THE RAIL PROJECT.

A. The rail project, which the Company states will be in-service December 2009, is designed to ". . . afford the company more options to procure coal from additional sources resulting in customer benefits."[3]

Also in response to OPC's Interrogatory No. 107, the Company stated the following:

> During Tampa Electric's solicitation for coal and solid fuel transportation in 2008 for services beginning in 2009, the company issued a request for proposals and determined, with the assistance of its third-party consultant, Energy Ventures Analysis, Inc., that bimodal sources of solid fuel transportation combined with certain coal mines yielded cost-effective alternatives. Upon final review, the company determined that the most cost effective delivered cost of coal varies by mine, with some coals being more cost-effective via a waterborne route while others are most cost-effective delivered by rail. <u>A bimodal solution broadens Tampa Electric's fuel source options and provides a stimulus for lower delivered cost of fuel.</u> The results of the 2008 solicitation for coal and solid fuel transportation services supports the conclusions reached in the Hill & Associates rail feasibility study. (Emphasis added.)

The benefits to customers can only be a reduction in fuel cost. Reduced fuel costs will stimulate additional sales and thus, provide a return on the Company's investment. The facility used to provide the lower cost coal is

[3] Testimony of Mark J. Hornick, pp. 15 and 16.

utilized to reduce fuel costs. By annualizing the rail facility for the entire year 2009 (when they have only been in service for one month or less), the Company earns a return as if the lower fuel costs would not exist in future periods. Moreover, the future increases in sales in the year 2010 and beyond when this rail facility will be fully in-service and utilized for an entire 12-month period will only fall to the benefit of the shareholders while the ratepayers have the burden of providing the carrying cost as if this facility had no productive benefit to the Company.

Q. DID YOU ASK FOR A COST BENEFIT ANALYSIS RELATED TO THE CONSTRUCTION OF THIS FACILITY?

A. Yes. The OPC's POD No. 103 required that the Company "Provide the documentation including contracts, cost benefit analysis, detailed project costs and any other supporting project documents which support the cost of $46,468,000 on a total Company basis of the rail project shown on Schedule B-2, page 2 of 4."

Q. DID YOU RECEIVE A COST BENEFIT ANALYSIS?

A. No, we did not. We received some documents which purport to be the cost analysis for the construction of the project which the Company says were preliminary and depended on inputs by the rail provider. In OPC Interrogatory No.107, the Company stated there was a cost benefit analysis, but it was not provided. I question the accuracy of what the

Company has provided as backup for this adjustment. Although the Company's testimony and descriptions describe this as an offloading facility, the cost documents indicate there is an Option Two which is a train loading structure. It is not clear why the Company would need a train loading facility in addition to an offloading facility. There would be substantial reductions in the costs the Company is projecting if only the offloading facility were included.

Q. ARE THERE OTHER CONCERNS WITH THE RAIL FACILITY COST?

A. Yes. The Company was requested in OPC Interrogatory No. 46 to explain whether the rail carrier was going to absorb some of the cost associated with this expansion and if not, explain why not. The response was that it was premature to address this matter. This is not an appropriate response. Since the Company is seeking recovery of the facilities in rates any cost reimbursed is significant. The rail carrier stands to benefit significantly from the movement of additional coal and it would be appropriate for the rail carrier to absorb at least some of the costs. This would not be uncommon.

Q. WHAT IS YOUR RECOMMENDATION REGARDING THE REQUESTED ANNUALIZATION ADJUSTMENTS?

A. I am of the opinion that the requested annualizations are a violation of the basic ratemaking principle of matching costs with benefits. The matching principle would not allow the annualization of production facilities which would have the impact of producing additional kilowatt hours, or facilities which have the affect of reducing costs or making a facility more productive, which the rail facility would have. I am recommending that the annualization of the five combustion turbines and the rail facility not be approved by the Commission. These costs should be reflected in rate base and the operating income statement as of the projected date that the assets are placed into service. Schedule B-2 shows the adjustments I am recommending to Plant-In-Service and O&M expense to remove these annualizations.

Plant in Service Projections

Q. WHAT ADJUSTMENTS ARE YOU PROPOSING TO THE COMPANY'S PLANT IN SERVICE?

A. The rate base requested by the Company utilizes a projected test year ending December 31, 2009. That means the Company must project by month each component of the rate base, i.e., plant in service, accumulated depreciation, plant held for future use and working capital. It is unlikely that the Company's projected balances almost two years into the future are without inaccuracies. The best method of testing the Company's projection methodologies is to compare actual results to projections and draw a conclusion regarding whether the projected amounts are overstated or understated based on comparisons of actual to projected amounts.

Q. HAVE YOU PERFORMED SUCH AN ANALYSIS?

A. Yes. I have been able to compare the Company's projections of plant in service balances for the months January through September of 2008 of the 13-month average for the year ending December 31, 2008, which is the year prior to the projected test year. The Company was only able to provide actual data through September 2008.

Q. HAVE YOU PREPARED A SCHEDULE THAT SHOWS THE RESULTS OF YOUR COMPARISON?

A. Yes, I have. On my Schedule B-3, attached to my prefiled testimony as Exhibit HL-1, I have compared the Tampa Electric projected plant in service balance to the actual plant in service balance as found in Tampa Electric's General Ledger, Trial Balance and Balance Sheet reports provided in response to OPC POD Nos. 5, 47 and 116 for the year 2008.

Q. WOULD YOU DISCUSS THOSE COMPARISONS AND YOUR PROPOSED ADJUSTMENT TO PLANT IN SERVICE?

A. On Exhibit HL-1, Schedule B-3, I have compared the actual balances of electric plant in service to the Company's projections on MFR Schedule B-3, page 4 of 9, for the projected prior year ended December 31, 2008.

This comparison of actual balances, as reported in the Company's accounting records, to the Company's projected balances will indicate whether there is a trend in the Company's projection methodology. In other words, if all of the projections exceed the actuals in months in which the Company only had to project expenditures and retirements for nine months into the future, then it is likely that the same trend of over projecting plant balances would continue into the future and would affect the test year 13-month average ending December 31, 2009.

Looking at the results shown on my Schedule B-3, each month (January 2008 through September 2008) shows that the Company's projected plant in service balance exceeded the actual in every month.

Q. WHAT RELEVANCE DOES THE YEAR 2008 HAVE TO THE PROJECTED TEST YEAR 2009?

A. The Company likely utilized the same projection methodology for both the prior year ended December 31, 2008, and the test year ended December 31, 2009. The 13-month average for the plant in service balance for the test year ended December 31, 2009, starts out with the same balance for December resulting from the projections for the prior year ended December 31, 2008. Any inaccuracies in 2008 are carried forward into the 2009 test year because the December 31, 2008, balance becomes the first month in the 13-month future test year average, and the same projection methodology is used.

Q. WHAT ADJUSTMENT ARE YOU PROPOSING?

A. I have calculated the difference between the actual plant in service balance and the projected plant in service balance for each of the actual months available. I have also calculated the percentage difference by which the projected balance exceeded the actual balance. I then took the average percentage overstatement of the balance of plant in service and applied it to the 13-month average plant in service balance projected by the Company on MFR Schedule B-3 for the 13-month average ending December 31, 2009. This results in a reduction to plant in service for the projected test year 2009 of $53,958,000 on a total Company basis. The jurisdictional adjustment is $51,969,000.

Q. DID YOU DO A SIMILAR STUDY RELATED TO THE ACCUMULATED PROVISION FOR DEPRECIATION AND AMORTIZATION?

A. Yes, I did.

Q. WHAT WERE THE RESULTS OF THAT STUDY?

A. I found the average balance for the months January through July of 2008[4] to be overstated as well. Accordingly, I have made a similar adjustment to

---

[4] The information provided by the Company for August 2008 and September 2008 did not show the actual accumulated provisions for depreciation.

Accumulated Provision for Depreciation and Amortization. This results in a reduction to Accumulated Provision for Depreciation and Amortization in the amount of $8,500,000 on a total Company basis and $8,187,000 on a jurisdictional Company basis. Additionally, Depreciation expense should also be adjusted since any overstatement of the Accumulated Provision resulted from the overstatement of Depreciation expense.

<u>CIS Upgrades</u>

Q. TAMPA ELECTRIC HAS ADDED TO JURISDICTIONAL RATE BASE AN AMOUNT OF $2,445,000 WHICH IS LABELED AS CIS UPGRADE. IN ADDITION, OPERATING EXPENSES HAVE BEEN INCREASED BY $558,000 RELATED TO THE AMORTIZATION OF THIS UPGRADE. DO YOU AGREE THAT SUCH AN ADJUSTMENT SHOULD BE MADE?

A. No. The Company's justification for this increase in rate base and depreciation expense is that the Company will be requesting changes in customer rates and that the implementation of these changes will necessitate the Company making changes to the customer rate schedules included within the customer information system ("CIS"). Included as Exhibit HL-2, Schedule 1, is the Company's response to OPC's POD No. 98. This document is a Tampa Electric internal document which summarizes program costs. This document only discusses in generalities the changes proposed to customer information system. None of the items are unusual changes to a customer information system and would be done routinely when rates are changed. Additionally, the changes which the Company anticipates may never be approved by the Commission. There is no cost benefit analysis provided nor is there any detailed calculation of how the proposed dollars would be used. It is my opinion that these costs, if they are incurred, would be incurred in the normal course of business in any year base rates or fuel rate changes are made and does not justify separate adjustment. I am therefore recommending that the Company's request for an increase in rate base of $2,445,000 for the supposedly extraordinary CIS upgrade not be approved and that depreciation expenses be decreased by $558,000.

<u>Amortize Dredging O&M</u>

Q. TAMPA ELECTRIC IS REQUESTING A RATE BASE ADJUSTMENT TO INCLUDE THE UNAMORTIZED PORTION OF $6.9 MILLION DREDGING COSTS AT ITS BIG BEND FACILITY. WOULD YOU PLEASE DISCUSS THAT ADJUSTMENT?

A. Tampa Electric claims that it incurs costs to dredge out the channel at the Big Bend generating station. The Company claims that these costs are incurred every five years and that dredging costs will be incurred in the year 2009. Tampa Electric witness Homick states that Tampa Electric has included "roughly" $6.9 million (total Company) in its 2009 production O&M budget for channel dredging expense. Tampa Electric has removed from operating expenses $5,320,000 (jurisdictional) of the $6.9 million (total Company), which leaves an expense of $1,330,000 (jurisdictional). Tampa Electric has added to the rate base an amount of $2,657,000 which it states represents the 13-month average of the unamortized jurisdictional balance.

Q. DO YOU AGREE WITH WHAT THE COMPANY IS PROPOSING?

A. No, I do not. We asked the Company to provide the costs associated with the last two dredgings which took place at the Big Bend generating station. In response to OPC POD No. 100, we were able to determine that in the year 2002 the Company incurred total dredging costs of $2,346,105.81, with $1,288,169.73 allocated to Tampa Electric and the remainder of $1,057,936.08 allocated to an organization designated as IMC. Prior to the 2002 dredging, the Company incurred dredging costs which started in 1997 and finished in 1998. The total cost of the 1997 dredging was $1,329,989.47 with $228,400 allocated to IMC. This left dredging costs expensed by Tampa Electric of $1,101,589.47. Based on the history of allocating dredging costs between Tampa Electric and IMC, at most only half the requested dredging cost should have been included in the request or $665,000 (jurisdictional expense $1,330,000 / 2 = $665,000). Additionally, this should be amortized over five years and only $133,000 included in the test year.

Q. WHAT DOES THE HISTORICAL INFORMATION INDICATE?

A. The historical information indicates that the Company has never incurred dredging costs which approach $6.9 million. Additionally, the historical information indicates that if dredging costs were incurred in the year 1997/1998 and 2002, the next five year period should have been in the year 2007 and not 2009. Thus, dredging costs would not occur in the year 2009.

Q. DID YOU ASK TAMPA ELECTRIC TO SUPPORT OR PROVIDE DOCUMENTATION OF THE $6,900,000 OF DREDGING COSTS?

A. Yes, we did. We asked Tampa Electric to provide in the same OPC POD No. 100 "Documentation regarding the bid the Company received for dredging costs for 2009."

Q. DID THE COMPANY PROVIDE ANY DOCUMENTATION?

A. No, it did not. The Company has stated verbally that the information contained in OPC POD No. 100 contained all the information they had regarding dredging costs. The Company, in OPC POD No. 100, did not provide any information to support that 2009 would be the year in which the dredging cost would occur, or the $6.9 million amount they state will be the cost of the dredging.

Q. WHAT ADJUSTMENT HAVE YOU MADE REGARDING DREDGING COSTS?

A. I have removed from the rate base the Company's deferred dredging cost balance of $2,657,000 (jurisdictional) and I have also removed from operating expenses the remaining amount which the Company did not remove of $1,330,000. The Company has failed to provide any documentation to meet its burden of proof that 1) dredging costs will reach $6.9 million and 2) that the dredging cost will occur in the year 2009.

<u>Plant Held for Future Use ("PHFU")</u>

Q. DOES IT APPEAR THAT THE PROJECTIONS FOR PLANT HELD FOR FUTURE USE ARE CORRECT?

A. No. In response to OPC Interrogatory No. 89, which requested the basis on which the Company projected Plant Held for Future Use, the Company responded as follows:

> The projected balance in the property held for future use account was based on the budgeted land acquisition requirements for each respective year. The company forecasts what the future growth rate of the population may be and ensures that it is more than able to supply the needs of its current and future customers.

Q. DOES IT APPEAR THAT THE COMPANY ACTUALLY FOLLOWED THEIR RESPONSE AND ATTEMPTED TO BUDGET THE ACTUAL ADDITIONS AND REDUCTIONS TO PLANT HELD FOR FUTURE USE TEST YEAR AND THE PROJECTED 2008 AND 2009 YEARS?

A. No, it did not. For the year 2008, the Company utilized the ending balance at December 31, 2007 for each month of the 2008 year with exception of December 2008 when the balance was increased by $2,713,000. In the test year 2009, the Company used the December 2008 balance for property held for future use for each month of the test year except December 2009 where the balance was increased by $1,326,000. Therefore, it is obvious that the Company did not project monthly additions and uses during either the projected prior year ending December 31, 2008 or the projected test year ended December 31, 2009. If it had projected monthly, the PHFU balance would not have remained the same for each month except for December of each of the years.

Q. WHY IS IT NOT POSSIBLE FOR THE PROPERTY HELD FOR FUTURE USE TO HAVE THE SAME BALANCE IN EACH MONTH OF 2008 EXCEPT FOR DECEMBER AND HAVE THE SAME BALANCE IN 2009 FOR EACH MONTH EXCEPT DECEMBER?

A. In OPC Interrogatory No. 87, we asked the Company to provide for the historical year ended December 31, 2007 a list of each property held for future use. We asked if the Company to state the date it was acquired, its original cost and the projected use date. In that response, the following projects were projected to go into service in 2008:

		2007 Number	Originally	Projected	
Acct.	Name	of Months	Acquired Date	Use Date	Cost ($)
105.05	Dale Mabry Sub	12	3/30/1973	2008	368,966.60
105.09	Silver Dollar Sub	12	10/30/2001	In Service 2008	546,940.43
105.27	Palm River Operating Center - Add'l Lan	12	6/30/1987	In Service 2008	618,703.87
	Total				1,534,610.90

As can be seen in the above schedule, projects of $1,534,610.90 were projected to go into service in 2008. Additionally, that same interrogatory shows the projects that were projected to go into service in the year 2009. In fact, the major component of property held for future use was projected to go into service in 2009. Inclusion of this major property component in the 2009 plant in service would have reduced the plant held for future use substantially. The following data shows the projects listed as of December 31, 2007, which was scheduled to go into service in 2009:

		2007 Number	Originally	Projected	
Acct.	Name	of Months	Acquired Date	Use Date	Cost ($)
105.19	Handcart Sub	12	1/18/2006	2009	634,360.91
105.03	River to S. Hillsborough Trans R/W	12	6/30/1973	2009	23,752,289.05
105.11	New Tampa Transmission Easement	12	12/4/2004	2009	778,124.83
	Total				25,164,774.79

In OPC Interrogatory No.118, we asked why the amounts were still in Plant Held for Future Use when they show in service dates from 2008 and 2009. The Company responded by changing the in service dates on major PHFU amounts and removing others from the balance.

The Company stated in response to OPC Interrogatory No. 118:

> These adjustments do not change the total system rate base since the reduction in Plant Held For Future Use would be offset by a corresponding increase in Electric Plant In Service.

The Company has also stated that its projection of plant in service is accurate and reflects the cost of plant to be placed in service. Both statements cannot be true. Since the Company claims to have adjusted plant in service to reflect all plant placed in service in 2009, I have adjusted (decreased) the Company PHFU by $2,328,354 on a jurisdictional basis to reflect the change which the Company made.

<u>Construction Work In Progress ("CWIP")</u>

Q. ARE YOU PROPOSING ANY ADJUSTMENTS TO THE COMPANY'S PROJECTED CONSTRUCTION WORK IN PROGRESS?

A. Yes. Similar to my analysis of Plant In Service and Accumulated Provision for Depreciation, I have compared the actual Construction Work in Progress ("CWIP") balance for the first nine months of 2008 with the Company's projected balance. On average the Company's projected balance was understated by 1.90%. I have adjusted the Company's jurisdictional CWIP balance by 1.90% for 2009. I also have adjusted the Company's calculation of the Commission adjustment to remove from the CWIP balance which earns a rate of return through the Allowance for Funds Used During Construction ("AFUDC"). I have deducted the Company's adjustment to remove the current balance of CWIP reflected in rates of $36,171,000. This results in a higher construction work in progress balance than the Company has used in its filing. I am recommending a balance of $103,679,000 which is greater then the Company's balance by $2,608,000 on a jurisdictional basis.

<u>Working Capital Adjustment</u>

Q. ARE YOU PROPOSING ANY ADJUSTMENTS TO THE COMPANY'S WORKING CAPITAL REQUEST?

A. Yes. The Company has included Account 143 - Other Accounts Receivable in its working capital requirement. The Company has made an adjustment to remove job orders receivable in the amount of $1,717,000 that it attributes to adjustments the Commission has made in prior cases. The Uniform System of Accounts states that this account shall include amounts due the utility upon opening accounts other than amounts due from associated companies and from current customers for utility service. The utility should be required to show that all of the accounts receivable in Account 143 - Other Accounts Receivable are related to utility services and that the cost or revenue associated with these accounts receivable have been included in jurisdictional operating income. The Company has yet to show that these accounts are all related to utility service, thus the exclusion I have made of the entire account is justified. I have removed the remainder of Other Accounts Receivable in the amount of $10,959,000 on a jurisdictional basis

I have also excluded the entire balance in Account 146 - Accounts Receivable from Associated Companies. Again, the utility should be required to show that this entire balance of $6,309,000 is a necessary working capital requirement for ratepayers to bear and is directly related to the provision of utility services. The Company should be required to document that such receivables are on the Company's books as a result of providing service to jurisdictional ratepayers. They have not done so.

Q. IS THERE ANY OTHER ADJUSTMENT YOU ARE PROPOSING?

A. Yes. There has been a recent reduction in the price of fuel. I have reduced the Company's fuel stock by 10% to reflect current reductions which might have occurred in coal, oil and gas prices. The Company should be required to re-price its fuel stock inventory to accurately reflect the current price of fuel. The adjustment I have made does not accurately reflect an estimate of the decline in fuel prices because I do not have all necessary information available to me. Therefore, it is necessary for the

Company to make an accurate reassessment of fuel inventory costs based on current prices.

Q. ARE THERE ANY OTHER ADJUSTMENTS TO WORKING CAPITAL THAT YOU HAVE MADE?

A. Yes, there are other adjustments to working capital that have been discussed in other parts of my testimony.

V OPERATING EXPENSES

Storm Damage Accrual

Q. TAMPA ELECTRIC IS REQUESTING THAT THE STORM DAMAGE ACCRUAL BE INCREASED FROM THE CURRENT LEVEL OF $4 MILLION ANNUALLY TO $20 MILLION ANNUALLY. DO YOU AGREE WITH THE COMPANY'S PROPOSAL?

A. No, I do not. I believe that the current level of $4 million of storm damage accrual is adequate given the Company's past history and the current guarantee by the Commission that costs incurred over the storm damage accrual would be reimbursed to the Company through future surcharges on ratepayers.

The Commission has allowed companies to recover excesses incurred in storm damage costs over storm damage reserves on a regular basis. Most of the Florida electric companies incurred substantial storm damage costs in 2004 and 2005, and several incurred damage that exceeded the amounts included in the storm damage reserve in 2004 and/or 2005. The Commission expeditiously authorized several companies to collect surcharges to recover any costs in excess of storm damage accruals and held hearings to determine the appropriate mechanism for cost recovery and level of cost recovery. Based on the storm recovery that the Commission has approved, there is no likelihood that Tampa Electric, or for that matter any other utility in the State of Florida, would not fully recover any prudently incurred storm damage costs which have not been recovered from the storm damage reserve.

Q. HAVE YOU EXAMINED THE HISTORICAL ADEQUACY OF THE STORM DAMAGE RESERVE FOR TAMPA ELECTRIC?

A. Yes. On Schedule C-2, attached to my testimony, I have shown the historical accumulation of the storm reserve and charges against that reserve through December 31, 2008, assuming that there will be no hurricane damage or storm damage in the final month of the year 2008. The storm reserve at the end of 2008 should be $24,310,365 as shown on my Schedule C-2. The only year that the Company incurred storm damage costs since the inception of the accrual for storm damage was 2004. My Schedule C-2, shows the total of these costs as provided by the Company in response to OPC Interrogatory No. 24. I have shown the total costs in the year 2004, although the Company charged the reserve from some of these costs in 2005, and subsequently made corrections to the 2004 storm cost in the years 2006 and 2007. The $74,567,219 in storm costs charged to the reserve including $38,877,284 in costs which the Company stipulated, should have been capitalized. See Order No. PSC-05-0675-PAA-EI, issued June 20, 2005, in Docket No. 050225-EI. As shown on Schedule C-2, I have increased the reserve in 2004 by the $38,877,284 that the Company eventually capitalized, or charged the reserve for depreciation in the year 2005. The net amount of storm costs capitalized and charged to the reserve for depreciation was $35,689,935. When this amount is netted against the storm reserve in 2004 there was a balance left in the storm reserve of $8,310,065. Obviously, the accrual approved by the Commission and the accumulated reserve which were accumulated was more than sufficient to handle the costs the Company incurred when hurricanes hit the Company's system in 2004.

Q. WOULD THE COMPANY HAVE BEEN ENTITLED TO RECOVER THE FULL $74.5 MILLION BY CHARGING IT TO THE RESERVE FOR STORM DAMAGE?

A. In my opinion, it would not. Every storm recovery case that I have been involved with, which includes cases in the states of Florida, Louisiana, Mississippi and Hawaii requires that the Company only recover incremental costs of operating and maintenance expense and construction costs for replacement assets that are capitalized. The capitalized costs are not considered storm damage costs recoverable through the reserve for storm damage loss, but are considered assets which the Company will receive a rate of return on and recovery of through depreciation. Even though the Company implies that it was only as a result of the stipulation that there were capitalized costs, I believe that the Commission would not have allowed the full charging of these costs against the reserve for storm losses. In fact, the Commission has codified the incremental cost approach by rule.

Q. HAS THE COMMISSION APPROVED THE FULL COST RECOVERY METHOD FOR UTILITIES THAT INCURRED STORM DAMAGE SINCE 2004?

A. No, it has not. Either as a result of litigated (Progress Energy Florida and Florida Power and Light) or stipulated cases (Gulf Power, Tampa Electric and several others), the Commission has allowed the incremental cost recovery method for storm costs. To codify this policy, the Commission modified Rule 25-6.0143, Florida Administrative Code, to address specifically what types of costs can be charged to the storm reserve and how those costs should be accounted.

Q. IN YOUR OPINION IS THE LEVEL OF TAMPA ELECTRIC'S STORM RESERVE SUFFICIENT?

A. Yes. The relevant point that I am trying to make is that the level of accrual that the Commission authorized and the reserve which was accumulated were more than adequate to cover storm damage costs which the Company incurred in the year 2004.

Q. ONE OF THE ARGUMENTS WHICH THE COMPANY MAKES FOR INCREASING THE RESERVE IS THAT THE VALUE OF THE COMPANY'S TRANSMISSION AND DISTRIBUTION SYSTEM HAS INCREASED SINCE 1994 WHEN THE INITIAL ACCRUAL WAS ESTABLISHED AND THEREFORE, THE HIGHER VALUE OF THE ASSETS JUSTIFIES AN INCREASE IN THE ACCRUAL. DO YOU AGREE WITH THAT?

A. No. While I do agree that the value of the Company's transmission and distribution system has increased since 1994, it is clear that the reserve was adequate in the year 2004 to cover the higher value of assets damaged by the storms which struck in that year. Historically, Tampa Electric's reserve has functioned exactly as the Commission thought it would and how it was designed to operate. At the end of 2008, the reserve will have reached the level of approximately $24 million. Further, the Company's estimate of possible future storm damage was based on a full cost recovery basis, not the incremental recovery basis required under Rule 25-6.0143, Florida Administrative Code. As shown above, in the Company's actual 2004 storm costs, more than 50 percent of the costs did not flow through the reserve and instead were accounted for in base rate recovery.

Q. ANOTHER ARGUMENT THAT THE COMPANY HAS ADVANCED IS THAT THERE COULD BE STORM DAMAGE OF A CATASTROPHIC NATURE, WHICH COULD OVERWHELM WHATEVER RESERVE THE COMPANY HAS ACCUMULATED. DO YOU AGREE THAT COULD BE A LIKELIHOOD?

A. Yes, of course. No one knows when or if a hurricane will strike any particular area in the State of Florida. However, that could occur even if the Commission were to increase the accrual by the $16 million per year which the company is requesting. That would not avoid having the ratepayers pay for the storm damage in excess of the reserve. It only means that instead of paying up front by giving up the use of their funds currently, the ratepayer will pay when the damage actually exceeds the storm reserve. From a financial point of view, this is more beneficial to the ratepayer then having the Company collect huge amounts of reserves prior to the occurrence of a storm.

Q. WOULDN'T IT BE BETTER FOR THE COMPANY TO HAVE THESE FUNDS ON HAND WHEN THE STORM OCCURS RATHER THEN TO COLLECT THEM LATER FROM THE RATEPAYERS THROUGH A SURCHARGE?

A. The Company will not have these funds on hand. Tampa Electric does not have a funded storm reserve. If the Commission were to increase the storm reserve accrual from $4 million to $20 million, the total funds that the Company collects, that is, the $20 million will not be set aside and be available in the form of cash or cash equivalents to fund storm damage restoration. Since Tampa Electric does not have a funded reserve, the funds that the Company will (and has collected) will be treated as normal cash flow to the Company, funds that they will use in their operations, to fund plant additions, operating expense, or to pay dividends or interest on bonds. If the Commission were to authorize a higher accrual only means that ratepayers will pay a smaller surcharge when and if a storm does overwhelm the reserve for storm damage.

It should be kept in mind that this is not a self-insurance reserve that the Company is funding through stockholder funds. This is a ratepayer provided insurance plan which is funded through charges included in rates charged to retail customers. Since the ratepayer is in fact the insurer and not the Company, the ratepayer should have the final say on how and when storm costs should be funded. Ratepayers always have a higher cost of capital than utilities. It is in the best interest of ratepayers to fund the reserve at the level which has historically proven to be adequate and to fund any excess over the storm reserve, should one occur, through surcharges when and if such an event occurs.

Q. DOES TAMPA ELECTRIC HAVE ADDITIONAL PROTECTION FROM EXCESS STORM DAMAGE COST?

A. Yes. Florida law has authorized Securitization financing for storm recovery which is another vehicle which the Commission has at its disposal to deal with excessive storm damage cost. Section 366.8260, Florida Statutes, would allow for the securitization of storm damage in the form of bonds. This guarantees that all prudent storm damage losses would be recovered on a current basis by any utility which had storm damage losses.

Q. WHAT IS YOUR RECOMMENDATION?

A. My recommendation is that the current level of accrual of $4 million annually has proven adequate when a storm has actually hit the Tampa Electric system. The Commission should continue with that level of storm accrual and when, and if, a storm occurs which is in excess of the reserve the Commission should then deal with that through a surcharge on rates if necessary or securitization. I have adjusted operating expense to reduce them by the $16 million increase requested by the Company. I have also increased the working capital by $8 million to remove the effect of increasing the storm reserve on Tampa Electric's rate base.

Uncollectible Expense

Q. WHAT AMOUNT OF UNCOLLECTIBLE EXPENSE HAS THE COMPANY INCLUDED IN THE TEST YEAR?

A. The Company has projected uncollectible expense of $7,971,000 in the test year compared to $5,527,000 actually expensed in 2007. This is an increase of 44% over 2007 levels.

Q. HAS THE COMPANY OFFERED AN EXPLANATION FOR THE SIGNIFICANT INCREASE TO UNCOLLECTIBLE EXPENSE?

A. Yes. The Company indicated in response to OPC Interrogatory No. 43 that:

> Due to deterioration in the economic conditions in the Tampa Bay area a significant increase in the net writeoffs is projected for 2009. The 2008 budget was developed during Q3 2007 which was before the significant increase to net write-offs was being experienced.

However, it is not clear from the Company's filing how the Company derived the bad debt factor of 3.49% in its determination of uncollectible expense for the test year ended December 31, 2009.

Q. PLEASE DESCRIBE THE COMPANY'S PRESENTATION OF HISTORICAL AND PROJECTED UNCOLLECTIBLE EXPENSE SHOWN ON MFR SCHEDULE C-11.

A. MFP Schedule C-11 shows write offs (retail), gross revenues from sales of electricity (retail) and the resulting bad debt factor for the years 2004 through 2009. The bad debt factor is derived by dividing the write-offs by the gross revenues from sales of electricity. For the years 2004 through 2007, the gross revenues from sales of electricity is comprised of accounts 440 - 446 Retail Billed Sales and account 451 Miscellaneous Service Revenue.

Q. HOW DID THE COMPANY PROJECT THE BAD DEBT WRITE-OFFS FOR THE YEARS 2008 AND 2009?

A. As I have previously stated, the Company used Accounts 440 through 446-Retail Billed Sales and Account 451 - Miscellaneous Service Revenue in the years 2004 through 2007. However, for the years 2008 and 2009, the Company also included as sales subject to bad debt write-off Account 447 - Sales for Resale, Account 456 - Unbilled Revenue and Accounts 407.3 and 407.4 - Deferred Clause Revenues. Sales for Resale Account 447 would include those sales to municipalities and other wholesale customers who resale the electricity. It is unlikely that any of these customers would actually result in a bad debt write-off. Unbilled and deferred clause revenues have been included in retail billed sales for accruals and deferrals made in prior periods. They are not actually billed in the current period and should not be included for bad debt write-off calculations.

Q. WHAT LEVEL OF UNCOLLECTIBLE EXPENSE DO YOU PROPOSE?

A. Taking a five year average (2003 through 2007) of the Company's Bad Debt Factor and applying that to the company's projected gross revenues from sales of electricity (Accounts 440-446 and 451) would yield a more consistent and representative level of uncollectible expense for the test year.

Using a historical period will give an average of the Company's bad debt write-offs over a longer period of time and reflect a reasonable estimate of what the Company's write-offs will be in future periods.

Q. WHAT ABOUT THE COMPANY'S CONTENTION THAT DETERIORATING ECONOMIC CONDITIONS IN THE TAMPA BAY AREA MAY INCREASE BAD DEBT IN 2009?

A. The Commission should not build into rates charged to ratepayers due to economic downturns. This would protect Tampa Electric from the effects of the economy and pass onto ratepayers in economic bad times increased bad debt expense during economic bad times. Historical data will reflect ongoing bad debt expense not influenced by unusual temporary effects of economic downturns.

Q. WHAT ADJUSTMENT SHOULD BE MADE TO THE COMPANY'S PROPOSED UNCOLLECTIBLE EXPENSE TO REFLECT A MORE REPRESENTATIVE LEVEL OF THIS EXPENSE?

A. As shown on Schedule C-3, I have reduced uncollectible expense by $2,409,000 and the jurisdictional adjustment is $2,342,000. I have also adjusted the revenue conversion factor to reflect the Bad Debt Factor I am proposing.

Capital Structure

Q. WOULD YOU PLEASE EXPLAIN THE ADJUSTMENTS YOU HAVE MADE TO THE CAPITAL STRUCTURE TO REFLECT YOUR RATE BASE ADJUSTMENTS?

A. Dr. Woolridge has recommended a capital structure which utilizes the average of the 2007 and 2008 capital structure components. By utilizing the 2007 and 2008 capital structure components, Dr. Woolridge has, in effect, removed the specific adjustments which the Company has made to the equity component and short-term debt component. This is because the actual capital structure for those periods does not include the rate case adjustment to the capital structure which the Company is proposing. On my Schedule D, in the second column, I have adjusted the Company's rate base to comport with Dr. Woolridge's capital structure. The adjusted amount shown in Column 3 is the Company's beginning rate base allocated based on Dr. Woolridge's capital structure. In the next column,

Column 4, I have allocated the rate base adjustments we are recommending based on Dr. Woolridge's capital structure. The next column, Column 5, is the OPC's recommended capital structure based on Dr. Woolridge's recommended capital structure. The final three columns calculate OPC weighted cost of capital based on Dr. Woolridge's recommendation.

Q DOES THIS COMPLETE YOUR TESTIMONY?

A. Yes, it does at this time. However, there are still outstanding discovery requests which may affect my adjustments or require additional adjustments.

BY MS. CHRISTENSEN:

Q. Mr. Larkin, attached to your prefiled testimony, did you have an Appendix 1 along with Exhibit HL-1?

A. Yes.

Q. And do you have any changes to your appendix or HL-1 today?

A. No, I do not.

Q. Mr. Larkin, can you please summarize your testimony?

A. There is an Exhibit HL-2 too.

Q. Oh, I'm sorry. HL-2 as well.

A. Yes. The purpose of my testimony is to summarize the recommendations of both Dr. Woolridge and Mr. Schultz and to make additional recommendations related to the company's requested rate increase. It is our opinion that the company should not receive a rate increase greater than $38,689,000.

My testimony also deals with the company's request for the transmission rate base adjustment, which I state is not justified. There is not justification for implementing an automatic adjustment cause for transmission investment. This is not justified, and the Commission has not -- in fact, no commission that I know of in the country has ever authorized an automatic adjustment clause for transmission investment.

A major adjustment that I am making is to remove from the company's filing the annualization of plant in service for three -- two CTs which will go into service in May, three in September, and the annualization of the company's coal unloading facility at the Big Bend facilities.

Ratemaking principles state -- or should apply, which means that an investment should be matched with the revenue that is generated in that period. When one annualizes an investment, you're in effect ignoring the revenue which would be generated in subsequent periods when these units or these facilities are in service.

In addition, the company's recommendation regarding the coal facility, the accounting for that coal facility is inappropriate. It's not a beneficial adjustment to the ratepayer. The company will receive contributions from CSX to offset most, if not all, of the investment. That should be reflected as a reduction of that investment and not any of it flowed through the fuel adjustment clause.

Now, I want to explain why that's not reasonable. First, the accounting doesn't follow the Uniform System of Accounts. Secondly, if you do that, what you'll be doing is, you'll be asking the ratepayer to pay a rate of return at the overall rate of return on this investment for 20 years and pay depreciation on that investment, while at the same time, if they do receive anything back through the fuel adjustment clause, the only return they will get will be at the commercial paper rate. There's definitely a disadvantage to the ratepayer of paying the overall rate of return and receiving back a commercial paper rate, especially when it's strung out over 20 years.

I've made adjustments to the company's plant in service projections. I think that they're overstated.

I've removed the company's CIS upgrade because, number one, these flow through the company's normal accounting procedures, and to put this in here as a separate adjustment is really a double count.

I have removed the company's amortization of dredging costs because there's no substantiation both to the dollar amount and that this will take place in the year 2009.

I've adjusted the plant held for future use to remove overstatements which the company has in that account.

I've increased the construction work in

progress because my analysis indicates that it was understated.

I've made adjustments to the working capital. The two major adjustments that I've made -- well, actually, three major. The first is to remove all of the other accounts receivable. The other accounts receivable represent sales to other electric utilities. This is a nonjurisdictional. It's not a retail sale. Retail customers should not be paying a rate of return on the receivable from other electric utilities.

Now, Mr. Chronister says, "Well, if you don't put it here, you have to put it in fuel cost." You don't put it any place, because they don't -- the retail ratepayers shouldn't be paying a rate of return on a wholesale sale, either through working capital or through fuel cost. If these are to earn a rate of return, then they have to earn it through the costs charged to the utility that's buying the power.

The other receivable I've removed is those receivables related to associated companies. The company provides services to those other companies and charges them the cost of those services. That receivable is in the company's working capital. Well, that's unrelated to providing any service to retail ratepayers. If any rate of return should be paid on it, it should be paid by the companies receiving the services.

Now, Mr. Chronister says, "Well, there's an offset over here in Peoples Gas for this big receivable we put in working capital." We don't know that there's an offset over there, and even if there is, there is no justification for electric customers paying more and the gas customers paying less. If there's something in the gas that shouldn't be here, take it out. But these receivables should not be in working capital.

I've also adjusted the storm damage accrual. We think that $4 million is adequate.

CHAIRMAN CARTER: Mr. Larkin, thank you for your summary. Thank you.

THE WITNESS: Well, I was almost finished.

CHAIRMAN CARTER: You are finished. I told the attorneys, I told you to let your witnesses know -- I did give a little extra time on that, but we're going to kind of stay on track. We were almost about to make some progress.

Anyway, Commissioners, we're about six minutes before dinner, so we'll just go on our dinner break and be back at 6:30.

(Recess from 5:54 to 6:44 p.m.)

CHAIRMAN CARTER: We're back on the record.

Before we begin, Ms. Christensen had a preliminary matter.

MS. CHRISTENSEN: Yes, Commissioner. I believe inadvertently Hugh Larkin's HL-2 got left off the Comprehensive Exhibit List. And my recommendation would be to just separately number that as Exhibit 121 and just admit it in due course.

CHAIRMAN CARTER: Okay. That will be fine.

(Exhibit 121 was marked for identification.)

MS. CHRISTENSEN: And I would then tender the witness for cross.

CHAIRMAN CARTER: Staff, anything preliminary before we go?

MR. YOUNG: No, sir.

CHAIRMAN CARTER: Okay. Is everybody ready? Okay. You may proceed.

CROSS-EXAMINATION

BY MR. HART:

Q. Mr. Larkin, if we could look at the bottom of page 27 and the top of page 28 with regard to your testimony on dredging.

A. Yes.

Q. You understood the company's testimony to be, did you not, that their estimated dredging cost was 6.9 million?

A. Total company, yeah.
Q. And you also understood that they removed part of that in order to achieve a five-year amortization?
A. That's correct.
Q. And that's why on the top of page 28, you show an expense item of 1,330,000; is that correct?
A. That's correct.
Q. Now, did you listen to the testimony involving dredging in this hearing so far?
A. Just Mr. Chronister's.
Q. Have you read the rebuttal testimony that's related to your testimony?
A. Yes.
Q. Okay. Now, you now understand, do you not, that the company's estimate of 6.9 is only for their share of the joint costs?
A. Yes, I understood that.
Q. So then on line 19, when you took the five-year amortization number and divided it by two, you knew, and you state in your testimony you're doing that because those costs are normally allocated between two people.
A. Yes, and that's about the level that would have been allocated to Tampa Electric.
Q. Well, we may disagree with the number, but you

understood that when you divided the number by two, and you said you were dividing what the company estimated to be their only cost, and you said you were dividing it because it was to be allocated between two companies?

A. Yes. But I took it all out. I didn't leave any of it in there.

Q. You mean your proposal for dredging expense?

A. Yes.

Q. You didn't take page 28 out of your testimony, though, did you?

A. No, I didn't.

Q. And when you were asked for corrections to your testimony, you didn't change anything on page 28, did you?

A. No.

Q. Even though you knew that the 1,330,000 should not have been divided by two because these were not costs to be allocated, but were rather costs that were already allocated?

A. Well, my judgment, I said if this is a cost that's going to be incurred for dredging, then half of it should have been shared, but I took it out in its entirety. This calculation on page 28 has nothing to do with my recommendation.

Q. Well, should we just strike all of this testimony?

A. No. It's informative.

Q. Yes, but we probably disagree about what.

Now, on the next line, when you took the five-year amortization number, divided it by two, and then divided it by five again to come up with the number of 133,000, you were attempting to amortize over five years what had already been amortized over five years, weren't you?

A. According to you, but in my estimation, it wasn't. It wasn't the right number.

Q. Well, no, the question is not whether or not it's the right number. The question is whether or not when you took the company's number and made these allocations -- for example, on page 20, when you said this should be amortized over five years, you were making an amortization calculation. You were not trying to calculate just an abstract number that you thought was the appropriate number.

A. I said it should be spread over five years, but I took out the total. I didn't use any of this information at the bottom.

Q. The question I'm asking you is, did you know this calculation was wrong when you were asked do you have any corrections and changes to your testimony?

A. I don't think it's wrong. I think it's --

CHAIRMAN CARTER: Hang on a second. Mr. Larkin, if you could answer yes or no, answer yes or no, and then you --

THE WITNESS: All right.

CHAIRMAN CARTER: -- can explain your answer. But we'll make a lot more progress if you'll answer the question, and then we'll give you an opportunity to explain your answer.

Restate the question.

BY MR. HART:

Q. At this point, Mr. Larkin, I'm not attempting to argue with you about the number. I'm just talking about the mathematical calculation you made. You took a number, and at the top of the page, you just said you knew that was a number that had already been amortized over five years, and that five-year amortization is how you got the 1,330,000.

A. Yes.

Q. At the bottom, you take the 1,330,000, divide it by two, and then you take that 665 and you amortize it over five years again, and you know mathematically that's an incorrect calculation, don't you?

MS. CHRISTENSEN: Objection. I believe he's mischaracterizing the witness's testimony.

CHAIRMAN CARTER: He can say that's not his -- he hasn't answered the question yet.

A. I took the 1,300,000 as the total and said half of it should have been allocated, and then what should be remaining should be amortized. But I didn't use any of those calculations. That's not what I did.

Q. But at the top of the page, you already have testified and acknowledged that the number had already been amortized over five years once and that the number at the bottom was being amortized over five years for the second time.

A. In my view of what should have been done, that's what I calculated, yes. It's taking the 1,300,000, allocating it to the other company, and amortizing the remainder over five years. But that's not in -- that's not the adjustment I made.

Q. Okay. And you know, do you not, that if the number really is 6.9, that at 133 amortization, it would take 50 years to recover the 6.9 million?

A. I didn't make that calculation, but I don't believe 6.9 is right.

Q. Well, the question I'm trying to ask you -- well, let me ask you this way. Are there any more mathematical calculations like this in your testimony that even though you don't rely on them, you don't now think they're accurate?

A. I didn't say this wasn't accurate. I just said that this is what I gave as an example.

Q. Okay. And you think that it was an accurate calculation to amortize it over five years and then take the one-fifth of the number and amortize it again over five years?

A. I said if that's a reasonable amount of expense for the dredging, it should have been split and then amortized over five years.

Q. You've talked with regard to the construction (sic) turbines, and I want to talk about the two that are going into service in May.

A. Yes.

Q. You've talked a lot about the matching of the cost recovery of the turbines and their usefulness to the customers; isn't that correct?

A. That's correct.

Q. Now, the record, the way it stands right now, says that these turbines are going to go into service in May, and at least on our projected schedule, the new rates are going to go in in May. To the extent those turbines go into service in May and the new rates go in in May, then the rates that recover the cost of the turbines and the turbines starting in service will all occur simultaneously, won't they?

A. Those two will occur at the same time, but the cost will not be incurred fully until 2010. So if you put it into rates, you will be asking the ratepayers to pay a carrying cost, return on depreciation, and O&M expenses as if they got the value of the service from January 1, 2009, which didn't occur.

Q. Okay. Now, which turbines did you think I just asked you about?

A. The ones that went in in May 2009.

Q. And why do you think the cost of the turbines that will be -- construction will be completed and they'll be in service in May. Why do you think all the costs of the turbines will not be included until 2010?

A. Because they won't fully be in service for a year until 2010, and you've treated them as if they were completed and in service January 1, 2009.

Q. Well, that's the test year calculation, but the question I'm asking you is whether or not the cost recovery of the turbines, their use and the cost that's actually incurred for them will not all start at the same time. You agree that that's true, don't you?

A. Well, I agree if they are in service on May 1st or when the rates go into effect that the rates and the turbines will go into service at the same time, but that's a different issue.

Q. It's not different than the issue that I asked you about, is it?

A. No. I mean, what you asked me is are these two dates the same, and I said yes, they are, but that's irrelevant.

Q. Now, in your testimony, you haven't proposed disallowing any of the CTs. You've just argued over the annualization of the expense; correct?

A. That's correct. I'm assuming that the company is correct that they will build them and they will come on at that point in time.

Q. On page -- I guess it's 44 of your testimony, or 46, what is the bad debt number -- you reduced the uncollectible -- excuse me. On page 47, you reduced the uncollectible expense number by 2,409,000. What is the amount that's left in your proposal?

A. 5,562,000.

Q. Now, do you have MFR C-11 there with you?

A. No.

MR. HART: Okay.

(Document distributed by Mr. Wahlen.)

BY MR. HART:

Q. Mr. Larkin, if I could call your attention to the 2007 actual write-off numbers which are shown here as 5,527,000. Do you see that number?

A. Yes.

Q. Now, that's within 35,000 of the number that you propose to include for bad debt expense in this case; is that correct?

A. That's correct.

Q. Now, basically, what that does is, it doesn't account -- it uses the same bad debt expense that occurred in 2007, which does not account for any increase in sales or any change in economic conditions; is that correct?

A. What it does is, it applies the historical rate of bad debt factor to the current sales. It does account for whatever the 2009 sales were. I applied the average of the years 2003 through 2007 to the adjusted gross revenue for Tampa Electric, and that's the number I arrive at. And it's an average.

Q. I didn't ask you how you calculated your deduction. I asked you about how your results related to the results for 2007.

A. Yes, and I said that they're a little bit higher by about 35,000, but they're higher than 2003, 2004, 2005, 2006. So bad debts vary. They vary with the economy, and it's appropriate to use an average.

Q. You want -- the question that I asked you was about your actual projected bad debt expense and how it relates to the 2007 number, and we just talked about the fact that there's only a $35,000 difference.

A. I agree.

Q. What that means, though, is that the projected results for 2009 that are being used by you are similar or equivalent to the actual results achieved in 2007, even though the sales in 2009 are projected to be higher, and we all know there's more accounts not being collected in 2009; isn't that correct?

A. No. And it's not correct because what I did was to use an average factor. And when you use an average factor, that average says that based on the 2009 revenues, the bad debt expense will be 5,562,000.

Q. Did I ask you any questions about how you calculated the bad debt number?

A. Well, you've asked me a question that leads to that. You said how does this relate to the 2009 revenue, and I just explained, well, it relates to the 2009 revenue because you use an average factor and you apply that factor to the 2009 revenues, and that's what gives you the bad debt expense. What you want to do is, you want to say, "well, you can't do that."

CHAIRMAN CARTER: Mr. Larkin, you can -- as I said to you earlier, you can explain your answer, but answer the question first and then go from there. That will help us all out.

THE WITNESS: I thought I had.

CHAIRMAN CARTER: That will help us all out. You may proceed. Would you ask your question again, please?

MR. HART: Mr. Chairman, I have no further questions of this witness. Thank you.

CHAIRMAN CARTER: Are you sure?

MR. HART: Unless he puts in some more redirect as -- I mean more direct evidence as a result of the friendly cross. I might ask at that point to be able to ask a few more question, but at this point, I have no more questions for him.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Good evening, Mr. Larkin.

THE WITNESS: Good evening.

COMMISSIONER SKOP: Just a quick question with respect to -- I was looking through your prefiled testimony, and on page 35, beginning with line 16 through 23, you talk about an additional adjustment being proposed to the company's fuel stock inventory. Why is it appropriate, or why do you seem to be suggesting a marked-to-market approach with respect to the proposed adjustment there? Why is that appropriate?

THE WITNESS: Well, it's appropriate to reflect the fuel cost, or the inventories at the current level of cost.

COMMISSIONER SKOP: So you're essentially marking down, if I'm correct, or advocating that the inventories be marked down to reflect market prices, irrespective of what the cost of those inventories were that would be consumed in the generation process.

THE WITNESS: First of all, let me say that they're not -- in your question is the assumption that they're at their current market price or at an actual price.

COMMISSIONER SKOP: Well, I don't think they would be stated at an inflated price. I mean, they're probably carried at what they were paid for. But again, to do a marked-to-market adjustment, how does that reflect the accurate cost of generation?

THE WITNESS: I think we're talking past each other. The company used an estimate. These aren't the actual prices. The company's prices are not actual. They used an estimate of what they thought fuel prices would be in 2009. Those aren't actual paid-for prices. Those are estimated 2009 costs multiplied by inventory volumes. And I'm saying, well, here is the current 2009 prices. Let's revalue the inventory at -- so I'm not marking it down from what they actually paid. What I'm marking it down from is what they estimated the 2009 cost to be.

COMMISSIONER SKOP: I understand, but there's more into -- at least from my understanding of fuel procurement, and correct me if I'm wrong, but again, when you project a price, it's based on a multitude of things. It's not just the -- the forward curves go into that, but also too the hedging practices and a multitude of decisions.

So it just seems to me on its face, unless I'm missing something, that it's very arbitrary to just say, "Oh, this is the current spot price today," and unilaterally come in and make an adjustment, because again, there's some lag time to the extent that -- I wish there was a one-to-one correlation, but there's not, so I'm trying to understand how it is appropriate to make that type of adjustment.

THE WITNESS: Well, that's what the company did. They used a factor. They looked at market prices, and then they valued the inventory. So I'm doing the exact same thing or recommending the exact same thing the company did, except I'm using current prices. There are no other factors in there. There is no other cost in there.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

On a different issue, Mr. Larkin, you've been asked some questions about the requested annualization of the five CT units, and in Issue 5 of the Prehearing Order, which addressed that issue, the stated position from TECO is that the units are not revenue-producing or growth-related, but are intended to improve system reliability, and therefore appropriate for annualization. And the OPC position in the issue statement seems to be that the CT units would be revenue-producing or growth-related. Could you speak to that, please?

THE WITNESS: Sure. The CTs or peaking units are an integrated part of the system. You can't operate the system or deliver power or have a secure system or a reliable system without CTs. So it's like saying a transmission line, because it doesn't produce any power, is not of value, it doesn't produce revenue. Well, it delivers the power. So the CT is an integral part of the company's system. It's the same -- it serves a different purpose than the base load unit, but it allows the company to make sales, to have a secure system, that the system is reliable, and it's an integral part of the operation of the utility, the same as the transmission system is, the distribution system is, even though some parts of that system may not operate all the time.

COMMISSIONER EDGAR: Thank you.

CHAIRMAN CARTER: Anything further from the bench?

Ms. Bradley.

MS. BRADLEY: No questions.

CHAIRMAN CARTER: Ms. Kaufman.

MS. KAUFMAN: No questions, Mr. Chairman.

CHAIRMAN CARTER: Mr. Wright, you want my copy of this?

MR. WRIGHT: No, sir.

CHAIRMAN CARTER: Okay.

MR. WRIGHT: I have one follow-up question about the September CTs based on new evidence that came in earlier in the hearing.

CROSS-EXAMINATION

BY MR. WRIGHT:

Q. Mr. Larkin, in response to a question by Mr. Hart, you made the statement that you're assuming that the CTs will come on line in 2009 as projected by the company.

A. That's correct.

Q. Okay. Now, we've got two CTs that are continual on line in May and then three more that are supposed to come on line in September?

A. Yes.

Q. If the three CTs were not to -- the three September CTs were not to come on line until after January 1, 2010, how should the costs be treated for the purposes of setting rates in this case?

A. It should all be removed. There should be no cost.

MR. WRIGHT: Thank you. Thank you, Mr. Chairman.

CHAIRMAN CARTER: Mr. Twomey.

MR. TWOMEY: No questions, sir.

CHAIRMAN CARTER: Commissioners, I'm going to go to staff before I come back to the bench. Staff?

MS. BROWN: No questions.

CHAIRMAN CARTER: Okay. Anything further from the bench?

Had you completed all your questions?

MR. HART: Yes, I have. Thank you, Mr. Chairman.

CHAIRMAN CARTER: All right, then. Let's proceed with -- oh, sorry.

MS. CHRISTENSEN: Commissioner, brief

redirect.

CHAIRMAN CARTER: What time is it? Redirect.

REDIRECT EXAMINATION

BY MS. CHRISTENSEN:

Q. Mr. Larkin, you were asked some questions regarding the dredging costs.

A. Yes.

Q. And you were asked to explain an informational adjustment that you made. Can you explain why you put that example in there?

A. Well, what I meant to show was that if that were the total cost the company incurred for all the dredging, then half of it would have been shared, and it would have been amortized over five years, and here would be the numbers. I didn't make any adjustment based on that.

Q. Would it be -- is it then your testimony you were doing a comparison for the historical costs that the company incurred in the past and what the current request was?

A. No, because the historical cost is a little bit higher.

Q. Okay.

A. It's a little bit higher than that.

Q. Okay. Let me return to an exhibit that the company passed out referring to your bad debt and the methodology.

A. Yes.

Q. Can you explain -- you said that averaging was appropriate for bad debt. Can you explain why you believe averaging is appropriate?

A. Well, because there are changes in the economy, and we don't want to build into rates economic downturns if there is an economic downturn. As an example, if the weather were warmer or colder than usual, we would use a historical average or a weather average to normalize the sales. Well, bad debt acts the same way, except the factor that changes them is the state of the economy, employment, economic activity in the state of Florida.

2008 and 2009 are going to be years in which the economy is going to be affected by a recession. You wouldn't build rates based on a recession, because you expect the recession to end and things to go back to normal, so the company should not get revenues, expenses, or anything else that reflects the effects of the recession. And the way you remove that is to look at a historical average and use that average to set items such as bad debts, and that's the reason I did this.

MS. CHRISTENSEN: I have nothing further.

CHAIRMAN CARTER: Okay. Exhibits.

MS. CHRISTENSEN: I would move Exhibits Number 49, 50, and 121 into the --

CHAIRMAN CARTER: Does anybody have any objections?

MR. HART: No.

CHAIRMAN CARTER: Without objection, show it done.

(Exhibits 49, 50, and 121 were admitted into the record.)

CHAIRMAN CARTER: Call your next witness.

MS. CHRISTENSEN: The Office of Public Counsel would call Helmuth Schultz to the stand, please.

Thereupon,

HELMUTH W. SCHULTZ III

was called as a witness on behalf of the Citizens of the State of Florida and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CHRISTENSEN:

Q. Can you please state your name and your business address for the record?

A. My name is Helmuth W. Schultz III. My business address is 15728 Farmington Road, Lavonia, Michigan.

Q. And, Mr. Schultz, did you cause to be prefiled direct testimony on November 26, 2008, in this docket?

A. Yes, I did.

Q. And, Mr. Schultz, do you have any changes to your testimony?

A. On December 11th, there were some -- an errata prepared that revised page 1 and page 15. In addition to that, I have subsequently discovered a couple of minor changes that would be required.

On page 23, line 15, it states, Schedule C-5. It should state Schedule C-6.

On page 24, line 7, the question starts out, "Are they." It should be, "Are there."

And on page 32 of my testimony, line 22, it references interrogatory number 86. It should be interrogatory number 85.

Q. With those corrections, as well as the previously filed corrections to your testimony, if I were to ask you the same questions today, would your answers be the same?

A. Yes, they would.

MS. CHRISTENSEN: I would ask that Mr. Schultz's prefiled testimony be entered into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

DIRECT TESTIMONY OF HELMUTH W. SCHULTZ, III
ON BEHALF OF THE CITIZENS OF FLORIDA
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TAMPA ELECTRIC COMPANY
DOCKET NO. 080317-EI

I. INTRODUCTION

Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

A. My name is Helmuth W. Schultz, III. I am a Certified Public Accountant licensed in the State of Michigan and a partner of the firm of Larkin & Associates, PLLC, Certified Public Accountants, with offices at 15728 Farmington Road, Livonia, Michigan 48154.

Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory Consulting Firm. The firm performs independent regulatory consulting primarily for public service/utility commission staffs and consumer interest groups (public counsels, public advocates, consumer counsels, attorney general, etc.). Larkin & Associates, PLLC, has extensive experience in the utility regulatory field as expert witnesses in over 800 regulatory proceedings including numerous electric, water and sewer, gas and telephone utilities.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC COMMISSION?

A. Yes. I have testified before the Florida Public Service Commission on a number of occasions.

Q. HAVE YOU PREPARED AN APPENDIX WHICH DESCRIBES YOUR QUALIFICATIONS AND EXPERIENCE?

A. Yes. I have attached Appendix I which is a summary of my regulatory qualifications and experience.

Q. BY WHOM WERE YOU RETAINED?

A. Larkin & Associates, PLLC was retained by the Florida Office of Public Counsel ("OPC"). Accordingly, I am appearing on behalf of the Citizens of Florida ("Citizens").

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. Our firm was asked by the Public Counsel to analyze the requested rate increase requested by Tampa Electric and provide our analysis of what rate increase is justified.

Q. WHAT ARE THE RESULTS OF YOUR ANALYSIS OF THE REQUESTED INCREASE FOR TAMPA ELECTRIC?

A. We are recommending that the Commission adjust various expenses requested by Tampa Electric, because the Company's requested expense levels were not justified. My testimony addresses operating expense issues related to payroll and employee benefits, directors and officers insurance expense, storm hardening activities such as tree trimming, inspections and maintenance, rate case expense and office supplies expense. I also address capital structure issues related to deferred income taxes and investment tax credits

Q. DO YOU HAVE ANY EXHIBITS ATTACHED TO YOUR TESTIMONY?

A. Yes. I have attached Exhibit HWS-1, which consists of Schedules C-4 through C-12, which support my adjustments. Hugh Larkin's Exhibit HL-1 contains Schedules A, B and C-1 through C-3. My adjustments have been reflected in the exhibit of Mr. Hugh Larkin, Jr.

III. PAYROLL

Q. ARE THERE CONCERNS WITH THE COMPANY'S PAYROLL REQUEST FOR THE PROJECTED TEST YEAR?

A. Yes. I have three concerns with the Company's requested payroll: 1) the overtime dollars included in the filing have not been identified or tracked by the Company; 2) the Company has requested 151 additional employees above the 2007 levels; and 3) the Company's requested incentive compensation plan is problematic.

Q. WHAT IS THE PROBLEM WITH THE OVERTIME DOLLARS IN THE PROJECTED TEST YEAR?

A. The problem with the Company's proposed overtime dollars is that we have no idea what amount is included in the test year. The response to OPC Interrogatory No. 35 states that the Company's budget system does not have a detail breakout of overtime and other pay for 2008 and 2009. It is astonishing that a company the size of Tampa Electric does not have a budgeting system sophisticated enough to be able to identify the overtime included in its budget. That raises serious concerns as to how the Company can measure performance when an important component of payroll is not tracked and/or monitored.

Q. WHY IS THERE A CONCERN WITH THE COMPANY'S PROPOSED ADDITION OF 151 EMPLOYEES?

A. There is no justification provided in Tampa Electric's filing for an increase in the employee complement of this magnitude. Based on the response to OPC Interrogatory No. 56, the Company has decreased its employee complement in 11 of the last 15 years (since 1992). Only in 2006 and 2007 did Tampa Electric have consecutive increases in its employees. However, any additional employee increase beyond 2007 does not appear to be justified. According to the Company's testimony, this filing is driven by the following: 1) customer growth that is projected at an annual rate of

2.1% over the next ten years; 2) increased customer demand; 3) maintenance on an aging infrastructure; 4) increases in materials costs; and 5) weather and regulatory compliance. The increase in materials costs, customer demand and weather do not have any impact on the number of employees. The annual customer growth of 2.1% is less than the 2.8% annual customer growth experienced over the last 16 years where Tampa Electric has reduced the number of required employees by approximately 24%. While increased maintenance and regulatory compliance may require a minimal addition to the employee complement, it does not justify the 151 positions the Company has reflected in the filing.

Q. WHAT CHANGES HAVE OCCURRED IN 2008 WITH THE EMPLOYEE COMPLEMENT?

A. The Company had 2,531 employees as of December 31, 2007. While the employee compliment has fluctuated monthly in 2008, as of September 30, 2008, the employee count was 2,531. Based on my analysis, I believe that the Company's employee complement of 2,638 for the projected test year is overstated.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO THE EMPLOYEE COMPLEMENT?

A. The Company's request should be reduced by 90 positions to a complement of 2,548. This is 17 positions more than year end 2007 and the September 30, 2008, level, and 61 positions more than the average for the historical test year 2007. As shown on Exhibit HWS-1, Schedule C-4, the reduction of 90 positions reduces O&M expense by $3,676,382 to a more reasonable expense level of $104,082,450. This is a reduction of $3,568,109 on a jurisdictional basis.

IV. INCENTIVE COMPENSATION

Q. HAVE YOU REVIEWED THE COMPANY'S REQUEST FOR INCENTIVE COMPENSATION?

A. Yes. The Company is requesting recovery of $11,574,843 for incentive compensation. The Company has opined that the incentive compensation is required to attract, retain and motivate high performing goal-oriented team members and is "at risk" pay because it is based on meeting performance goals. However, the description of the plans objectives is misleading from a ratemaking perspective, in that the plan heavily favors shareholder oriented objectives/goals. There are significant doubts as to whether this incentive pay is truly "at risk" based on the target setting. Moreover, ratepayers are being requested to pay more than their fair share of the incentive plan, even assuming that this type of incentive plan is reasonable.

Q. ARE YOU RECOMMENDING THAT AN ADJUSTMENT TO THE COMPANY'S REQUEST BE MADE?

A. Yes. The entire cost of the plan should be excluded from rates. The Company has failed to document the need to add incentive pay above employee salaries to retain or motivate its employees. The Company can continue the plan; however, shareholders should be responsible for the entire cost of the plan. Even if the Company could demonstrate some ratepayer benefit from this type of incentive plan, the ratepayers and the shareholders should share the target level cost of the plan equally.

Q. DOES THE PLAN ACTUALLY CREATE PERFORMANCE INCENTIVES THAT PLACE EMPLOYEE PAY "AT RISK" BASED ON MEETING MEANINGFUL TARGETS?

A. No. A review of the goals and achievements of goals for the period of 2003-2007 raised a number of concerns. First, the goals set by the Company and the determination of eligibility payments under the plan is seriously flawed, particularly from a ratemaking and ratepayer prospective. I cite several troubling examples of the Company setting targets and goals so that the employees are not required to improve performance in order to receive incentive pay which I found in my review of the plan.

For example in 2003, the Company had a target goal for customer satisfaction of 94% and the Company achieved a 95% customer satisfaction rate that year. The following year in 2004, the Company should have raised its target to at least 95%, but instead kept the target level at 94%. The Company met its 2004 goal with a 96% customer satisfaction rating. Again in the next year, 2005, the Company failed to raise the target level to the actual 2004 customer satisfaction rating of 96%, instead the target was set at 95%. The target has remained at 95% since 2005. As one can see from this example, employees were not required to improve their performance to receive incentive pay, but could have, in fact, decreased their performance from the previous year and receive incentive pay.

Another example is the 2006 SAIDI target. The 2006 SAIDI target was set at a no more than 90 minute average annual outage time that was achieved with an actual of 83.22 minutes. The 2007 target goal was reduced, not to the 2006 achievement level, but to 85 minutes. Thus, all the Company employees had to do is continue to perform at the same or lower level and they would accomplish the goal without improving reliability. You can not call this an incentive plan if the goals are not increased to a level that provides incentives to improve the actual performance year to year.

Q. ARE THERE OTHER CONCERNS WITH THE GOALS THAT THE COMPANY SET DURING THE PERIOD OF YOUR REVIEW?

A. Yes. In 2005, the Company failed to meet the Success Sharing goals for safety. Instead of maintaining the goals at the 2005 level, the Company changed its goals for 2006 to allow for more preventable accidents and an increased incident rate. This has two down sides. First, it suggests that safety is not a priority if you were willing to accept more accidents. Second, it suggests that this plan is being designed to assure that payments will be made.

Next, the Company did not meet reliability goals for SAIDI in 2003, 2004 or 2005. In 2006, the target for SAIDI minutes was increased from "no more than" 67 minutes for average annual outage time to 90 minutes for an average annual outage time. It is not appropriate for the Company to lower its standards to make them easier to achieve so that incentive compensation can be paid out. The Company has sent the wrong signal to its employees by lowering targets and suggesting that a lower level of performance is acceptable.

Q. WHAT DID YOUR REVIEW INDICATE WITH RESPECT TO THE RESULTS OF THOSE GOALS?

A. Based on the response to OPC Interrogatory No. 30, the Company failed to achieve its target for five of the seven Success Sharing goals in 2003. In 2004, two of seven goals were not achieved. In 2005, five of seven goals were not achieved. In 2006, two of seven goals were not achieved and in 2007, two of seven goals were not achieved. Yet despite the fact that goals were not achieved in each of the five years, the Company still expensed and paid 18%-49% more than the target level of incentive compensation budgeted during the years 2004-2007.

More astounding is that the 2005 Success Sharing results showed that the Company failed to meet five of seven targets (the safety target, the environmental target, the SAIDI target, its cost recovery clause target and Tampa Electric's net income target). Even after missing five of the targets, Tampa Electric still had an expense for incentive compensation that was more than 49% above the target incentive amount. This payout is troubling since the Company stated in response to OPC Interrogatory No. 54 that if goals are not achieved, no Success Sharing payout is made.

Q. DID YOU INQUIRE AS TO HOW THIS COULD OCCUR?

A. Yes, the Company was requested in OPC Interrogatory No. 98 to explain how incentive pay can be in excess of target when goals were not achieved. Tampa Electric indicated in its response that because some goals may have been achieved above the target level that those better than expected results could offset the below target results. In describing the goals, Tampa Electric's response stated that the corporate and operating financial goals are quantitative and the individual goals are qualitative. However, this response is very broad and generic and it did not answer the question asked. Specifically, the response did not explain how the 2004-2007 incentive costs were above target when approximately half of the goals in each of the respective years were not achieved.

Given the fact that the Success Sharing is the major component of the incentive compensation expense, this response suggests that the majority of the weighting is on the two shareholder financial goals with less weighting on the five non-financial goals that deal with customer concerns. Since the financial goals are shareholder related, shareholders should be responsible for the cost of the incentive compensation plan. It is not appropriate for ratepayers to pay for incentive compensation that places shareholder benefits above customer benefits.

Q. WHY DID YOU STATE THAT THE OBJECTIVES OF THE PLAN ARE MISLEADING?

A. There is no evidence that the payment of incentive compensation is required to attract and retain employees. While incentive compensation is offered by many companies, there also is no evidence that it has to be included in rates to attract and retain employees. Moreover, the Company has conducted no studies that demonstrate the compensation levels prior to adding the incentive compensation are not adequate in and of themselves to attract and retain employees.

Q. HOW HAS THE COMPANY PERFORMED OVER THE YEARS THAT YOU REVIEWED?

A. While the shareholders financial results were favorable (i.e. generally above target), the environmental achievement was not favorable and the reliability and safety achievement was less than favorable (less than the target level). Based on the response to OPC Interrogatory No. 31, the financial goals are what are emphasized the most and the financial goals are more shareholder oriented.

Q. WHAT DID YOU MEAN THAT THERE ARE SERIOUS CONCERNS ABOUT THE GOALS AND THE DETERMINATION OF THE PAYMENT TO ELIGIBLE PARTICIPANTS OF THE PLAN?

A. As discussed above, the major concern with the goal setting is that they do not provide sufficient incentive to perform at a level that would result in improvements in operations and customer service. The ratepayer benefit does not exist. The concern with the determination of payments to eligible participants of plan is that in each of the years 2004-2007 the incentive payout exceeded the target even though there were goals that were not achieved. To add to that concern, the Company's response to OPC Interrogatory No. 53 indicates that during the time period 2004-2007, the only year an eligible employee did not receive an award was 2004. And in 2004, there was only one eligible employee that did not receive an award of the 2,435 employees that were eligible. Based on these results there does not appear to be any pay that is "at risk." Incentive compensation is extra compensation that is added to base compensation.

Q. ARE THERE ANY OTHER PROBLEMS WITH THE COMPANY'S INCENTIVE COMPENSATION REQUEST?

A. Yes. The incentive compensation amount is based on the employees pay. Some employee pay is capitalized, yet 100% of incentive compensation is expensed. Generally accepted accounting principles and FERC accounting requires that costs directly related to payroll be capitalized. The Company's costs for medical insurance, pensions and payroll taxes are subject to capitalization and so should incentive compensation.

Q. DID YOU INQUIRE AS TO WHETHER THE INCENTIVE COMPENSATION WAS CAPITALIZED OR NOT?

A. Yes. The Company was asked in OPC Interrogatory No. 100 about capitalization. In its response, the Company stated that "Incentive compensation is allocated based on the internal labor charges to expense, capital and other activities" which is in direct contradiction to the information the Company supplied in response to OPC Interrogatory No. 29 and OPC Interrogatory No. 35. The response to OPC Interrogatory No. 35 identified the incentive compensation in 2007 included in gross pay to be $12,762,948. The response to OPC Interrogatory No. 29 specifically indicated that the 2007 actual expensed incentive compensation was

$12,762,948. Based on the responses to OPC Interrogatory No. 29 and OPC Interrogatory No. 35, the incentive compensation is 100% expensed.

Q. WHAT IS YOUR RECOMMENDATION ON THE COMPANY'S REQUEST FOR INCENTIVE COMPENSATION?

A. The entire $11,574,843 ($11,233,952 on a jurisdictional basis) should be disallowed because the Company's goals are not sufficiently established to require improvements that will provide either a cost benefit or safer and more reliable service to customers. If the Commission were to conclude that some expense is justified, the Commission should first limit the amount to the same expense percentage used for base payroll and overtime, and then limit the amount expensed to ratepayers to no more than 50% of the amount presumed to be justified. Because shareholders and ratepayers would conceptually benefit from a true incentive plan, the cost of that plan should be shared equally.

V. <u>EMPLOYEE BENEFITS</u>

Q. WHAT IS THE COMPANY REQUESTING FOR EMPLOYEE BENEFITS IN 2009?

A. The Company's request for 2009 includes $73,804,000 for employee benefits and according to the response to OPC Interrogatory No. 43 the amount expensed is $44,030,377.

Q. ARE THERE PROBLEMS WITH THE COMPANY'S REQUEST?

A. Yes. The first concern is that the amount requested is overstated. As noted earlier in this testimony, the Company has requested the addition of 151 positions that are not justified by the filing. Second, there are problems with the Company's increase in 401(k) matching that took effect in April of 2007. Finally, the level of employee sharing in health care is also a concern because they may not include a proper amount of employee contribution. However, the Company failed to provide sufficient documentation to recommend an adjustment at this time.

Q. WHAT IS THE PROBLEM WITH THE COMPANY'S 401(K) MATCHING?

A. Effective April 2007, the fixed match was increased from .30 to .50. The problem with the Company's increase is that the economy has forced a lot of changes on individuals and companies alike, as discussed below, yet Tampa Electric seems to be ignoring these changes. For example, some utilities have gone from a defined benefit retirement plan to a cash plan and others have ended the enrollment of employees in the defined benefit plans opting for cash plans or enhanced 401(k) plans. It is not appropriate for the Company to increase the contribution to its employee's second retirement plan when some ratepayers do not even have one retirement plan, especially in today's economy. It also ignores the changes that other companies have been making in their attempt to reduce costs.

Q. WHAT ABOUT THE STUDIES THAT COMPANY WITNESS MERRILL REFERS TO?

A. Those studies are based only on companies that participate in surveys and reflect a limited sample. What is not reflected in those surveys are all the small companies that offer limited health care and/or retirement plans or do not offer any health care or retirement plans. The employees of those very companies may be customers of Tampa Electric.

Q. ARE YOU RECOMMENDING ANY ADJUSTMENT TO THE 401(K) EXPENSE?

A. Yes. The Company 401(k) amount should be reduced to reflect a contribution rate of .30 instead of .50 or a reduction of 40%.

Q. WOULD A REDUCTION OF 40% REDUCE THE 401(K) AMOUNT BELOW HISTORICAL COSTS?

A. Yes. But the historical costs are not comparable because they include another special add on available to employees that is called the performance match. This performance match is based on the Company exceeding net income targets and the filing presumably does not assume the Company exceeding the net income target.

Q. WOULD A 40% REDUCTION BE COMPARABLE TO THE EFFECTIVE CONTRIBUTION MADE IN PRIOR YEARS WHEN THE .30 CONTRIBUTION RATE WAS IN EFFECT?

A. It is in the range of reasonableness. For example in 2006, the cost included a fixed match of .30 and a performance match of .15 for a total of .45. The cost for the year was $3.789 million and 66.67% (.30/.45) of that is $2.526 million. The $2.526 million estimated fixed match is 1.5% of the total 2006 compensation of $168.885 million. The 2009 cost per the Company is $4.977 million and reducing that 40% results in a cost of $2.986 million. The $2.986 million is also 1.5% of the total compensation for the year 2009 of $205.133 million. The other years estimated 401(k) expense varies from estimated 1.4% to 2.0%. Thus, reducing the fixed 401(k) contribution by 40% yields a result in the range of reasonableness when compared to past results.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING?

A. The 2009 401(k) cost (Retirement Savings Plan) should be reduced $1.991 million reducing the total employee benefits for 2009 to $71.813 million.

Q. WHAT IS THE CONCERN WITH MEDICAL COSTS?

A. The costs shown in the filing may not reflect a proper level of employee contributions. However, the Company did not make available sufficient information to evaluate the employee sharing.

Q. WAS A REQUEST MADE FOR THE EMPLOYEE'S SHARE OF MEDICAL COSTS?

A. Yes. The Company was requested to "Provide for each of the years 2003-2007 the active employees and retired employees share of medical benefits, respectively." The response to OPC Interrogatory No. 57 provided the Company's share of active employees and retired employee's medical benefits. Since the response was not sufficient, no recommendation can be made at this time.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO EMPLOYEE BENEFITS?

A. As shown on Exhibit HWS-1, Schedule C-5, the employee benefits expense should be reduced $1,461,650. The jurisdictional adjustment is $1,420,208.

VI. <u>DIRECTORS & OFFICERS LIABILITY INSURANCE</u>

Q. WHAT HAS THE COMPANY INCLUDED IN 2009 FOR DIRECTORS AND OFFICERS LIABILITY INSURANCE?

A. The response to OPC Interrogatory No. 101 indicates the Directors and Officers Liability Insurance (DOL) cost allocated to Tampa Electric for 2009 is $1,700,908.

Q. IS THE COST OF THIS INSURANCE AN APPROPRIATE COST TO INCLUDE IN RATES?

A. No. In 2003 the amount of DOL insurance expensed was $654,392. In 2007 the expense allocated to Tampa Electric was $1,763,351. That represents an increase of 169.5%. The increase began to occur after 2002 as the result of the claims against officers and directors. This insurance protects officers and directors from claims that are made because of decisions that plaintiffs and agencies believed to be inappropriate.

Q. WHY SHOULDN'T THIS INSURANCE BE ALLOWED WHEN THE COST OF OTHER INSURANCE IS?

A. As was previously stated, this insurance initially protects officers and directors when decisions that they have made are challenged and/or determined to be bad business decisions. The extra factor with DOL insurance is that the primary plaintiffs are shareholders. In effect the DOL insurance provides shareholders protection against their own decisions such as the hiring of the Board of Directors who, in turn hire the officers of the Company. The benefit from settlements from this insurance flows through to shareholders. Therefore, shareholders should be responsible for the cost of this insurance.

Q. IS THERE ANY BENEFIT TO RATEPAYERS?

A. No. In other proceedings where I have testified, companies have claimed that ratepayers benefit because the insurance is necessary to attract and retain competent directors and officers. However, there has not been any evidence presented that showed that the companies were unable to attract and/or retain officers and directors when shareholders were required to pay the cost of the coverage. Ratepayers do not receive any of the proceeds from decisions and/or settlements in directors and officer litigation, so ratepayers should not be responsible for the cost of protecting shareholders from their own decisions.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING?

A. The entire $1,700,908 for DOL insurance should be removed from rates. On a jurisdictional basis the adjustment is $1,650,815.

Q. WHAT IF THE COMMISSION DECIDES THAT SOME BENEFIT MAY FLOW THROUGH TO RATEPAYERS?

A. If the Commission can identify a benefit that ratepayers receive then I would recommend that the Company's request be limited to the 2003 expense of $654,392 reducing the 2009 rate year request $1,046,516.

VII. TREE TRIMMING

Q. WOULD YOU EXPLAIN THE COMPANY'S REQUEST FOR TREE TRIMMING?

A. The Company is asking for $16,073,444 for distribution tree trimming and $1,797,519 for transmission vegetative management. The transmission request appears reasonable but the distribution tree trimming request of $16,073,044 is excessive.

Q. WHAT IS THE REASON THE COMPANY IS REQUESTING THE $16 MILLION FOR DISTRIBUTION TREE TRIMMING?

A. The Company's witness Haines stated that the increase in tree trimming is because the Company has to be on a three-year tree trimming cycle and that the increase is driven by increases in contractor rates "mainly caused by escalating fuel costs." The Company testimony also states that beginning in 2005, the Company has ramped up its vegetation management program so it could continue to progress to a three-year tree trim cycle by 2010.

Q. WHAT IS YOUR CONCERN WITH THE COMPANY'S REQUEST?

A. My concern is how the Company has managed its tree trimming over the years. Back in Docket No. 920324-EI, the Company requested funding for a two-year trimming cycle. Yet sixteen years later the Company is progressing towards a three-year trim cycle. Based on the response to OPC Interrogatory No.109, the Company has approximately 6,121 miles of overhead distribution facilities, but the Company cannot identify how many miles of distribution requires trimming. A key problem the Company has with moving to a three year cycle is that it does not know how many miles on the system actually requires trimming per year.

Q. WHY WOULDN'T YOU BASE THE TRIMMING ON THE 6,121 MILES?

A. Not all of the system miles have trees along them that require trimming, therefore the number of miles could be 5,000 or it could be 4,500. Either way it is imperative for the Company to know how many miles per year require trimming before they make a request for funding that would support a three-year cycle.

Q. WHAT OTHER CONCERNS ARE THERE WITH THE COMPANY'S REQUEST?

A. The response to OPC Interrogatory No. 67 provided the number of miles trimmed from 1998 through 2007. The Company appears to have been close to an estimated three-year trim cycle from 1998 to 2000 when they trimmed a combined 5,382 miles. Then beginning in 2001, the annual number of miles trimmed began to decline until it reached a low of 786 miles in 2003. The cost of trimming is impacted by the frequency of the trim cycle without question. The longer you wait, the more growth occurs which increases the cost for trimming. Had the Company continued at the rate that they were on in the period 1998-2000, the cost for trimming would be less for a comparable number of miles. It was the Company's decision to reduce the trim cycle in 2001. Because there is a rate case and they can ask for increased costs from ratepayers, they want to make up for their previous decision to defer trimming from 2001 through 2007. This is not appropriate and should not be allowed.

Another concern is Mr. Haines stated that the increase in contractor costs was mainly caused by the escalating fuel costs. That being said, the contractors costs must now be revisited given the significant reduction in fuel costs that has occurred.

Q. WHAT ARE YOU RECOMMENDING FOR TREE TRIMMING?

A. As shown on Exhibit HWS-1, Schedule ~~C-5~~ C-6, the Company should be allowed $12,084,876 for tree trimming. That reduces the Company's request for distribution tree trimming of $16,073,444 by $3,988,568.

Q. HOW DID YOU DETERMINE YOUR RECOMMENDED COSTS?

A. The estimated cost is based on 1,530 trim miles at the same $7,897 rate that the Company paid in 2007. This provides for an increase in miles and takes into consideration the fact that the escalating fuel costs are now back to 2005 levels. With that change in fuel rates, an aggressive position would take the 2005 cost per mile and escalate that using the Company indices on Schedule C-40 resulting in a $5,993 ($5,024 x (2.35243/1.97212)) rate per mile. My recommendation is more than reasonable given today's economic conditions and the volatility in cost per mile over the past ten years.

Q. ARE ~~THEY~~ THERE ANY OTHER RECOMMENDATIONS WITH RESPECT TO TREE TRIMMING THAT YOU WOULD LIKE TO MAKE?

A. Yes. Given the history of the Company and how the two-year cycle discussed in 1993 never materialized and the fact that trimming has been curtailed since 2000, I would recommend that the Commission require the Company to meet the allowed trim budget. If they fail to do so that they establish a regulatory liability for any unexpended funds and utilize that in subsequent years.

VIII. <u>POLE INSPECTIONS</u>

Q. WHAT ARE YOU RECOMMENDING WITH REGARD TO THE COMPANY'S REQUEST FOR POLE INSPECTIONS?

A. As shown on Exhibit HWS-1, Schedule C-7, the Company's request for $1,573,778 should be reduced $236,013 to $1,337,765. Again historically the Company has not attempted to inspect a high number of poles in any one year. Now that the Commission has approved a pole inspection program, the Company has an eight-year inspection cycle. The eight-year inspection cycle requires an inspection of 40,750 poles per year. Indexing the 2007 average cost per pole of $30.63, results in a 2009 average cost per pole of $32.83. The $32.83 multiplied by the annual inspection requirement of 40,750 poles equals a cost of $1,337,765.

Q. WHY IS THE 2007 COST PER POLE A REASONABLE AMOUNT TO BE INDEXED?

A. It represents the most recent annual actual rate available and is just slightly above the average of the previous four years that fluctuated from year to year.

IX. <u>TRANSMISSION INSPECTIONS</u>

Q. WHY ARE YOU RECOMMENDING AN ADJUSTMENT TO THE COMPANY'S TRANSMISSION INSPECTION COST REQUEST?

A. The Company's request for $642,773 is more than twice the five year average of $277,760 expended for transmission inspections. The significant increase has not been justified. Tampa Electric provided no documentation that supports doubling of the costs from 2007 historic costs to the projected 2009 test year.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING?

A. As shown on Exhibit HWS-1, Schedule C-8, the Company's request for $642,773 should be reduced $318,846 ($268,233 on a jurisdictional basis) to $323,927. The recommended expense level of $323,927 was determined by indexing the 2007 expense of $302,195.

X. SUBSTATION PREVENTIVE MAINTENANCE

Q. ARE YOU RECOMMENDING AN ADJUSTMENT TO THE COMPANY'S REQUEST FOR SUBSTATION PREVENTIVE MAINTENANCE OF $2,256,610?

A. Yes. Based on information supplied in response to discovery, the Company is asking for a significant increase in preventive maintenance on substation infrastructure due to aging. The problem is as shown on Exhibit HWS-1, Schedule C-9, the Company spent on average $761,581 for preventive maintenance over the five years 2003-2007. Now with an increase in rates being requested, the Company increased the required annual expense to $2,256,610, almost three times the average spent over the last five years and more than two times the amount expensed in 2007. Despite the suggested urgent need, the Company planned to spend approximately 69% of the 2009 requested amount in the interim year 2008.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO THE COMPANY'S REQUEST FOR PREVENTIVE MAINTENANCE?

A. As shown on Exhibit HWS-1, Schedule C-9, the Company's request for $2,256,610 should be reduced to $1,199,425, a reduction of $1,057,185 ($973,201 on a jurisdictional basis). The recommended spending for 2009 is based on an indexed 2007 expense of $1,118,958. Tampa Electric should have been spending the needed amount on maintenance to provide safe and reliable service. It is not appropriate for a Company to limit maintenance expenditures over the years and then when a rate case is filed simply claim that a significant increase in spending is required. The Company should have to prove that it is spending what is needed to provide safe and reliable service and then with an establish effort shown, they will have justified the needed increase.

XI. <u>GENERATION MAINTENANCE</u>

Q. DID YOU INQUIRE ABOUT THE COMPANY'S REQUEST TO INCREASE MAINTENANCE ON ITS GENERATION FACILITIES?

A. The Company has indicated that cost increases have incurred and that the planned maintenance forecasted for 2009 is typical of the past and expected to continue in the future. To evaluate the historic changes in cost and the Company's significant increase in 2009 expense (not typical of the past), the Company was requested to provide historical information and a detailed listing of the maintenance projects for 2008 and 2009. Although there is no dispute that prices have increased for materials and services over the years, the historical expenditures as provided in response to OPC Interrogatory No. 48 do not provide any justification for a significant increase in 2009 costs. Moreover, the response to OPC Interrogatory No. 82 did not provide sufficient detail to justify the projected increases for 2008 and 2009. Thus, Tampa Electric did not provide documentation to support the need for the increase over and above an indexed increase in historical costs.

Q. HOW DID YOU MAKE THIS DETERMINATION?

A. Specific maintenance accounts were identified and a request was made for detail on accounts 511, 512, 513 and 554[1]. The accounts were selected based on the significant increases projected. As shown on Exhibit HWS-1, Schedule C-10, the Company has averaged from 2003-2007, $49.475 million in maintenance expense recorded in accounts 511, 512 and 513. Next as shown on Exhibit HWS-1, Schedule C-10, line 9, the indexed average expense was determined to be $59.291 million for accounts 511, 512 and 513 for the time period 2003-2007. The Company is requesting for the three respective accounts, in 2009, a sum of $69.151 million. An increase of approximately $10 million over the 2009 indexed historical average.

[1] Account 554 was excluded because it was determined that this account was requested in error and the expense was less than $1 million

To determine the reasonableness of the Company's projection, a comparison was made of the historical costs, the historical indexed costs, and the Company's request. Also considered was the detailed listing of maintenance projects provided in response to OPC Interrogatory No. 82. The detail provided in response to OPC Interrogatory No. 82 listed maintenance for the Big Bend Units for 2008 and 2009. Using the response to OPC Interrogatory No. 48, it was determined that the difference between the 2009 costs and the 2007 actual project costs was $6.88 million. Adding this $6.88 million increase for 2009 to the indexed 2007 cost of $53.791 million resulted in an estimated cost for 2009 of $60.671 million. Since the $60.671 million was greater than the historic indexed average of $59.291 million, I used the $60.671 million, which was the more generous, substantiated cost. Utilizing the calculated estimate for 2009 (which factors in price increases and the Company's detailed project information) the Company's request of $69.151 million has been overstated by $8.48 million. As shown on Exhibit HWS-1, Schedule C-10, an adjustment of $8.48 million should be made to reflect an increased level of spending that is considered more reasonable. The adjustment on a jurisdictional basis would be $8.173 million.

XII. RATE CASE EXPENSE

Q. IS THERE A CONCERN WITH THE COMPANY'S REQUESTED RATE CASE EXPENSE?

A. Yes. The Company's total projected amount requested is considered excessive and the amortization period is too short.

Q. WHY DO YOU BELIEVE THAT THE AMOUNT PROJECTED IS EXCESSIVE?

A. The Company is not a small company with limited human resources that would require significant assistance in assembling a rate filing. However, they have projected contracted services other than legal of $2.123 million for this proceeding. Including the legal fees, the Company has projected a total of $3.153 million of expense for this rate case. The Company is well aware of its requirements and it is of great concern that the Company is compelled to hire an outside contractor to oversee its rate request. This concern is heightened because cost for Huron Consulting Services, L.L.C included in the filing is $1.31 million, yet the contract provided in response to OPC POD No. 111 shows a revised contract amount of only $468,000. Contributing to the high cost is the excessive average hourly rate that the Company has agreed to pay. The Company, in response to OPC Interrogatory No. 121, explained that the difference between the contract amount and the amount included in the filing is what the Company projects will ultimately be incurred. Apparently contract amendments and cost are not a concern. In addition, the Company has included in its request $116,000 for J. M. Cannell, who as of the date of the response to OPC Interrogatory No. 86 had not yet been retained.

Q. HOW DID YOU DETERMINE WHAT SERVICES THAT HURON CONSULTING SERVICES, L.L.C. WAS PROVIDING?

A. In an attempt to understand why a Company the size of Tampa Electric would require someone to oversee a rate filing, the Company was asked to "explain in detail why the Company required the services of Huron Consulting Services, L.L.C." The response to OPC Interrogatory No. 86 states that "Huron Consulting Group assisted Tampa Electric in MFR review and quality control, expert testimony on tax matters and assistance in the discovery process." In reviewing the contract provided in response to OPC POD No. 111, the tasks included MFR Review, Tax Analysis and Support, Pro Forma Review/Revenue Requirements and Data Request Responses. Generally, in a rate case the company's employees will respond to discovery and the lawyers will review the responses. In this case it appears that the Company has an extra layer of review inserted, adding extra costs above and beyond what may really be necessary.

Q. WHY IS THE AMORTIZATION PERIOD TOO SHORT?

A. The Company has not filed for a rate increase for years. If they were allowed to amortize the cost over a three year period and were fortunate enough to stay out half as long as they did since the last filing, they would continue to recover rate case expense when no expense is being incurred. Even the recommendation of a five year amortization period is short given Tampa Electric's history of long time periods between rate cases.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO RATE CASE EXPENSE AND RATE BASE?

A. First, I recommended that the J.M. Cannell cost for $116,000 be removed since Tampa Electric has not entered into a contract for his services, there is no justification for including these costs. Next, it is recommended that the $1.31 million for Huron Consulting Services, L.L.C. be reduced to the contracted amount of $468,000 as identified in the response to OPC POD No. 111. As shown on Exhibit HWS-1, Schedule C-11, after reducing the projected costs from $3.153 million to $2.196 million the amortization was calculated using five years instead of three. The result is a reduction to amortization expense of $612,000 and a reduction of $652,000 to the amount included in rate base for unamortized rate case expense.

XIII. <u>OFFICE SUPPLIES AND EXPENSE</u>

Q. ARE THERE CONCERNS WITH THE COMPANY'S REQUEST FOR OFFICE SUPPLIES AND EXPENSE IN ACCOUNT 921?

A. Yes. The Company was requested in OPC Interrogatory No. ~~86~~ 65 to provide a detailed analysis that shows how the projected test year amount was determined. The response did not provide an analysis' or documentation to support the increased cost. It simply stated that the projected test year amount was based primarily on historical spending adjusted for contractual agreements, additions for new activities, and removal of activities no longer applicable. The response went on to say that the primary drivers for the increase was increased training, higher information technology costs, building maintenance and miscellaneous expenses. The response to OPC Interrogatory No. 116 provided some added detail, but again the response was quite general.

Q. WHAT ADJUSTMENT ARE YOU RECOMMENDING TO THE PROJECTED OFFICE SUPPLIES AND EXPENSE?

A. The Company's request of $11.181 million should be reduced $2.363 million to $8.818 million. The calculation of this adjustment is shown on Exhibit HWS-1, Schedule C-12. On a jurisdictional basis the expense should be reduced $2.295 million. This adjustment is required because the Company failed to provide sufficient justification for the increase of 39% over the 2007 test year expense of $8.067 million.

XIV. <u>DEFERRED INCOME TAXES</u>

Q. ARE THERE SOME CONCERNS WITH THE COMPANY'S POSITION ON INCOME TAXES?

A. Yes. The Company has proposed changes in accounting for income taxes based on the recommendation of Mr. Felsenthal which are not warranted. Mr. Felsenthal's recommendations rely on letter rulings for other companies that are not applicable to anyone but the company requesting the ruling. Second, the Company has consistently accounted for deferred taxes and investment tax credits for years under the method that Mr. Felsenthal now claims is incorrect, despite repetitive audits where no errors were found by the Internal Revenue Service (IRS). Further, Mr. Felesenthal bases his position on the incorrect assumption that the projected costs for 2009 are in reality part historic and part projected.

Q. WHAT DO YOU MEAN THAT THE PRIVATE LETTER RULING IS ONLY APPLICABLE TO THE COMPANY REQUESTING THE RULING?

A. Every private letter ruling specifically states that the ruling is only directed to the taxpayer that requested it and states that a private letter ruling <u>may not be used or cited as precedent</u> (emphasis added). The limitation on the use or citing should apply in a rate proceeding just as it applies under IRS regulations.

Q. WHAT IF THE COMMISSION ELECTS TO PLACE SOME RELIANCE ON THE PRIVATE LETTER RULINGS?

A. If the Commission chooses to place any reliance on the private letter rulings they have to realize that the facts addressed by each letter ruling are specific to each company. The letter rulings that Mr. Felsenthal provided in response to OPC POD No. 109 do not reveal all the important facts that must be known if any credence should be placed on the ruling themselves.

Q. WHAT DO YOU MEAN THE FACTS ARE NOT REVEALED?

A. A letter ruling is issued in reply to a request made by a company. The information supplied by Mr. Felselthal does not include the letter request that provides the background information. Next, two of the three letter rulings that Mr. Felsenthal has relied on do not identify the period used so again facts are missing. Finally, the letter ruling 9029040 states that no where in the IRS Regulations do they explain what is meant by historical and future (Bates 22195). Further, while there is no dispute that all the rulings supplied by Mr. Felsenthal use the same definition of historic and future, the IRS could apply a different definition in a subsequent letter ruling since each letter ruling only applies to an individual company.

The letter ruling 9029040, as stated earlier does not identify the periods which is important because if that ruling is based on an end of period rate base, the facts are definitely different from the facts in this case. The letter rulings for 9202029 and 9313008 do discuss an average rate base. But this average rate base appears to be an average determined using the beginning of the period balance and the end of the period balance (Bates

22213 and 22216), not a 13-month average balance. Finally, the letter rulings each make reference to the fact that the ruling is based the taxpayers representations and/or solely on the information provided by a specific company. Further, those representations are not all known and may very well be different from the facts that would apply to Tampa Electric.

Q. WHAT DO THE IRS REGULATIONS SAY?

A. In response to OPC POD No. 109, Mr. Felsenthal provided the IRS Regulation 1.167(l)-1(h)(6) on which he is relying. Within the regulations, are examples of how to prorate the deferred tax balances. Examples 2 and 3, both state that you are to assume the facts that are in example 1 "except for." The "except for" in examples 2 and 3 did not change the example 1 fact that the rate base is an end of the year rate base. The regulations state that the reserve for deferred taxes used in setting rates is not to exceed the reserve that existed through out the year. The reserve for deferred taxes is to be the amount at the beginning of the period and the pro rata portion of any projected increases during the year. A thirteen month average reflects the deferred tax balance at the beginning of a year and the pro rata portion of each month added during the year. The regulations do specify that the pro rata calculation is done based on days so the determination that must be made is whether the calculation based on days is materially different to require a change in rate making across the country that has utilized a pro-ration based on months. The letter rulings that Mr. Felsenthal has provided do not provide any insight as to whether the use of a thirteen month issue was addressed. To make a determination the facts and circumstance of a specific company have to be evaluated on a stand alone basis.

Q. WHAT IF MR. FELSENTHAL'S POSITION IS ADOPTED?

A. If Mr. Felsenthal's position is adopted that would mean the Company has been in violation of normalization requirements at least since rates were set in February 1993. And based on the fact that the letter ruling 9029040 was issued April 23, 1990, the Company cannot claim that clarification did not exist during the 1992 rate proceeding. If the Company believes that this proposal is correct, I recommend that the Company be required to request a letter ruling of its own, but until that happens the Company should be required to calculate the deferred tax balance on a consistent basis with the methodology employed for at least the last sixteen years.

XV. AMORTIZATION OF ITC

Q. THE RESPONSE TO OPC INTERROGATORY NO. 36 INDICATES THAT THE COMPANY HAS MADE AN ADJUSTMENT TO THE AMORTIZATION OF ITC INCREASING THE REVENUE REQUIREMENT, HOW DID YOU BECOME AWARE OF THIS ADJUSTMENT?

A. The adjustment was identified in the response to OPC Interrogatory No. 36. The question pertained to adjustments proposed by Mr. Felsenthal in his pre-filed testimony and this was not one that was specifically detailed by Mr. Felsenthal. The Company's response, OPC Interrogatory No. 103, did not provide any additional information as to how the change was reflected in the filing, only that the Company now amortizes the ITC over a different period of time. Absent the appropriate detail the adjustment identified is questionable. As indicated by Mr. Larkin an adjustment to reverse the ITC amortization change identified by Mr. Felsenthal should be made. However, since we do not have the detail to identify how the adjustment was reflected in the filing, we are unable to make an adjustment as part of our recommended cost of service at this time.

Q DOES THIS COMPLETE YOUR TESTIMONY?

A. Yes, it does at this time. There are still outstanding discovery requests which may affect my adjustment or require additional adjustments.

BY MS. CHRISTENSEN:

Q. Mr. Schultz, did your prefiled testimony contain exhibits, Appendix 1 and HWS-1?

A. Yes, it did.

Q. Do you have any changes to those exhibits?

A. I have one change that I have found on Schedule C-5, line 3.

CHAIRMAN CARTER: Which one are you referring to?

THE WITNESS: Exhibit HWS-1, Schedule C-5.

CHAIRMAN CARTER: Okay.

THE WITNESS: Line 3, the description is wrong. It should say "Adjusted Benefits."

BY MS. CHRISTENSEN:

Q. With that modification to your exhibits, are they otherwise correct today?

A. To the best of my knowledge, yes, they are.

MS. CHRISTENSEN: I would ask that Mr. Schultz's exhibits be marked 51 and 52, as they are in the Comprehensive Exhibit List.

CHAIRMAN CARTER: That's noted for the record.

BY MS. CHRISTENSEN:

Q. Mr. Schultz, can you please summarize your testimony?

A. My testimony basically addresses certain costs that were evaluated in the company's request. The company made projections. I asked some discovery questions. I looked at the responses to my discovery, to staff's discovery, and made some determinations as to whether in my opinion those costs were supported and were justified by the company or whether they were costs that should be paid for by ratepayers. I made my adjustments in accordance with what I determined from that analysis.

For instance, in payroll, I made an adjustment to the number of people that were included. I didn't believe the company has justified the increase that they were reflecting in the filing.

Incentive comp, I based my recommendation based upon the information provided by the company in responses to discovery, and I concluded that their goals didn't justify incentive comp being paid for by ratepayers.

Maintenance costs, I concluded that based upon the information provided, there wasn't justification, and there is a concern that the costs had been deferred from prior years.

With respect to rate case, I examined those costs and found them to be excessive, in my opinion, as far as what a company should have incurred, and taking into consideration the size of the company.

And with respect -- I made my adjustments taking into consideration the economic conditions of the country at this point as to what's going on, and also I reflected the fact -- I made mention of the fact that the company has basically ignored these economic conditions and they've ignored changes that are occurring within other companies.

Q. Mr. Schultz, does that conclude your summary?

A. Yes, it does.

CHAIRMAN CARTER: Excellent timing.

THE WITNESS: Thank you.

MS. CHRISTENSEN: I would tender the witness for cross-examination.

CHAIRMAN CARTER: Thank you. You're recognized.

MR. HART: Thank you, Mr. Chairman.

CROSS-EXAMINATION

BY MR. HART:

Q. Mr. Schultz, I would like to look at your Exhibit C-6 and talk to you for a few minutes about tree trimming.

CHAIRMAN CARTER: Can you hear?

THE WITNESS: I'm there.

CHAIRMAN CARTER: Get a little -- pull your mike a little closer to you. There you go.

BY MR. HART:

Q. Now, although you and the company approached this differently, your cost per mile actually turned out to be very close. Do you have a calculator there?

A. No, I don't.

Q. Well, if you take -- you do use -- well, you understand the system miles to be approximately 6,120?

A. The total system miles, yes, are 6,121.

Q. Now, a third of that is approximately 2,040?

A. A third of the system miles, yes, sir.

Q. Right. Now, if we take the, as shown on line 14 of your schedule, the 16,073,440, if we divide that 16,073,444, by 2,040, would you accept, subject to check, that that number is $7,879 per mile?

A. I'm accept that, subject to check, yes, sir.

Q. And that's only an $18 difference than your per mile calculation of 7,897 that you used in your number?

A. Assuming your calculation is correct, yes, sir.

Q. So the result of that is that the real difference between you and the company is whether it should be a four-year cycle or a three-year cycle?

A. Not entirely. That does reflect 1,530 miles being trimmed, and that's on the assumption that the company would get to a four-year cycle in 2009.

What I would like to point out is, if you'll look at the miles trimmed on that schedule, the company was at or near a three-year cycle at one point in time. They elected to defer trimming and reduce the amount of trimming.

Now, you don't jump right back in and all of a sudden be able to get back to a three-year cycle. You're not going to have that happen, because you're going to run into problems with the cutting that's getting done. They may say that they want to do it. That doesn't mean it will happen. I've been through enough of these cases with tree trimming that I've gotten a good familiarity with that.

Another problem is how the costs were arrived at that the company has reflected in the filing. Mr. Haines, I believe it was, made reference to the fact that --

Q. Well, I really think you're not answering my question now. I've given you quite a bit of latitude to talk about tree trimming, but my question was just that based on your cost per the calculation used in your exhibit and taking the number that we calculated of 7,879, that those two cost numbers, the one you used and the mathematical calculation I gave you, were very similar. And what I asked you was, if you take the cost numbers times the 1,530 or the 2,040, that accounts for the difference between the two numbers, doesn't it?

A. You did say that. But if I may -- and it's not going to be phrased exactly. You said essentially the difference between your number and our number is that you're looking at a four-year cycle versus our three-year cycle. And I said no, that's not essentially the difference, because not only have I factored in going to a four-year cycle here, it's also factoring in other items such as costs that the company has a different approach on in the company's calculation, and I've described some of that in my testimony.

Q. Well, what I want to talk about for a second here is the math. Between the $12,084,000 that you used and supported in your number, the only difference in those numbers is 510 times the cost per mile, between your number and the company's number?

A. If you're speaking strictly of the math, yes, you're right, but that's not the difference between your positions in this case.

Q. Well, I didn't ask you about that. I just asked you about this calculation. At least in terms of the calculations you used and the calculation, although they approached it differently, that results from the numbers the company used, the cost per mile is very similar in the two calculations; isn't that correct?

A. That's correct. But the cost that the company had is based on one methodology, and the cost that I calculated for the cost per mile is calculated a totally different way.

Q. That is correct. But we're talking about the difference in the results. If we use your cost numbers, the cost for being on a three-year cycle -- if we use your cost per mile number, the cost for being on a three-year cycle would be approximately $16 million; isn't that correct?

A. That's correct.

Q. Okay. Now, there has been discussion in this case about whether you should be on a three-year cycle or a four-year cycle or some other cycle, but at least based on the cost per mile, the philosophical difference is on how many miles per year should be trimmed; isn't that correct?

A. Could you rephrase, restate that?

Q. The philosophical difference between the parties is how frequently tree trimming should occur, should it be a three-year cycle, should it be on a four-year cycle, should it be on a five-year cycle.

That's what we've been talking about.

A. Well, again, as I alluded to earlier, I'm not saying that the company shouldn't be on a three-year cycle. I'm saying it's presumptuous to assume that you will be on a three-year cycle in 2009.

Q. The cost that would be required to be on a three-year cycle, if we use your cost per mile number that you used, to be on a three-year cycle would take $16 million.

A. And I agreed with that. That would be the case.

Q. Now, are you aware that the Commission's approved storm hardening plan for Tampa Electric is a three-year cycle for tree trimming?

A. I'm aware that there is the plan there, yes, sir.

Q. Now, you're not proposing, are you, that the Commission require Tampa Electric to be on a three-year cycle, but allot them the money for a four-year cycle? You're not proposing that, are you?

A. No. I'm proposing what I believe the company will do to get to a three-year cycle. History has shown what happens with the company. The company will have costs, they'll incur the costs, and then all of a sudden they'll defer the maintenance.

This is not something that's unusual in the utility world. I've gone through this in many cases where companies will say, "We're going to get on this cycle. We need this money," they get the money, and then after they've been there maybe -- I mean, they might have the money, and they might not even expend it because they don't follow through with all of it, because tree trimming is always something that has been a target, in my experience, to be reduced if times get tough and you need to find some money someplace.

Q. Have you been in a situation with a company where they had a commission-required storm hardening plan that required three-year tree trimming and had the company not follow it?

A. I've had where -- I wouldn't say -- I can't say -- they don't call it storm hardening, but I've had where the company has been ordered to do a certain level of trimming and they didn't achieve it. So what was happening there -- and I've made this recommendation, and I made a similar recommendation here, is that if you're going to give them some money, you make sure that they spend it, and if they don't spend it, they have to create a regulatory liability to reflect the unspent portion.

Q. But would it be fair to say then that you're not opposed to a three-year cycle, and you're not opposed to this cost per mile that you used in your calculation in order to determine the cost of a three-year cycle?

A. I've already said that I'm not opposed to the three-year cycle. I'm not opposed to my cost. I just don't believe the company will accomplish that.

Q. I would like to look at your Exhibit C-10. Is it fair to say that what you're trying to accomplish with this exhibit is to look at general maintenance, O&M, and determine whether the company's proposal for 2009 is more than you think is reasonable or historically correct?

A. I would say that's a fair assessment.

Q. Now, what you did in this was, you took the numbers between 2003 and 2007, you took the actual numbers, you indexed them to bring them to current dollars, and you calculated that the average O&M cost for generation during that period was approximately $60 million?

A. That's correct.

Q. And you looked at the company's number of 69 million and said it's 8 million too high?

A. That's correct.

Q. Now, when you made your calculation of O&M,

you didn't realize, did you, that in your numbers, the 2003 through 2007, there were no dredging expenses?

A. You're wrong there. There is dredging expenses. In the rebuttal testimony, what they said is, they took out some of the dredging expenses, but they're not all out. There's still some in there.

Q. There's some in which years?

A. In 2009 is what I'm talking about.

Q. The question -- what did I ask you?

A. You asked about the dredging expenses.

Q. I asked you in your 2003 to 2007 numbers when you calculated historical averages, you did not realize that there were no dredging expenses in the 2003 to 2007 numbers.

A. Oh, I'm not sure -- I guess based on the testimony that has been presented, I would have to assume that's correct.

Q. Okay. So to make these O&M in the company's projection an apples-and-apples to what you calculated for historical, you would have to take out all of the 2009 dredging expenses if you wanted to get O&M expenses without dredging?

A. Oh, no. I would never agree to that. First of all, you're not going to get a perfect apples-to-apples comparison, because there's costs that were incurred in 2003 that haven't been incurred in 2007. There's costs that are in 2004 that aren't in 2008, and the same goes with 2009. I mean, it depends upon -- I mean, we're talking different plants. If you want to take to it an extreme, I think it's Mr. -- let me reference his -- yes, Mr. Hornick indicated that the cost for the outages that's reflected in these is considered atypical. So 2009 also has that. And in your assessment, we would have to take out all those costs too to make them comparable. But that's not the case, because you have to take a look and see what has been done historically and assume that something similar will happen. That's why we're taking an averaging of these costs and looking at that to see what's what with them.

Q. Well, if we take -- with regard to plant O&M maintenance, the type of things that's done to tubing, machines, turbines, those are similar from year to year, aren't they, the type of expense?

A. Oh, they can vary, depending upon the level of maintenance that's being done at the different plants.

Q. But they're repairs to turbines, they're repairs to boilers, they're repairs to machines, they're repairs to tubing. I realize it's to different tubes in different plants, but they're the same types of repairs, aren't they?

A. They can be from one year to the next.

Q. Now, dredging doesn't have any similarity to any of those types of expenses, does it?

A. No. It's part of your maintenance costs.

Q. But you know that in the $69 million number of the company, the company has put 6.9 million of dredging expenses in the company numbers? In this 69,151 on your schedule, line 11, it has how much dredging expense in it?

A. Okay. You're right. 6.9, yes.

Q. Okay. If we were to take the 6.9 out of the 69, we get what? 62,251?

A. Subject to check.

Q. And you've calculated the number, historical number to be indexed and averaged to be 60,671,000; is that correct?

A. That's correct.

Q. So without the dredging expenses, the O&M expenses that you've calculated to be appropriate and the ones that the company has used are a couple of million apiece, a million and a half apart?

A. I don't want to be nonresponsive, but I'm --

Q. Well, the question is, if you take the 6.9 million out of the company's projected 69 million, what's the difference between that result and your number? That's the question.

A. The difference would be like 1-point-some million dollars. But I have to caveat that difference, because that 60 million that I have there does not reflect the true average index of maintenance costs. That reflects the average plus $6 million of extra costs associated with the increase -- the atypical maintenance that Mr. Hornick discussed.

Q. Well, what that means is that even with atypical expenses in 2009, they're only a million and a half dollars more; isn't that correct?

A. That's correct, including the atypical expenses.

MR. HART: All right? We have no further questions of this witness?

CHAIRMAN CARTER: Ms. Bradley.

CROSS-EXAMINATION

BY MS. BRADLEY:

Q. I had a couple of questions. I'm sorry. Yesterday, I think it was -- I've lost track of time, but Ms. Merrill testified -- I believe it was Merrill -- that they had to do an incentive compensation plan in order to hire good employees and to get them to do their job. And is that common with utility companies?

A. The explanation is common. That's a typical one, it's required to motivate our employees, it's required to attract and maintain employees. I hear it in every rate case I've been in.

Q. I didn't ask that very well. What I was trying to say, is this type of incentive compensation plan common with utilities?

A. Incentive compensation is common with utilities. However, a main factor to reflect when you're evaluating this is the fact that they say we need this to make our salaries commensurate, comparable to other utilities, and we have these studies that we base this analysis on. What isn't recognized when the company says that is the fact that these compensations they're comparing them to do not reflect any adjustments other commissions may have made to that compensation. You have jurisdictions where it's totally eliminated, partially eliminated from rates.

Q. Okay, sir. You mentioned something also about the overtime dollars and it not being --

MR. HART: Mr. Chairman, we object to additional direct testimony.

CHAIRMAN CARTER: You're recognized. I beg your pardon?

MR. HART: We object to additional direct testimony.

CHAIRMAN CARTER: Response, Ms. Bradley?

MS. BRADLEY: I just had some questions about his testimony.

CHAIRMAN CARTER: Ms. Helton.

MS. CHRISTENSEN: It's not additional direct testimony.

CHAIRMAN CARTER: I didn't recognize you Ms. Christensen.

MS. BRADLEY: And I didn't actually finish my question.

CHAIRMAN CARTER: Whoa, whoa. Hold the phone.

MS. HELTON: Mr. Chairman, I think that it is inappropriate for the intervenor witnesses to bring on additional direct testimony through what I call friendly cross. You can call it what you would like. I believe that if they had a position that they wanted to bring forward and make a direct case, then they could have brought a witness into the record as well.

MS. CHRISTENSEN: Commissioner, may I respond?

CHAIRMAN CARTER: No, you may not. I sustain the objection. Move on.

MS. BRADLEY: I don't know where to go, because I hadn't finished the question, so --

CHAIRMAN CARTER: Well, ask another one.

MS. BRADLEY: Can I ask for some direction, because I'm getting really --

CHAIRMAN CARTER: I gave all of you directions the other day that we started from. We said that we're not going to have friendly cross. We said we're going to ask you to talk to your witnesses about being direct to the questions. And also you've got -- the case before us is a case where the company is requesting a rate increase, and you as intervenors have positions, some of them similar, some of them may not be similar. But those that are similar, I asked you not to be redundant with those. So those -- I mean, if you want me to state the same thing I stated the other day, I'll do that again with those directions, but we're not getting anywhere here.

MS. BRADLEY: My problem is, I've looked in the rules of evidence, the civil procedure, the administrative rules, your rules -- I even had our librarian go in on West Law. I've asked a number of people, and no one can point to the rule that defines friendly cross. And I don't want to do something I'm not supposed to, but if I don't know what I'm not supposed to do, I have problems with that.

CHAIRMAN CARTER: Even though this is not your first time here, Ms. Bradley, Ms. Helton, would you read from the rules of procedure, please.

MS. HELTON: Mr. Chairman, maybe -- where I seek guidance sometimes -- and some of y'all know this. One of my favorite judges is Judge Padovano, who has written a treatise on Florida civil practice. And in Section 19.6 of his treatise, he talks about -- he doesn't call it friendly cross, but I essentially think it's the same thing as friendly cross. When you have a multi-party proceeding like we have here for this hearing, and where you have sides that are aligned, he talks about the appropriateness or the inappropriateness of the parties involved to cross-examine witnesses. So with your pleasure, Mr. Chairman, I would like to read this paragraph into the record.

CHAIRMAN CARTER: You're recognized.

MS. HELTON: "If there is one party on each side of the case, each would have the right to cross-examine the witnesses called by the other. Likewise, if there are multiple parties on one side of the case, all parties on one side would have a right to cross-examine a witness called by the party on the other side. It is more difficult, however, to determine whether a party has a right to cross-examine a witness called by another party on the same side of the case. A party who is aligned on the same side of the litigation as the party calling the witness should be allowed to cross-examine the witness if the interests of the parties are adverse to each other. On the other hand, a party who is aligned on the same side of the litigation with a party having a common interest should not be allowed to cross-examine a witness called by that party. Co-parties having common interests in the litigation should not be allowed to cross-examine witnesses called by each other."

CHAIRMAN CARTER: My ruling stands. Let's proceed.

MS. BRADLEY: If I can have just a second to find out where I was.

CHAIRMAN CARTER: You may.

BY MS. BRADLEY:

Q. Ms. Abbott testified yesterday, and there were some questions about a case she had handled a couple of years ago that she was paid I think something like $4,000 -- I'm trying to think -- a month, or a quarter, or whatever it was. And did you see that testimony about what she was paid? Are you familiar with what she was paid in the Oklahoma case versus what she's being paid now?

MR. HART: Mr. Chairman, I don't understand how that's relevant to this witness's testimony, perhaps even the case, but I certainly don't understand how it's relevant to what he has testified to and would object to the testimony.

CHAIRMAN CARTER: Objection on the basis of relevancy, Ms. Bradley, to be heard on the objection.

MS. BRADLEY: Well, he's testifying about the things that they have billed for and their different amounts that they are claiming and all of that, and one of the things I believe is the cost of the case and all of that, and I think it certainly goes to that and the reasonableness of that.

CHAIRMAN CARTER: Ms. Helton.

MS. HELTON: I have to confess here, I haven't read the direct testimony that Mr. Schultz filed, but let me ask this. Did you -- and I guess maybe this question is better directed to Ms. Christensen. Did he address the rate case expense and the rate case expense associated with each of the witnesses that TECO has hired?

MS. CHRISTENSEN: His testimony certainly addresses rate case expense, and the proper amortization and the total rate case expense is discussed in there. I believe the additional amount was evidence that was brought forward in testimony at the hearing, so he would not have addressed that in his testimony, since it was only developed through live testimony at the hearing.

MS. HELTON: My recollection of the MFRs for rate case expense is that the company would put -- file in the MFRs at the beginning of the case what its expenses are associated -- or projected expenses are associated with each witness that it's hiring or each consultant it's hiring. So did the company -- didn't the company do that for Ms. Abbott, and wouldn't he have had the chance to have addressed the reasonableness of her cost then or expense then?

MS. CHRISTENSEN: Let me be clear. He has testimony in his prefiled testimony regarding rate case expense, and I believe he does address all of the different rate case expenses that were requested. The thing that I was clarifying was that the information regarding the $4,000 and the 2,500 for testimony related to the Oklahoma case was developed during live testimony, and since it was developed during live testimony, that was not addressed in his prefiled testimony, and that's why I wanted to make that clarification.

MR. HART: Mr. Chairman?

CHAIRMAN CARTER: Let's -- hang on.

MR. HART: Only if I need to be heard.

CHAIRMAN CARTER: No. Commissioners, we're beginning to bog down in trivialities here. Let me just take a moment to consult with our legal staff. And again, I admonish the attorneys to remember my remarks. It seems like forever ago, but I believe it was Tuesday morning. What day was it? Was it Tuesday? Let's take -- I need about 10 minutes with staff.

(Short recess.)

CHAIRMAN CARTER: We are back on the record. Staff, you're recognized.

MS. HARTMAN: Mr. Chairman, over the break I took an opportunity to relook at Judge Padovano's passage that I read to you, and I've conferred with staff, and based on my discussions with staff, it's my understanding that the AG's Office has adopted the position of the Office of Public Counsel for each of the issues to which Mr. Schultz is testifying. And based on my reading of Judge Padovano, where he says a party who is aligned on the same side of the litigation with a party having a common interest should not be allowed to cross-examine a witness called by that party -- our practice during this proceeding has been to allow the parties a little bit of latitude. However, based on where we are, my suggestion is that the objection be sustained.

CHAIRMAN CARTER: And the objection will be sustained. And it seems, Ms. Bradley, that we're bolstering that, because the AG's Office has adopted the positions of OPC. This is an OPC witness, and so -- it's getting late.

MS. BRADLEY: I have no further questions, but I would like to proffer my questions.

CHAIRMAN CARTER: Let me see if I can set a time certain for -- because I don't think that we should -- why don't you -- let me just take a moment here, because -- are you saying now that you're not adopting the position of OPC? Let's be real clear, because that's what you said from the very beginning, that the Attorney General's Office had adopted the positions of OPC. Is that what you're saying you're not doing now, for the record?

MS. BRADLEY: No, sir. We adopted the positions rather than writing them out. I guess next time I'll write them all out.

CHAIRMAN CARTER: And this witness is sponsored by OPC. This is their witness.

MS. BRADLEY: Yes, sir.

CHAIRMAN CARTER: And you heard the reading from Judge Padovano, and you've heard my ruling, so what more do you want, Ms. Bradley?

MS. BRADLEY: I'm just asking to proffer my questions for the record.

MS. HELTON: I think for her to be able to preserve her objection, that would be appropriate.

Let me ask this, though, because it's been -- this is a late night, and my recollection on -- I think there are several ways we could go about that. If Ms. Bradley has one way in which she is suggesting she would like to do that, or --

MS. BRADLEY: Unfortunately, if it was my witness, I would know his response to these questions, and I could summarize it. But since I don't know, since he's not my witness, then I don't have any way to proffer other than to ask him the questions and to have him to answer.

CHAIRMAN CARTER: But the problem -- and we're still discussing it. The problem is that you've adopted the position of OPC. This is an OPC witness. You've adopted the position of OPC, and since they've offered this witness for those issues, you've adopted those issues. It's bolstering.

MS. BRADLEY: Mr. Chairman, I understand your ruling, and I'm not --

CHAIRMAN CARTER: I'm just talking it through with you. In the context of what -- I just don't know from the standpoint of judicial economy or for the efficacy of what we're doing here -- I mean, help me understand where you're going.

MS. BRADLEY: Well, a proffer --

CHAIRMAN CARTER: Maybe I can help you get there.

MS. BRADLEY: -- is required to preserve the issue for appellate purposes.

MS. HELTON: Mr. Chairman, can I make this suggestion? It's my understanding that Mr. Stewart has family issues and that he needs to be brought to the stand tonight. Maybe if we could set aside -- and that's probably not the right terminology -- Mr. Schultz, let Mr. Hart, Ms. Bradley and I discuss how to proceed with respect to this particular issue, and then we can see if we can get that resolved and not have to do it here on the record.

CHAIRMAN CARTER: Okay. Let's do that. So we'll take a temporary recess on this issue for those -- you guys get together with staff. Ms. Bradley, at this point in time, we need to talk to -- is it Mr. --

MR. WILLIS: Mr. Chairman.

CHAIRMAN CARTER: Mr. Twomey, are you --

MR. WILLIS: Mr. Chairman.

CHAIRMAN CARTER: One second. One second. Yes, sir.

MR. WILLIS: I believe that we can expedite Mr. Stewart's testimony, and we can do that while this other discussion is going on.

MR. TWOMEY: Yes, sir.

CHAIRMAN CARTER: Mr. Twomey, you're recognized.

MR. TWOMEY: Yes, sir, Mr. Chairman. Thank you. I believe I'm correct in understanding that no other party has questions of Mr. Steve Stewart, including the company, in which case we could expedite this by stipulating his testimony in without cross, and that would eliminate the need for having him called to the stand and giving his summary.

CHAIRMAN CARTER: Commissioners? Any quick questions for Mr. Stewart, Commissioners?

Okay. So, Mr. Twomey, you'll offer his prefiled testimony, so then we'll say that the prefiled testimony of witness Stewart will be entered into the record as though read.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

TESTIMONY

OF

STEPHEN A. STEWART

Q. Please state your name, address and occupation?

A. My name is Stephen A. Stewart. My address is 2904 Tyron Circle, Tallahassee, Florida, 32309. I am testifying as a consultant to AARP.

Q. Please describe your educational background and business experience?

A. I graduated from Clemson University with a Bachelor of Science degree in Electrical Engineering in December 1984. I received a Master's degree in Political Science from Florida State University in August 1990.

I was employed by Martin Marietta Corporation and Harris Corporation as a Test Engineer from January 1985 until October 1988. In July 1989, I accepted an internship with the Science and Technology Committee in the Florida House of Representatives. Upon expiration of the internship I accepted employment with the Office of the Auditor General in August 1990, as a program auditor. In this position I was responsible for evaluating and analyzing public programs to determine their impact and cost-effectiveness.

In October 1991, I accepted a position with the Office of Public Counsel ("Public Counsel") with the responsibility for analyzing accounting, financial, statistical, economic and engineering data of Florida Public Service Commission

("Commission")-regulated companies and for identifying issues and positions in matters addressed by the Commission. I left the Public Counsel in 1994 and worked as a consultant for the Florida Telephone Association for one year.

Since 1995 I have been employed by two privately held companies, United States Medical Finance Company ("USMED") and Real Estate Data Services Inc. I worked with USMED for approximately four years as Director of Operations. I founded Real Estate Data Services in 1999 and I am currently its President and CEO.

Over the last twelve years I have also worked for the Public Counsel on a number of utility related issues. In the last several years I have also served as a consultant to, and provided testimony for, AARP.

Q. Are you sponsoring any exhibits in this case?

A. Yes. I am sponsoring Exhibit No. ____ (SAS-1), entitled "Exhibit of Stephen Stewart on Behalf of AARP". It consists of one document that is four pages long and details my qualifications and experience.

Q. What is the purpose of your testimony?

A. I am appearing on behalf of AARP in opposition to Tampa Electric Company's ("TECO") request for an increase in their Annual Accrual for the Storm Damage Reserve from $4 million to $20 million and an increase in their target amount for the Storm damage Reserve from $55 million to $120 million. I believe TECO has failed to take into account the opportunity to recover storm damage costs under the state's new securitization law, when determining the appropriate level for the Storm Damage Reserve. My review indicates that a

Storm Damage Reserve Level of $55 million would have been large enough to withstand the storm damage from most, but not all, storm seasons over the last 14 years. Keeping the Storm Damage Reserve at the current level of $55 million would allow the Commission to retain the $4 million a year Storm Damage Accrual, which would reduce TECO's proposed rate increase by $16 million per year. Going forward, any Storm Damage Reserve deficiencies resulting from excessive losses could be dealt with by a separate surcharge in the same manner such a surcharge was earlier approved by this Commission for Florida Power & Light Company ("FPL") and Progress Energy Florida ("PEF"). Keeping the Storm Damage Reserve Level as low as is reasonably possible will minimize the financial impact on customers' rates during these trying economic times, while still allowing TECO and the Commission the flexibility to address TECO's prudent storm recovery costs from year to year.

Q. Please summarize TECO's recommendation for the appropriate level of the Storm Damage Reserve and Annual Accrual.

A. Two witnesses, Mr. Harris and Mr. Carlson, address the Annual Accrual and Storm Damage Reserve issues on behalf of TECO. Mr. Harris provides a historic statistical analysis indicating an expected annual cost for windstorm losses of $17.8 million. Mr. Carlson offers his "professional judgment" as a basis for changing the Annual Accrual from $4 million to $20 million and the appropriate level of the Storm Damage Reserve from $55 million to $120 million. Mr. Carlson claims the request is based on three fundamental objectives: (1) to achieve an effective balance between rate stability and long-term cost for customers; (2) to build a reserve sufficient to cover the majority of loss events in order to mitigate the need for a surcharge to customers immediately after such an event; and (3) to design a reserve to cover the higher probability events and not the lower probability, high severity events.

Q. How do you understand that TECO arrived at its requested Storm Damage Reserve of $120 million and Annual Accrual of $20 million based upon the testimony of Messrs. Harris and Carlson?

A. Mr. Harris's describes in his testimony a Storm Loss Analysis based on a probabilistic approach using proprietary software. The Storm Loss Analysis indicates an expected annual uninsured cost to TECO's system from all storms estimated to be $17.8 million. Mr. Harris's also describes in his testimony a Reserve Performance Analysis using a dynamic financial simulation analysis approach. This highly technical analysis concludes that "higher accrual levels will result in a lower probability of negative reserve balances." Mr. Harris makes no recommendation with regards to the Annual Accrual level or the appropriate Storm Reserve Damage level.

Q. How did Mr. Carlson transform Mr. Harris's analysis into the TECO request?

A. TECO witness Carlson recommends changing the Annual Accrual from $4 million to $20 million and the appropriate level of the Storm Damage Reserve from $55 million to $120 million based on his "professional judgment" as it relates to both TECO's storm experience in 2004 and the analysis conducted by Mr. Harris. Mr. Carlson makes this recommendation within a current regulatory framework set forth by this Commission that he concludes is "sound." This framework consists of three major components: (1) an annual storm accrual, adjusted over time as circumstances change; (2) a storm reserve adequate to accommodate most, but not all, storm years; and (3) a provision for utilities to seek recovery of costs that go beyond the storm reserve.

Q. Do you object to Mr. Carlson's analysis or deny that the selection of an appropriate Reserve and Accrual may involve subjective considerations?

A. No, I agree that the analysis is inherently subjective. However, I believe that the testimony indicates Mr. Harris's analysis and Mr. Carlson's recommendation violates one of Mr. Carlson's "fundamental objectives." In addition, I believe Mr. Carlson's own testimony supports no change in the Annual Accrual or the Storm Damage Reserve level.

Q. Would you please elaborate?

A. Yes. Mr. Carlson states on page 3 of his testimony that a fundamental objective of his analysis is to "design a reserve to cover the higher probability events and not the lower probability, high severity events." However, both he and Mr. Harris admit that the impact of the low probability hurricane season of 2004 has biased their recommendations and analysis. First, Mr. Carlson, in his testimony on page 13, clearly states he relied on the experience of 2004 in reaching his conclusions. However, Mr. Carlson does not address the impact on his professional judgment of the less severe events between 1994 and 2004. Additionally, Mr. Harris acknowledges, on page 10 of his testimony, that the addition of the year 2004 into his analysis "increased the long-term hurricane hazard in the Tampa area by about 60 percent over the prior modeled hazard".

Q. Is there evidence that the current Annual Accrual and Storm Damage Reserve is sufficient?

A. Yes. Mr. Carlson's testimony on pages 4 and 5 indicates that the annual storm damage accrual of $4 million and the current $55 million Storm Damage Reserve target set forth in 1994 by this Commission, based on the regulatory framework Mr. Carlson approves of, offered sufficient coverage until the abnormal storm season of 2004.

Q. In your view, if the current situation is sufficient, why is TECO seeking a change?

A. It seems the only reason TECO is seeking a change in the Annual Accrual and the Storm Damage Reserve now is because they have this base rate case pending before the Commission and because 2004 was an abnormal storm year.

Q. Do you have any other evidence that indicates the current situation is sufficient?

A. Yes. In this Commission's investigation of FPL's petition for issuance of a storm recovery financing order in Docket No. 060038-EI, Mr. Harris presented the same type of analysis as in this case and found the expected annual uninsured cost from all windstorms to be $73.7 million and recommended a Storm Damage Reserve of $650 million. However, in that case, based on testimony from intervenors, including mine on behalf of AARP, the Commission approved a storm damage reserve level of $200 million as opposed to the $650 level requested by FPL. The Commission-approved amount of $200 million is approximately 3 times the expected annual uninsured cost in that case. If the FPL ratio found in Docket No. 060038-EI was applied to this case, the Storm Damage Reserve level would be roughly 3 times the expected annual uninsured cost of approximately $17 million. This would result in a Storm Damage Reserve target of $54 million. The current target established by the Commission is $55 million.

Q. Are there any other factors that would indicate that the current target established by the Commission is appropriate?

A. Yes. The Securitization legislation passed in 2006, which is now at Section 366.8260, Florida Statutes, arguably greatly reduces the necessity for a reserve and lessens the importance of the target level. Before the Securitization legislation, utilities collected a Commission-approved storm accrual each year to help pay for storm damage. The accrual was not designed to guarantee recovery of every penny of storm damage costs. In fact utilities might only recover storm damage expenses that caused them to earn less than a fair rate of return. Under the earlier policy, the utilities had a financial risk and were understandably interested in keeping the reserve level as high as possible. However, the Securitization legislation guarantees the recovery of all reasonable and prudent expenses for storm damage. Therefore, no matter the amount of storm damage, TECO is statutorily guaranteed recovery of its storm expenses as long as they are deemed prudent by the Commission.

Q. Do you have any additional concerns with TECO's request?

A. Yes. A large storm damage reserve will allow a utility to charge larger storm-related losses against the reserve without having to prove the expenses were reasonable and prudent in an adversarial hearing. I believe history suggests that the review of storm damage expenses is less stringent when the expenses are paid from an existing reserve versus when the utility must document the expenses in an evidentiary hearing addressing an additional recovery mechanism. Consequently, I believe the likelihood for closer scrutiny would argue for a lower Storm Damage Reserve level, rather than the higher amount requested by TECO.

Q. What evidence supports your review that storm damage expenses are less stringent when the expenses are paid from a reserve versus when the utility must document the expenses in a hearing?

A. It is my understanding that from 1996 to 2002 when FPL covered storm damage expenses with funds from an existing Storm Reserve, there were no hearings and consequently little chance for a review of expenses by affected parties. Forcing a hearing for all but the most minimal storm damage occurrences guarantees a more thorough review and the reduced likelihood that inappropriate expenditures will be charged to the Reserve.

Q. Based on your reasoning, why does TECO need a Reserve at all?

A. Given the passage of the Securitization legislation subsequent to this Commission's orders addressing the level of Reserve required or desired, it is not entirely clear that a Reserve is essential. However, I believe it is reasonable for the Commission to approve a Reserve that meets the historically-stated threshold of covering the costs of most, if not all, storms.

Q. What do you think is the proper level of the Storm Damage Reserve?

A. Based on my analysis I think an adequate and appropriate Storm Damage Reserve should be $55 million. TECO should be allowed to accrue the current level of $4 million a year until it reaches $55 million after which the accrual should cease and rates should be reduced by the appropriate amount.

Q. What is this recommendation based on?

A. This recommendation is based on the prior decision of this Commission with regards to FPL's Storm Damage Reserve and follows roughly the same ratio of predicted annual average storm damage to the Storm Damage Reserve level. Additionally, in the event the Reserve were depleted by damages exceeding the Reserve balance, TECO could immediately file for interim and permanent surcharge relief and, given recent Commission precedent, should expect to get it.

Q. Does this conclude your testimony?

A. Yes.

CHAIRMAN CARTER: Are there any exhibits?

MR. TWOMEY: Yes, sir. There's one exhibit consisting of four pages of his experience and qualifications. It has been pre-identified --

CHAIRMAN CARTER: Exhibit 53?

MR. TWOMEY: Exhibit 53, yes, sir, and we would ask --

CHAIRMAN CARTER: Is there any objection?

MR. TWOMEY: -- that that be moved.

CHAIRMAN CARTER: Without objection, show it done.

(Exhibit 53 was admitted into the record.)

CHAIRMAN CARTER: And Mr. Stewart may be excused.

MR. TWOMEY: Thank you, sir. Appreciate it.

CHAIRMAN CARTER: Thank you, Mr. Twomey. Thank you, Mr. Willis.

MR. WAHLEN: Can you give us just a second?

CHAIRMAN CARTER: Sure. We're in recess.

(Short recess.)

CHAIRMAN CARTER: Okay. Let's do this. Ms. Helton, before -- do we need to do anything before I -- I'm just going to allow Ms. Bradley to ask her questions, get them on the record, and we can go from there. Is there anything we need to do prior to that?

MS. HELTON: I just think we need to make the record clear, Mr. Chairman, that this line of cross-examination is not part of the record upon which the Commission can make its decision. This is purely a proffer that Ms. Bradley is creating to preserve her appellate rights.

CHAIRMAN CARTER: Make it so. Let the record so state and, Ms. Bradley, you're recognized. You may proceed.

MS. BRADLEY: Thank you, sir.

* * *

Thereupon, the following testimony of

HELMUTH W. SCHULTZ III

was proffered by the Office of the Attorney General:

EXAMINATION

BY MS. BRADLEY:

Q. I think I was asking you about if you were familiar with the charges which Abbott had in the Oklahoma case a couple of years ago versus the charges that she is making in this case.

A. I have heard some discussion --

CHAIRMAN CARTER: Turn your microphone on. Is it on?

A. I have heard some discussion with respect to Ms. Abbott's fees, and there was limitations in

Oklahoma. I'm also familiar with the fact that Ms. Abbott has used the retainer portion in other jurisdictions too, because I'm familiar with the witness.

Q. With your familiarity with this witness, in the past two years, has there been that great an increase among comparable persons?

A. I would -- I guess you would have to say that would depend upon the jurisdiction you're in and to what extent she was required to provide that testimony. It varied. This number is high. I've seen it lower.

MS. BRADLEY: If I may have just a moment.

CHAIRMAN CARTER: No problem. Take your time.

BY MS. BRADLEY:

Q. I think I was asking you about the additional employees. No, I was asking you about the overtime pay and the fact that you had noted that there was no breakdown.

A. That's correct.

Q. Was there sufficient detail to determine whether a company -- the Feds or anyone else to determine whether a company is in compliance with federal overtime laws?

A. Based on what's projected in the projections, I would say no, because the overtime hasn't been identified. We have no clue what's in there for overtime in 2009.

Q. There was a question about the number of additional employees, and Ms. Wehle said they didn't track vacancies. Is this something that's common among utilities?

A. I've not heard that. I mean, I've been in rate cases since 1976, and I typically will inquire as to vacancies to develop a vacancy rate, depending upon how a company puts together payroll. And it's usually something that's pretty easily accomplished, so I find it unusual that they wouldn't track vacancies. But I also found it unusual that they didn't track -- well, they don't budget for the overtime. They don't budget based upon employee complement, so I have to say that there's more than one unusual item in this case.

MS. BRADLEY: Okay. I don't think I have anything further. Thank you, sir. Thank you, Mr. Chairman.

CHAIRMAN CARTER: Does this complete your proffer?

MS. BRADLEY: Yes, sir.

CHAIRMAN CARTER: Okay. Thank you. Let's proceed.

(Conclusion of proffered testimony.)

* * *

MS. KAUFMAN: Mr. Chairman?

CHAIRMAN CARTER: Ms. Kaufman.

MS. KAUFMAN: Thank you. We understand your ruling in regard to Ms. Bradley, and so FIPUG would simply -- not to prolong this any further, we just would adopt Ms. Bradley's proffer as well for preserving the record on appeal.

CHAIRMAN CARTER: Okay.

MS. KAUFMAN: Thank you.

CHAIRMAN CARTER: Mr. Wright.

MR. WRIGHT: Thank you, Mr. Chairman. I have the friendliest cross-examination of all. No questions.

CHAIRMAN CARTER: You know what, I always thought there was something about you that I liked.

Commissioners, I'm going to go to staff, and then I'll come back to the bench. Staff, you're recognized.

MR. YOUNG: No questions.

CHAIRMAN CARTER: Commissioners, anything from the bench? Redirect?

MS. CHRISTENSEN: Yes, just briefly.

REDIRECT EXAMINATION

BY MS. CHRISTENSEN:

Q. You were asked questions today about tree trimming. Do you know whether any other Florida companies have a longer tree trimming cycle, such as a six-year cycle for the feeders and a three-year cycle for the mains?

A. Yes, I became aware of that in the deposition that was taken of the company witness.

Q. And are you aware of whether or not those are as a result of the Commission's storm hardening initiatives?

A. That's my understanding from that deposition, yes.

Q. And do you know whether or not Tampa Electric could ask to receive its storm hardening plan revised related to tree trimming based on the money it receives as a result of the rate case?

A. I can't say that I am.

MS. CHRISTENSEN: No further questions.

CHAIRMAN CARTER: Okay. Exhibits?

MS. CHRISTENSEN: I would move Mr. Schultz's Exhibits 51 and 52 into the record.

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

(Exhibits 51 and 52 were admitted into the record.)

CHAIRMAN CARTER: Anything further for this witness from any of the parties? Staff?

Thank you. You may be excused.

THE WITNESS: Thank you.

CHAIRMAN CARTER: Commissioners, I think we've reached the point of diminishing return. You know, I don't want to us get too goofy. Let's do this. We'll start tomorrow morning at 9:00. We're adjourned.

(Proceedings recessed at 8:10 p.m.)

(Transcript follows in sequence in Volume 14.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1949 through 2150 are a true and correct record of the aforesaid proceedings.

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

DATED THIS 29th day of January, 2008.

Mary Allen Neel

MARY ALLEN NEEL, RPR, FPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221