BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES BY FLORIDA POWER & LIGHT COMPANY.	DOCKET NO. 080677-EI
2009 DEPRECIATION AND DISMANTLEMENT STUDY BY FLORIDA POWER & LIGHT COMPANY.	DOCKET NO. 090130-EI

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PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN MATTHEW M. CARTER COMMISSIONER LISA POLAK EDGAR COMMISSIONER KATRINA J. McMURRIAN COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
DATE:	Friday, August 28, 2009
TIME:	Commenced at 9:51 a.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LINDA BOLES, RPR, CRR Official FPSC Reporter (850) 413-6734
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

EXHIBITS

NUMBER:		ID.	ADMTD.
415	FPL's Response to SFHHA Interrogatories 94 and 95	1406	

P R O C E E D I N G S

(Transcript continues in sequence from Volume 11.)

CHAIRMAN CARTER: We're back on the record. And before we begin, the list in terms of the proposed list of witnesses by the parties has changed a little bit, so I've asked staff to get with Mr. McGlothlin and redo the list and get it retyped and get it to all of us so we'll all be on the same page. That shouldn't take that long, should it?

MS. BENNETT: Mr. Willis just talked with the OPC, and my understanding is that they're going to have to get with all the parties and FPL to make sure that they have the list correct.

CHAIRMAN CARTER: Okay. Mr. McGlothlin?

MR. McGLOTHLIN: We could do that during the first break today, if that's all right with you, Mr. Chairman.

CHAIRMAN CARTER: Okay. All right. We'll do it during the first break then.

MR. McGLOTHLIN: I would like to mention --

CHAIRMAN CARTER: Yes, sir.

MR. McGLOTHLIN: -- that yesterday, because counsel for AFFIRM was not in the room, you'll recall that you excused her for the part of the hearing that she's not involved in, the parties contemplated but did not mention to the Commissioners that AFFIRM's witnesses would be among those that, Intervenor witnesses that would be taken up next week as opposed to today.

COMMISSIONER SKOP: I can't hear him.

CHAIRMAN CARTER: Okay. Turn, turn his volume up.

Would you go through that again, Mr. McGlothlin?

MR. McGLOTHLIN: Yes. AFFIRM is an Intervenor and is sponsoring a witness. Because AFFIRM was not in the room yesterday when we had this attempt to work out the scheduling among us, the parties contemplated that AFFIRM's witness would be among the Intervenor witnesses to be taken up next week. We omitted that when I was describing or summarizing it to you, and I just wanted to make sure that we've covered that base.

CHAIRMAN CARTER: Okay. And also some of the Intervenors only have certain witnesses, so as you guys get together, make sure you contact them and let them know what's going on so everyone will be abreast of it.

MR. McGLOTHLIN: Yes, sir.

CHAIRMAN CARTER: Okay. Any further preliminary matters before we begin?

Ms. Bradley, good morning.

MS. BRADLEY: Good morning. Mr. Chairman, since we're on the subject of lists, can we ask when we're going to get the complete list of the executive salaries? Because we discovered last night that it was only a partial list.

CHAIRMAN CARTER: That's what we're about, that's what we're about to dive into.

MS. BRADLEY: Okay. Thank you. I appreciate it.

CHAIRMAN CARTER: Yes, ma'am. We're just about to dive into this, the deep end on this one. But hold that for one second.

Any further preliminary matters from any of the parties? Staff, any further preliminary matters?

MS. BENNETT: No, sir.

CHAIRMAN CARTER: Okay. Now, Ms. Bradley, I recognize you for your question on the list.

MS. BRADLEY: I just had a question about when we're going to be getting the complete list, because as of last night we discovered that the list that's purported to be everybody making above 165,000 was not really everyone making above 165,000, and there was an additional list or some other information somewhere.

CHAIRMAN CARTER: Okay. Staff? Because I think that's where we left last night.

MS. BRADLEY: Yes, sir.

MS. BENNETT: We have the red folders.

CHAIRMAN CARTER: You have the red folders?

MS. BENNETT: We'll be glad to pass them out if you're --

CHAIRMAN CARTER: How about let's do that now. At least we can get going on that.

COMMISSIONER ARGENZIANO: Mr. Chair?

CHAIRMAN CARTER: Commissioner Argenziano, good morning.

COMMISSIONER ARGENZIANO: Good morning. I would like to -- after we adjourned yesterday, my staff and staff got together and I guess -- there's no other way of saying this. Staff, not my staff, my staff got to me promptly what I had asked for weeks ago.

First, I want to say the company to my knowledge complied with everything that we asked them to, and staff just failed to give me that one sheet that it seems other Commissioners got August 20th. And I'm not happy with that at all. It's not the first time. And I just don't know what else to think about it.

The fact that I didn't have it yesterday and the fact that I have, that's been an issue that's been for me that I've really wanted to look at, I felt it was something that I really wanted to delve into and it's been known for weeks, that I just didn't have that one sheet -- there's nothing else to say but staff failed to give me that sheet while others had that sheet.

And I want to make sure that the people know, anybody that's listening, that the company complied fully and gave everything that we asked them to. And it's a shame that I didn't have that yesterday.

And obviously you see I'm watching things and looking at things, and I just want people to understand that I just was not given that particular sheet and that the company had complied. And later on I'll be talking to staff and finding out why I was the only one that really didn't get that sheet.

CHAIRMAN CARTER: I don't think you're in the tunnel by yourself, Commissioner, because I didn't get a copy of it, and I think Commissioner McMurrian didn't get a copy of it. And Commissioner Edgar said she didn't get -- Commissioner Skop, did you get a copy?

COMMISSIONER ARGENZIANO: Well, you know, the funny thing is I guess the Commissioners who asked for it, one got it and one didn't, and it's been an issue for me for weeks. And it's not the first time this has happened, and I just find it very odd that I didn't get that particular sheet and then yesterday had to, had to make it look like the company didn't comply, when they did. And that's a failure on the PSC's part. So I want to apologize to the company and make it clear that the company gave everything that we had asked for. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner. On the -- let me just ask this. On the one page that, that we're talking about, do we have it?

MS. BENNETT: It is included now in the confidential document. And I do want to personally apologize to Ms. -- Commissioner Argenziano. It was an oversight in not getting that to her.

CHAIRMAN CARTER: What about to the rest of us that didn't get it? You're not going to apologize to us?

MS. BENNETT: I apologize to you all too. We are handing them out to you today as part of our hearing exhibit.

CHAIRMAN CARTER: Okay. All right. But --

MS. BRADLEY: Mr. Chairman?

CHAIRMAN CARTER: Let me ask this. Is Commissioner Argenziano able to ask her question? Does she have the information?

COMMISSIONER ARGENZIANO: Mr. Chair, I don't need that information now because it is there. But the problem was that as I was going, as we were going through witnesses and I was looking on the sheet, the name didn't reconcile. It wasn't there. So obviously it wasn't the company's fault. They gave us what we had asked for. And the question -- I don't need to ask a question now since there is some sheet and my staff is attempting to get that to me.

CHAIRMAN CARTER: Okay. Well, they're passing, they have the red folders now. They're getting ready to pass those out.

COMMISSIONER ARGENZIANO: I'd just suggest that I'd have some time to look through the entire folder to make sure that I have everything that I need to have.

CHAIRMAN CARTER: Absolutely. And if we, if we need to, we'll bring this witness back.

But we also have -- who's the other witness on the salaries, Mr. Butler?

MR. BUTLER: That would be Ms. Slattery.

CHAIRMAN CARTER: Ms. Slattery.

MR. BUTLER: And I would note that Mr. Barrett does have rebuttal testimony, so he'll be back in any event.

CHAIRMAN CARTER: Okay, Commissioners. Ms. Slattery has -- we're going to be available for the, this matter as well as Mr. Barrett will be back for rebuttal --

MR. MOYLE: Have you got something?

CHAIRMAN CARTER: -- on that.

Ms. Bradley?

MS. BRADLEY: Mr. Chairman, I just want to clarify one thing. I didn't get my red file from staff. I got it from the company. So anything missing from that I don't think can be blamed on staff.

CHAIRMAN CARTER: Okay. All right. Okay. Before -- they're passing out the red folders.

Before I go further, Commissioner Argenziano, did you have any questions? Are you comfortable with what you received?

COMMISSIONER ARGENZIANO: Well, what my staff has at the moment, because they haven't gotten it to me yet, tells me that it has the, it has the information that I was looking for, just to make sure that the individual is on the list and he was. So I'm very happy with what we got and have no questions.

CHAIRMAN CARTER: Okay. Thank you very much.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Okay. What we'll, what we'll do, just so everybody is, we're all on the same page, is that when we left last night, Mr. Moyle was doing his cross-examination. These red folders have just been passed out.

Do you guys need a minute or so to look over them? We're not going to break. We're just going to let you guys look over them.

If you've got questions now for this, Mr. Moyle, and if you need some time to prep for that.

MR. MOYLE: Maybe just a minute.

CHAIRMAN CARTER: Okay. Commissioners, we'll stand in recess for about five minutes.

Would that be sufficient, Mr. Moyle?

MR. MOYLE: Yes, sir.

CHAIRMAN CARTER: Okay. We're in recess for five minutes.

(Recess taken.)

COMMISSIONER EDGAR: If we could gather back, we'll get started here in just a moment.

Okay. We're going to see if we can move along and see if we can make some progress this morning. My understanding is that when we concluded yesterday that we had Witness Barrett on the stand, and I believe, Mr. Moyle, we were working our way through your cross-examination.

MR. MOYLE: Actually, I had, I had finished, but I believe the question came up with respect to some of the salaries, and I think I was going to be afforded a brief opportunity to inquire related to those.

COMMISSIONER EDGAR: Okay. And to FPL, is that your understanding as well?

MR. BUTLER: I thought he had finished. I don't recall what it is that he had held back that he needed to follow up on further, frankly. I mean, if it's, if it's --

COMMISSIONER EDGAR: Well, it was late and we were all tired. I know that.

So, Mr. Moyle, again, what you have just represented is that you have just a very brief couple of questions to, to, to really finish?

MR. MOYLE: Yes, ma'am. Yes, ma'am. Yes. And I thought it might be helpful, because I'm not sure of the breadth or scope of this witness's knowledge about the what we'll call collectively the confidential salary exhibits, but there seems to have been a great deal of confusion over what exhibits contained what information.

And I was under the impression that the exhibit that we've been asking the witness questions about, I think I identified it as a FIPUG exhibit previously, that that was an exhibit that had everyone at 165 and above and was inclusive of officers. But apparently that, that's not the case that that exhibit

-- I mean, what I guess I was suggesting was it might be helpful if, for the record, so that it's clear that FPL make a representation as to --

COMMISSIONER EDGAR: Well, let's just, let's just, let's just see where it goes. And of course to the witness, if you can answer the question, you're required to do so. And if you can't, say that you can't.

Mr. Moyle, go right ahead.

MR. MOYLE: Okay.

CONTINUED CROSS EXAMINATION

BY MR. MOYLE:

Q. Are you an officer of the corporation?

A. I am.

Q. Okay. And what is your, what is your title?

A. Vice President, Finance.

Q. Are you also the Chief Financial Officer?

A. I am not.

Q. So if, if we were trying to match up where you would be on exhibits, we would look solely for someone listed as the Vice President of Finance; is that correct?

MR. BUTLER: Madam Chairman?

BY MR. MOYLE:

Q. Based on your title?

COMMISSIONER EDGAR: Mr. Butler.

MR. BUTLER: It may be more helpful for me to try to explain, and then if Mr. Moyle has questions that he wants to ask to Mr. Barrett.

But the problem here is that Mr. Barrett is not personally familiar with the exhibit that Mr. Moyle is examining him about, and we have very limited distribution of that, so it's hard for him to respond to the questions.

I think the answer to the specific question, and something I know that had been confusing to Commissioner Argenziano yesterday, is that there is a reference, I believe it's Line 12, to a position that says "Vice President Finance." It also says "and CFO." That is inaccurate. It should not have the CFO reference in there because Mr. Barrett is not the CFO. As his testimony indicates, he's the Vice President of Finance.

But unfortunately the limited distribution of the document means that Ms. Slattery is far and away the person best situated to answer questions on the details of the compensation information.

COMMISSIONER EDGAR: Mr. Moyle.

MR. MOYLE: I think, I think just maybe just a couple more, if I could, Madam Chair.

COMMISSIONER EDGAR: Yes, sir.

BY MR. MOYLE:

Q. Sir, you have not, you have not seen the confidential exhibit that was just handed out, have you?

A. I have not.

Q. If I were to take this exhibit and fold it, fold it over so that you couldn't see job titles or names or anything, do you think you might be able to, you know, to pick out your level of compensation on this exhibit?

I tell you what. That's all right. I'll skip on that.

MR. MOYLE: I guess what we're trying to do is verify the data on this. Ms. Slattery is probably the more appropriate witness, so I'll withdraw my question.

COMMISSIONER EDGAR: That is my understanding.

MR. MOYLE: Yeah. I have nothing further.

COMMISSIONER EDGAR: Okay. Thank you.

Where are we next? Ms. Bradley.

MS. BRADLEY: Thank you.

CROSS EXAMINATION

BY MS. BRADLEY:

Q. I just have a couple of questions. You're in charge of financial forecasting and budgeting, and I think it was called analysis of financial results.

A. Basically, yes. Financial forecasting, budgeting, financial analysis. Yes.

Q. What is analysis of financial results? What does that refer to?

A. Financial analysis basically looks at economic decisions that the company may be faced with in comparing the cost and benefits of a specific investment decision potentially.

Q. I'm sorry. Were you finished?

A. Yeah.

Q. So it doesn't look at, backward to see how successful your forecasts were?

A. No.

Q. Okay. If you get, after you've made your financial forecast and you've used that in whatever endeavor it's intended for, if you get actual data that shows that it wasn't as accurate as it should be, is that something you just ignore, or do you try to go back and readjust your forecast?

A. Well, when we get actual information that we compare to the forecast, we obviously are looking at variances and trying to discover reasons for the variances to determine if there needs to be any readjustments going forward for a typical forecast.

Q. Okay. I believe you indicated yesterday that you didn't go to any of the customer service hearings?

A. That's correct.

Q. Did you have any of your staff attend those?

A. No, ma'am.

Q. Did you have any briefing on those?

A. No.

Q. Did you have any discussions with Ms. Santos or others about the results of those meetings?

A. No.

Q. Would you agree with Dr. Morley that if there is an increase in the cost of electricity, there's probably going to be fewer sales?

A. I believe generally the modeling comparison she was referring to is the real price of electricity is correlated to our electric sales. So if there is an increase in the price of electricity, there would tend to be a decrease in sales.

Q. And conversely to that, if there's a decrease in the cost of electricity, there's generally a increase in sales; correct?

A. Again, it would be dependent upon a lot of factors. But all else being equal, that is the relationship, yes.

Q. Okay. Now you indicated yesterday that you serve on the budget committee?

A. The budget review committee. Yes.

Q. And do you all look at setting salaries in determining how much everybody is going to make next year?

A. No, ma'am.

Q. Okay. What does that committee do?

A. What does the budget review committee do?

Q. Yes.

A. Essentially looks at the composite of all of the business unit budgets, and in looking at the activities that are going to be performed over the next year, rolls it all together and looks at the total composite company performance under those budget views.

Q. And so you're not involved at all in salaries?

A. Not specifically. We do have budget guidelines for kind of overall aggregate average assumptions for salary increases.

Q. As part of the budget committee would you be willing to recommend that your executive salaries are not increased so that your customers that testified at the hearing that they're really struggling and having a tough time might be better able to pay for your electricity?

A. No, ma'am. I believe our salary program as defined by our compensation folks that, and Kathleen

Slattery will be on to testify to that, is based on competitive benchmarking for the jobs that are performed in our company. And the recommendations that come out of that competitive benchmarking process have given us what we believe is an accurate view of what those salaries ought to be.

Q. And you realize that your top executives are making millions of dollars; correct?

A. I realize what the top proxy officers who were disclosed make, yes, ma'am.

Q. And those are in the millions; correct?

A. I believe so. Yes.

MS. BRADLEY: Okay. No further questions.

COMMISSIONER EDGAR: Mr. Wright. I'm having a hard time keeping track of the order, but I hope that's because it's changed a little bit.

MR. WRIGHT: So am I.

COMMISSIONER EDGAR: Okay. Thank you.

Ms. Bradley?

MS. BRADLEY: Can I ask one more question of this witness?

COMMISSIONER EDGAR: You may.

MS. BRADLEY: Thank you. Let me see if I can -- I'm not sure if it's appropriate who to ask about this, but I want to ask him a question about a figure.

And I guess I need for the record to have someone verify that this is -- I want to ask him if this is his total compensation and, but I need somebody that can verify that this is in fact what the sheet shows that we were given, and I don't know whether that would be more appropriate for Mr. Butler or for staff or for --

COMMISSIONER EDGAR: Nor do I, so let's work our way through it.

Mr. Butler?

MR. BUTLER: We, we can certainly make that confirmation for Ms. Bradley.

MS. BRADLEY: If I may approach the witness.

COMMISSIONER EDGAR: You may.

MS. BRADLEY: Mr. Barrett, let me just ask --

COMMISSIONER EDGAR: Ms. Bradley, let's make sure that the court reporter can get you as well.

MS. BRADLEY: I'm sorry. Thank you.

BY MS. BRADLEY:

Q. Mr. Barrett, is that an accurate listing of your total compensation for 2008?

MR. BUTLER: I'm going to object to this question, asserting Mr. Barrett's right of privacy. And right of privacy is I think about to be interfered with if he is being asked to, you know, disclose to some third party the specifics of his compensation. And it's one of the things we've gone through this process trying very carefully to avoid is tying particular individuals to their particular compensation.

COMMISSIONER EDGAR: Ms. Bradley.

MS. BRADLEY: It's not being revealed to anyone. The only ones that will have knowledge of it and should already have knowledge of it as far as the listing we were provided are all sworn to confidentiality. So I, I mean, I think the Commission has already ruled on this issue.

COMMISSIONER EDGAR: My understanding is that Ms. Bradley is sworn to confidentiality under, at this point in time with where we are in this proceeding. Is that correct, Ms. Bradley?

MS. BRADLEY: Yes, it is. And that's why I wrote it down on a piece of paper and had them confirm.

MR. BUTLER: And I'm sorry. The intent is not to have that piece of paper then be identified as an exhibit in the record?

MS. BRADLEY: I don't plan to. You all have confirmed that this is what is on the list, and I will ask him if this is his total compensation.

MR. BUTLER: That's fine.

COMMISSIONER EDGAR: Okay. So let the record reflect that Ms. Bradley wrote a number on a piece of paper and has put it in front of the witness. And if you would please reask your question.

MS. BRADLEY: I will do so. And I just want to note for the record that Florida Power & Light did confirm that is what's on the list that we were provided.

BY MS. BRADLEY:

Q. Mr. Barrett, can you tell me if that's an accurate reflection of your total compensation package for 2008?

A. Honestly I don't know because I have not seen the list. If I could confer with counsel and they would confirm that that is what's compiled for me, then I will affirm that that's the number. But I didn't calculate the number, so I can't say for sure.

Q. You don't have any knowledge of what you made in 2008?

A. There are various pieces as I understand to that schedule, so you've given me a very precise number.

COMMISSIONER EDGAR: Ms. Bradley, hold for just a moment, if you would.

Yes, Mr. Butler.

MR. BUTLER: Yes. Madam Chairman, we have identified specifically the line on the form. That was the colloquy a moment ago with Mr. Leon (sic.) and

Ms. Bradley. And I believe what she's done is to write the line, you know, the total comp from the line down on a piece of paper.

Mr. Barrett, again, he hasn't seen the exhibit. It's sort of presented at a level of specificity that he may not have all of the pieces added up in the same way that the exhibit is compiled.

I mean, we have confirmed to her and are representing to her that what we have identified as the line on the exhibit is indeed for Mr. Barrett and that the compensation, the elements and the total that are shown are --

COMMISSIONER EDGAR: Okay. Let's try, let's try it this way, if, if we may.

MS. BRADLEY: At this point they've already --

COMMISSIONER EDGAR: Ms. Bradley, let's try it this way.

As I said earlier, and I know that the witness is well aware of this, if you can answer the question, answer it. If you can't, say that you can't. We do have other witnesses. So ask your question, and if the witness can answer it, he will answer it, realizing that we, our understanding of where we are is to not disclose the specific numbers.

Try again, Ms. Bradley, please.

MS. BRADLEY: He has already indicated that he doesn't know what he made, and it doesn't help for them to tell him yes, that's the correct answer, because then it becomes somebody else's testimony. So I'll end it at that point.

COMMISSIONER EDGAR: Okay. Okay. So, Ms. Bradley, that concludes your cross?

MS. BRADLEY: Yes, ma'am.

COMMISSIONER EDGAR: Thank you.

And, Mr. Wright, I believe that brings us to you.

MR. WRIGHT: Thank you, Madam Chairman. And just before I go I just want to say we appreciate your and the Commission's and all the parties' indulgence in letting us shuffle our order occasionally to accommodate the various vicissitudes with which we are dealing. Thank you.

CROSS EXAMINATION

BY MR. WRIGHT:

Q. Good morning, Mr. Barrett.

A. Good morning.

Q. My name is, my name is Schef Wright and I represent the Florida Retail Federation in this case. I have a number of questions for you, but I think not a whole lot.

First, this is a predicate question to something I'm going to pursue later, but it's a simple financial question, and I think as VP of Finance you can probably answer it.

Would I be correct that FPL Group has approximately 410 million shares outstanding of common equity stock?

A. You said 410 million?

Q. Yes, sir.

A. I believe that's about right.

Q. Thank you. I'd just like to clear up something that came out in Mr. Moyle's cross yesterday. He handed you, I believe, two of the components of what the staff intend to introduce as part of Exhibit 35. Specifically they were the answers to staff's Interrogatories Number 49 and Number 51. Do you still have those handy?

A. I still have those, yes.

Q. If I could ask you to look at the, at the response, particularly at the table attached to the response to Number 51, I'd appreciate that.

I promise these are not trick questions. I am just trying to understand what is the difference between major and minor here. It appears to me from the fact that there are values in the minor projects, part of the table that are greater than the major, some of the values in the major projects part of the table that it's not dollars. Can you explain what's major and what's minor?

A. Yes. The -- actually it is dollars. The major and minor is really a budget distinction. But what you see in the minor category down below essentially are things that are grouped together basically by plant site. So there would be a collection of small projects that, like, for instance, if you looked at Lauderdale, other production, the $20 million, that is all of the projects that would be at the Lauderdale site.

So it's not one project, it's a collection of projects. And each of these projects are discrete, they're important to the operations of those plants. And actually I think you're going to be talking with Witness Hardy, who I think could address both of these interrogatory responses in terms of the actual projects.

Q. There was one other point regarding a statement you made in response to Mr. Moyle that I wanted to pursue.

Your answer implied that a project can be both minor and critical, and I wonder if you could explain that.

A. Well, minor is, again, as I just mentioned, is more of a budget distinction in terms of the dollar amount. Many of the minor projects may include things like purchase of capital components, capital spares, things like that, that would be then used in outage work. And so it is very critical to the success of the plant operations.

But discrete projects may be, you know, purchased in individual components or different points in time. So, again, I think Mr. Hardy would be able to get you into the details of how those are used in the power plant operations.

Q. So major and minor relates to dollars, critical relates to some engineering concern or engineering characterization; is that a fair, fair thing to say?

A. I think it's fair to say that the importance of a project, the criticality of the project really relates to its importance in the operations of the plant.

Q. Thank you. Okay. I'd like to ask you a couple of questions about your Exhibit REB-17, which is the drivers exhibit.

A. Yes. The one that's on the chart behind me, I believe.

Q. Sure. What is the $177 million value that is shown for regulatory commitment? What does that represent?

A. That represents a number of expenditures that would be, that would arise as a result of a commitment to a regulatory or a governmental agency. Probably the largest category that's in that number is, are investment and expenditures in storm hardening and storm secure activities. That represented about 90 million of the 177. There are specific NRC compliance projects. I think you heard Mr. Stall talk about some of the project work that we did to relieve some of the Alloy 600 concerns. There were expenditures made there. Or another piece of that, in general compliance, increasing fees for compliance-related activities. So those are typically what's in there.

Q. Thank you. That's an adequate answer for my purposes. Thank you.

Would it be fair to say that once new rates go into effect, the actual impact of these various drivers may vary?

A. Well, these are the impacts of these drivers, as I've explained in my testimony, from 2006 to 2010. So as you move forward from 2010 once rates are set, it would depend upon the expenditures that would be represented by these types of activities.

Q. For 2010 the, parts of this are, are projected; correct?

A. Correct.

Q. And they, would it be true that they may or may not be exactly what's shown here?

A. They are projected to be what are shown here. But to the extent actuals were to be different, then, yes, they could be different.

Q. And if, for example, the company incurred less expense for storm hardening than is represented in here, all other things equal, the company's earnings would be greater; correct?

A. All other things being equal, yes. However, I would say that the nature of these regulatory commitments are typically that these are pretty much commitments that we've made or obligations that we have. So I think it's unlikely that the, for instance, the storm hardening, unless this Commission were to decide to direct us to do something different, it's unlikely that they would be a different number than this.

Q. As a general proposition, if rates are set based on certain projected expenses and if then projected expenses are less than projected, the company's earnings will be greater than otherwise, other things equal?

A. Yes. However, as you know, there's a lot of components to that equation, including sales, and I think you've heard Dr. Morley suggest that there's probably more downside risk on sales than anything. So that goes the other direction as well.

COMMISSIONER EDGAR: Mr. Wright, my apologies, and to everyone, we are going to try to keep things moving, but I need a five-minute break. And so we're going to take a five-minute break, and I do mean five minutes. So everybody take a brief stretch but do not go far. And we are on recess.

(Recess taken.)

Okay, folks, if we could gather together. Okay. We are back on the record from a very short break. Thank you.

Mr. Wright, go right ahead.

MR. WRIGHT: Thank you, Madam Chairman.

BY MR. WRIGHT:

Q. Mr. Barrett, just looking across the drivers, would it be correct that there are employee or labor costs embedded in many of these?

A. Yes.

Q. Okay. Not in depreciation, not in storm reserve accrual, but in a number of the others; correct?

A. Correct.

Q. Thank you. If FPL's rates in this case were set on the basis of a certain number of positions, whether it's 11,100 or any other number, but the actual number of employees were less than that in 2010, you would expect the company's O&M expenses for labor during 2010 to be less than projected, would you not?

A. I'm not certain that that would be the case. I mean, the, if there were a different headcount, the mix of employees would have an implication for the overall dollars. The use of third-party contractors to do the work necessary that may have been done, been done by those employees would need to be considered. So it's not just as simple as saying that one dimension changing would change the whole thing.

Q. And that there might also be an offset for additional overtime worked by remaining employees; would that be accurate?

A. That's possible. Again, we would look at the work that needed to be done and determine the optimal staffing level to do that work, a mixture of, you know, full-time employees, overtime, part-time employees, contractors, as deemed appropriate by the business unit performing the work.

Q. Holding those other factors equal, contract, overtime, mix, holding those other factors equal, if the number of employees is less, your O&M expense would be less; correct?

A. Not necessarily. First of all, I know y'all like to hold everything else equal, and it's never always equal. But, again, as I mentioned earlier, it's the mix of employees that may change. So headcount alone doesn't tell you much other than headcount.

Q. Well, I'll loop back to a previous question on this specific subject. If y'all's labor costs are less in 2010 than the amount included in rates, your earnings will be greater than otherwise; correct?

A. If the labor costs were lower than what was included in rates, again, your premise of all else being equal, then, yes.

Q. Thank you. This is a follow-up question to something that Mr. Moyle asked you yesterday, to which I recall you giving a somewhat general answer, and I'm going to try to get a specific answer.

I'll just ask the question. Did you make any specific assumption about what the outcome of this rate case would be in terms of any rate increase or decrease awarded by the Commission or granted by the Commission in preparing your financial forecasts?

A. We basically had two financial forecasts, the one prepared for this rate case, which assumed no rate relief to show the deterioration in the financial condition of the company, and then obviously we would, we would look at the inclusion of the full rate request that we've asked for and the impact of that.

Q. And did I understand -- would it then be the case that those were the two financial forecasts you prepared?

A. Yes. Those are the scenarios that we've looked at.

Q. Okay. Just so I'm clear, one scenario was no rate increase and the other scenario was full requested rate increase.

A. Yes.

Q. Are you familiar with the consumers' witnesses' positions in this case as they affect the proposed revenue requirements?

A. If you could mention specific names, that would help.

MR. WRIGHT: May I have just a moment?

COMMISSIONER EDGAR: Yes, sir.

MR. WRIGHT: Thank you.

(Pause.)

THE WITNESS: Is this something I can show my attorney or -- I don't know what it's here for.

MR. WRIGHT: Thank you very much, Madam Chairman. I apologize for the interruption. There's a lot of paper. I couldn't find something.

I have just --

MR. BUTLER: Schef, can you identify what this is?

MR. WRIGHT: Yes. I was just about to.

MR. BUTLER: All right.

MR. WRIGHT: I have just handed the witness a paper copy of the information that Mr. McGlothlin presented in his opening statement, and it was presented to the full hearing. And it summarizes the, in large part it summarizes the, at least it summarizes OPC's case on the revenue requirements issues.

MR. BUTLER: Am I correct that this is not an exhibit in the proceeding?

MR. WRIGHT: It is not an exhibit per se. It's simply demonstrative and is ultimately supported, as I understand it, by the testimony of OPC's witnesses. But for these purposes, I'm really going to ask Mr. Barrett a hopefully short line of questions along the lines of questions that I asked Mr. Olivera, some of which I believe he suggested Mr. Barrett might be the better answerer.

MR. BUTLER: I have no problem with the procedure. I just would note for the record that FPL certainly does not adopt or endorse the information that's provided on the handout, and I don't think at this point it has been authenticated in the record.

COMMISSIONER EDGAR: So noted.

Go right ahead, Mr. Wright.

MR. WRIGHT: Thank you.

BY MR. WRIGHT:

Q. Were you here at the outset of the hearing, Mr. Barrett?

A. No, I was not.

Q. Okay. Well, perhaps it would be best if I just asked you then to, to assume some things, or to ask you -- I'll ask it this way. Is it your understanding that the Public Counsel's witnesses are advocating an overall rate reduction for FPL in this case?

A. Yes.

Q. And is it your further understanding that a good chunk, like about $500 million, of their reduction from FPL's request is based on a reduced rate of return on equity and a capital structure investment?

A. Yes.

Q. And is it further your understanding that about $554 million of the total proposed reduction by the Citizens, by Public Counsel's witnesses, is for depreciation adjustments?

A. I don't know that specific number.

Q. Okay. Are you further aware that the citizens, Public Counsel and all the consumers, are advocating that the company not be allowed to increase its storm reserve accrual?

A. Yes.

Q. Okay. And that would have the effect of reducing FPL's requested increase by roughly $150 million a year; correct?

A. Correct.

Q. Okay. Now are you, are you aware that the Public Counsel's proposed adjustments to O&M type costs is somewhere in the range of 80 or $90 million?

A. I don't remember the exact number.

Q. Okay. I think if you'll look at the last sheet of that, you'll see that it's right about there.

MR. BUTLER: I'm sorry. I've got to object to this, Madam Chairman. The sheet doesn't mean that the numbers are right. The sheet was simply something that was handed out as an illustration for the opening statement of OPC. It may be more useful if Mr. Wright simply asks the witness to assume the figures rather than trying to get his agreement to the numbers that are on this handout that was used for the opening statement.

COMMISSIONER McMURRIAN: Mr. Wright?

MR. WRIGHT: I'm happy to do it that way. I waffled as between asking him to assume and asking him to accept that this is what the citizens' positions are. But we get to the same point.

BY MR. WRIGHT:

Q. Are you willing to take as an assumption for purposes of this brief, brief conversation that the citizens' witnesses are recommending O&M reductions of something in the range of 80 to $90 million?

A. Yes.

Q. Okay. Again, with the understanding that FPL and the consumers' side of this have very different views on what these amounts would be, will you agree, subject to the assumptions that we're talking about, that the citizens' witnesses' proposals would cut FPL's O&M expenses by something like 80 to $90 million?

MR. BUTLER: I'm sorry. I'm going to object again, Madam Chairman. We just talked about, I think while you were briefly out, that I had objected to use of this handout from the opening statements as if it is evidence. I would think it more appropriate for Mr. Wright simply to ask the witness to assume. But he's now asking him to agree with the assumption. I don't think that Mr. Barrett has a basis to agree or not agree with the assumption. Just let him pose it as an assumption and I think we'll get to the end of the line of questions pretty quickly.

MR. WRIGHT: I'll rephrase. Thank you.

COMMISSIONER EDGAR: Thank you.

BY MR. WRIGHT:

Q. Assume that the citizens' positions are as reflected on the sheets. With those assumptions, you'd agree that something in the range of 90 percent of the proposed reductions by the Citizens' witnesses are for ROE, capital structure, depreciation and storm reserve.

A. Could we go through those numbers again?

Q. Sure. I think the citizens' total proposed reductions sum to something in the range of $1.3 billion, 509, 554, 150 and 86.

A. I'm sorry. Go through those one more time.

Q. I'm sorry. I think the capital-related number, which we're only assuming for purposes of our questioning and answering, is about $509 million.

A. Okay.

Q. The depreciation adjustments are about 554 million.

A. Okay.

Q. Storm is 149 million.

A. Okay.

Q. And O&M I think is 86 or 83 million.

A. Which would you like me to assume, 86?

Q. Whatever the sum of the two numbers on the last sheet, yes. I think it's 40 plus 43, but I may be --

A. Okay. The last sheet doesn't have any numbers on it.

Q. Look at the next to the last sheet.

A. I don't see 86 or 83.

Q. Do you see 40 plus 43?

A. I see 42 and 44. 86.

Q. Okay. That's 86.

A. Now what do you want me to do with those numbers?

Q. Agree that they sum to something in the range of $1.3 billion for this purpose.

A. I would agree.

Q. Thank you. And you'd also agree, again subject to the assumptions to which we have agreed, that the majority of those proposed reductions are for capital-related ROE, cap structure, depreciation and storm reserve?

A. The 509, the 554 and 149?

Q. Yes, sir.

A. I would agree that's the majority of the

1.3 billion.

Q. Okay. And so my, my question -- and this is the question, I believe, that Mr. Olivera suggested I might be able to explore with you in more detail, and it also relates to questions posed from the bench, is this. If you, if FPL were not granted its entire rate increase, what would you cut?

MR. BUTLER: Mr. Wright, I'm sorry. For clarification, do you mean that FPL is granted zero or FPL is granted some amount less than that?

BY MR. WRIGHT:

Q. I'll, I'll ask zero. If FPL were granted no rate increase, what would, what would you cut from your proposed spending?

A. I don't know sitting here today what we would cut from our proposed spending. Some would depend upon the Commission's ruling and what they saw as the reasons for the cuts. Some would depend upon just looking at the available resources and the task that we have before us of the obligation to serve our customers with reliable electric service. So it would have to be a concerted effort to look at the resources available and determine how we can best meet that obligation to our customers.

Q. More specifically, if the PSC were to reject the company's request for $150-million-a-year storm reserve accrual, wouldn't that have the effect of reducing the company's expenses by $150 million or so?

A. A reduction of revenues associated with the storm accrual and a decision not to approve a storm accrual would obviously reduce our expenses by the $150 million.

Q. And it would reduce your revenues correspondingly?

A. Correct.

Q. And would it also be correct that those two reductions would have no effect on the company's earnings?

A. It might be true that it would have no effect on our earnings in that year. But I think that it would be a, a signal that we are potentially pursuing a course that would leave customers maybe a little, not having the benefit of that storm accrual and having it built up over time or used for current storms. So it's not inconsequential that it were to be denied. But the specific question regarding its effect on book earnings in that year is that it would be to have no effect on book earnings in that year.

Q. I wasn't going to ask these questions, but your response prompts me to do so.

You agree that FPL's customers -- you'd agree first that FPL presently has a storm reserve somewhere in the range of 180 to $190 million?

A. The storm fund, yes.

Q. Okay. And you'd agree that FPL's customers since 2007 have been paying off the bonds that were issued through the securitization process to provide that, would you not?

A. Yes, I believe that's correct.

Q. Okay. And you don't -- does -- do you have an opinion on the Florida Public Service Commission's record of providing for FPL's recovery of its reasonable and prudent storm costs following storms?

A. No, I don't.

Q. Okay. I mean, has the Commission, to -- let me ask you this. In your opinion, has the Commission adequately provided for FPL's recovery of its reasonable and prudent storm costs, say, in this decade?

A. I've not reviewed the case before the, the Commission -- or the cases before the Commission to determine. I know that we've had the opportunity to come in following those storm restoration activities of '04 and '05 and present the cost of those restoration activities and make our case before the Commission as to what we felt were reasonable and prudent charges, and the Commission has determined what was recoverable.

Q. Following along my questions about storm reserve, if the Commission were to grant the accrual, would that, would it be true that that would also have no effect on the company's book earnings, i.e., revenues would be higher by $150 million and expenses would be higher by $150 million?

A. Yes.

Q. Would it improve the company's cash earnings situation?

A. No.

Q. Okay. You sit on the budget committee; correct?

A. Yes.

Q. And again I think this is a question that Mr. Olivera suggested I might better pursue with you. But if the Commission -- and you -- in your capacity as a member of the budget committee, are you familiar with the company's planned major capital expenditures?

A. Yes.

Q. For example, you're familiar with the company's planned expenditures to complete West County 1 and 2, yes?

A. Yes.

Q. To build West County 3?

A. Yes.

Q. To complete the nuclear uprate projects?

A. Correct.

Q. To go forward in whatever way the company is going to go forward with the Turkey Point 6 and 7 nuclear plants?

A. Yes.

Q. And build transmission lines as identified in the company's Ten-Year Site Plan and elsewhere?

A. Generally familiar with it, yes.

Q. Okay. The question I wanted to ask is if the Commission gives the company no rate increase in this case, how, if at all, would that affect the company's capital spending plan?

MR. BUTLER: I would object to this as asked and answered. It's simply repackaging a question he asked Mr. Barrett about five minutes ago, you know -- what happens if FPL gets a zero rate increase?

COMMISSIONER EDGAR: Mr. Wright.

MR. WRIGHT: Madam Chairman, it's far more specific than the question I asked before. The question I asked before I will admit was --

COMMISSIONER EDGAR: I'm going to allow. Go ahead.

MR. WRIGHT: Thank you.

BY MR. WRIGHT:

Q. I'll ask it more specifically. If the Commission gives you no rate increase, are you still going to build West County 3?

A. I believe Mr. Olivera answered that question, that we're pretty far along on that project and there are certain consequences to terminating that project. We would have to seriously look at the implications. I understand that's a project that's already been preapproved by -- or not preapproved, but it's been approved by this Commission for a need determination as being in the benefit of customers. So it, it seems to me that if the Commission has determined that this is a project that is beneficial to customers, that I would expect that the revenues to go along with that would be approved. So if that were not to be the case, we would have to seriously look at the situation and determine what do we do next. I don't have an answer for you right here today on the stand. That's not our expectation.

Q. Would the company proceed with constructing the nuclear uprates at St. Lucie 1 and 2 and Turkey Point 3 and 4, if granted no rate increase?

A. It's my understanding that those projects are covered under the nuclear cost recovery rule and are not really affected by the decision here in this case.

Q. So is the answer to my question yes, subject to the clarification that it's not part of this case?

A. It's not binary like that, Counselor, yes or no. I think that the implications of receiving no rate increase in this case are profound and it would affect everything we as a company would be looking at doing, even those things that may have specific cost recovery because of the posture that it puts our company in. Granting no rate increase whatsoever is, would be a tremendous effect on our company. So I'm not going to sit up here today and say unequivocally we would or would not do any specific thing. It would be something we would have to really seriously sit down as a management team and decide how do we go forward from here.

Q. If the Commission disallows the company's requested increase in depreciation expense, wouldn't, wouldn't that have the effect of spreading out over a longer period of time the depreciation of a company's assets?

A. I'm not sure I completely follow your question.

Q. Well, the company has asked for a certain amount of depreciation expense.

A. Yes.

Q. Okay. The citizens' witness recommends a lower allowance.

A. Okay.

Q. Have you reviewed Mr. Pous' testimony?

A. No, I've not. I'm not the depreciation witness for the company.

Q. I understand. I'm not trying to get into the weeds on the depreciation rate for transformers.

Depreciation is an accounting entry for the return of capital, is it not?

A. It is.

Q. So if the Commission granted no increase and as part of this case said we recognize less depreciation expense than that requested by the company, that would at least have the effect of increasing the company's book earnings; correct?

A. Not if revenues were lowered as well.

Q. Holding revenues constant less depreciation expense would result in greater book earnings, would it not?

A. As I testified yesterday, it's, we're asking for depreciation rates at the same time we're asking for base revenues. So I don't see a scenario where they're disconnected in this case.

Q. And I'm sure we agree that they are connected. If the Commission says that your request for depreciation expense is $300 million too high and disallows that, then for any given level of rates isn't it true that the company's book earnings will be higher?

A. I guess the way I would answer that is no. The, if the, if the Commission were to lower the approved level of depreciation expense, it's my understanding that the revenue requirement in this case would be lowered as well and there would be no impact on our book earnings from the book basis. I mean, obviously there would be less cash earnings, because revenues are cash and depreciation is not, so there's a quality of earnings issue. But I don't see a scenario where revenues stay the same and depreciation goes down.

Q. I wasn't quite asking that question, but I think your answer is, is okay.

If the Commission reduces depreciation expense in this case and correspondingly reduces revenues, that would have no effect on the company's book earnings; correct?

A. It would have no effect on book earnings, although, as I've mentioned, it would have an effect on our cash position, because the revenues coming down would be less cash. Depreciation coming down is not cash. So it, it, it does have an effect on the company's position.

And I might also add that if that were the case, then it also, a lowering of depreciation expense slows the rate of which rate base is declining, and it actually, if it were to be a depreciation credit, for instance, adds to rate base and adds to customer rates in the future.

Q. Pursuing two aspects of your response, you said that it affects the company's cash position, affects the company's cash earnings; correct?

A. Correct.

Q. Isn't it true that that's why, among other factors that the Commission considers in these proceedings, it analyzes financial integrity tests for the company?

A. I believe that's the case, yes.

Q. Now regarding the second part of your answer in which you said that relative to the depreciation credit by amortization of the company's depreciation surplus, you mentioned that that would increase rate base at some future time; correct?

A. In each period that you have a credit it adds basically to rate base.

Q. And then didn't you go on to say that it would, would increase rates?

A. At some future point as you're growing rate base. And, in fact, if we go back to the driver analysis that's on the chart behind me, of that $266 million of depreciation change, a little more than 50 million of that is in fact because we've done the 125 million over the last four years. So we are already seeing kind of the result of doing these depreciation credits. It's causing an increase to customers.

Q. Well, and by that you mean rates will be higher than they would otherwise be absent depreciation credit; correct?

A. Yes.

Q. Okay. Now Mr. Olivera testified that the company does not plan or intend to have either a depreciation surplus or a depreciation deficit. Do you agree with that?

A. I believe that's my understanding, but I'm going to defer to the depreciation witnesses on how that all comes together.

Q. Again, you're the Vice President of Finance. Let me ask you this question. If there were -- by -- if there were the case that there were neither a depreciation surplus nor a deficit, wouldn't it follow that the amounts paid in for depreciation up to that point in time would accurately reflect the calculated depreciation of the assets in plant-in-service at that point in time?

MR. BUTLER: I'm going to object to this continued line of questioning on depreciation. We have three witnesses addressing depreciation, and other than a sort of simple box on the revenue requirements components calculation that Mr. Barrett performed, he's not one of those witnesses. I think this has really gone beyond the scope of what he testifies to on depreciation.

COMMISSIONER EDGAR: Mr. Wright, he may have a point.

MR. WRIGHT: Well, Madam Chairman, in a previous answer he talked about its impacts on rate base and he talks about, he talked specifically about its future impacts on customers, and that's what I was pursuing.

COMMISSIONER EDGAR: How much more do you have along this line?

MR. WRIGHT: Very little along this line.

COMMISSIONER EDGAR: All right. Then you may proceed, but let's do try to move along, and let's recognize that we do have other witnesses. Thank you.

BY MR. WRIGHT:

Q. My question was, we got to a point and there were no depreciation surplus and no depreciation deficit, wouldn't it be true that the amount of depreciation paid in up to that point in time would be equal to the actual depreciation realized on the assets in the plant-in-service accounts?

A. I'm going to ask you to clarify that because I didn't really quite follow how you finished that question. If you could just rephrase it for me.

Q. If we found ourselves at a point in time where the depreciation surplus was zero, there was no surplus, there was no deficit, wouldn't it follow that the amounts paid through rates and booked to depreciation by customers up to that point in time would accurately reflect the actual estimated depreciation of the company's assets?

MR. BUTLER: I'm sorry. Actual estimated? I don't understand the question.

BY MR. WRIGHT:

Q. I'll just drop the word "actual." The estimated depreciation, because is -- let me ask a prefatory question. Isn't it true that the depreciation is all calculated and thus estimated?

MR. BUTLER: Mr. Wright, are you referring to the depreciation to be taken in the future or the depreciation that's already been taken?

MR. WRIGHT: I think both.

COMMISSIONER EDGAR: I'm not sure I understood the question, so -- and I'm not being asked to answer it, so that's a good thing. But let's, can you try again for my benefit?

MR. WRIGHT: Certainly.

BY MR. WRIGHT:

Q. If we have a case where we've done a depreciation study and there's no surplus and no deficit --

A. Okay.

Q. -- are you okay with that assumption? Wouldn't it be true that the depreciation actually booked by the company would be equal to the estimated depreciation of the assets in the study?

A. I don't know how the study is put together, so I can't say that's yes or no.

Q. Okay. The company's witnesses have testified that you expect to make something like $16 billion of capital investments over the next five years. Is that your understanding?

A. Yes.

Q. How much of that is in investment in nuclear plant?

A. I'm sorry. Was that --

Q. How much, how much of that 16 billion is projected to be investment in nuclear plant?

A. All nuclear capital expenditures, or are you specifically referring to new nuclear?

Q. All.

A. Hold on one second. I believe it's a little over $2 billion.

Q. Thank you. In response to a question in your deposition, my copy indicates that you made the statement that, to this effect, in FPL's view, having the generation base rate adjustment mechanism minimizes the likelihood of having to file a rate case. Is that true?

MR. BUTLER: I'm sorry. Mr. Wright, would you please identify the page and line number?

MR. WRIGHT: Sure. It's a question -- Madam Chairman, I apologize for interrupting Mr. Butler.

MR. BUTLER: I was just about done.

BY MR. WRIGHT:

Q. At Page 55, beginning at Page 55, Line 17, and -- I'm sorry. I'm sorry. No. That -- I have two sides and it's the wrong side. Beginning at Page 56, Line 25, and continuing on to Line 5 of Page 57.

A. I'm there.

Q. Okay.

A. What was the question?

Q. Would you agree that in FPL's view that the GBRA would minimize the likelihood of FPL filing a rate case?

A. Yes.

Q. Okay. Yesterday in response to some questions I believe by Mr. Moyle, I think you said that you believe that GBRA, the generation base rate adjustment mechanism, is good for all parties. Do you recall making that statement?

A. I do.

Q. I'm going to ask you a couple of questions about compared to what. Isn't it true that it's better for FPL if the return on equity at, at a point in time, if the return on equity authorized under the GBRA was, is greater than the current market return on equity?

A. I'm sorry. Could you --

Q. I'll make it more specific.

A. Yeah, please.

Q. Sure. Suppose you put a new power plant into service. It costs a billion dollars. If there's a GBRA and the capital return component of that has embedded in it, let's say, an 11.75 percent ROE, which is what's in the current stipulation; right?

A. It's in the stipulation, yes.

Q. Okay. If in the then current GBRA the ROE is 11.75 but the then current real, as might be determined by the Commission, appropriate ROE is 10.75, then having the GBRA in place is better for FPL than having a rate case; correct?

A. Well, I would suggest, first of all, that the GBRA is an interim measure until you get to the next base rate case where everything gets reset, and the ROE might need to be higher than what was in the GBRA or it could be determined by the Commission that it needed to be lower. So really it's an interim measure that reflects in near time to when the decision was made as to what the appropriate ROE was.

Q. I understand that and I understand that to be the case, but that wasn't my question. You just testified that having the GBRA will minimize the likelihood of FPL having a rate case. So this really goes to what happens in the interim. And thus in the interim my question is if the ROE embedded in the capital return piece of the GBRA is greater than what the current market conditions would otherwise indicate, isn't it true that having the GBRA is better for FPL?

A. I guess I would, I would not unequivocally say that. I would say that it, again, it's an interim measure to get you to the next base rate adjustment and it could go either direction, up or down. So to say that it's better for FPL -- I think it's balanced for both customers and the company, and it's a reasonable estimate of what the cost of equity is at the time the decision is made. Again, the need determination process is, is usually just a year or two, couple of years, you know, from the time the unit is going into service. So we're not talking great lengths of time here.

Q. The point is we're not talking about great lengths of time between approval and in service. We're talking about potentially great lengths of time, like 25 years between rate cases. Now you've testified, and so it really goes back to my question about isn't it better for FPL in the interim if the ROE embedded in the GBRA revenue requirement determination is greater than then current ROEs as indicated by the capital markets?

MR. BUTLER: I'm going to object that that's been asked and answered.

MR. WRIGHT: Madam Chairman, I have not heard a yes or no to that question. I think it's a simple question that requires a yes answer.

COMMISSIONER EDGAR: Why don't you pose the question again and we'll go from there.

BY MR. WRIGHT:

Q. Isn't it true that in the interim, if the capital, i.e., until the next rate case, the ROE embedded in the capital return component of the GBRA is greater than then current market, capital market conditions would otherwise indicate, having the GBRA is better for FPL than having a rate case at that time?

MR. BUTLER: Same objection.

MR. WRIGHT: Same answer. I still haven't heard him say --

COMMISSIONER EDGAR: Overruled.

THE WITNESS: In your simple example I would say yes. However, it's just as likely that the ROE were to be insufficient if the capital markets were to move in the other direction.

And I would further add that the Commission has at its disposal the monthly surveillance process whereby they review our earnings, and such that if it were to cause a situation where the Commission deemed it was appropriate to bring us in for one of those base rate cases that you've alluded to, that certainly is open to the Commission to do that.

Again, the GBRA is intended to be an interim measure to get you to that next step.

BY MR. WRIGHT:

Q. What was the interim period between FPL's last rate case and this one?

A. The last time that FPL filed a full set of MFRs was 2005 with a 2006 test year.

Q. And when was the last time the Commission decided rates for FPL pursuant to a general rate proceeding?

A. As I understand it, the last fully litigated case was in the mid '80s. However, the Commission approved the keeping of rates flat in 2005, and actually reductions to rates in prior settlements in 2002 and '99.

MR. WRIGHT: Just a moment, Madam Chairman. Thank you.

COMMISSIONER EDGAR: Yes, sir.

MR. WRIGHT: I have one more question.

COMMISSIONER EDGAR: Okay.

MR. WRIGHT: It is similar to but different from the last question I asked.

BY MR. WRIGHT:

Q. If, considering all appropriate factors in setting a utility's rates, a current time rate case would produce lower rates for FPL but the GBRA enables FPL to avoid a rate case, isn't that better for FPL?

A. I'm going to need to walk through that question.

Q. Sure.

A. If you could start that one over.

Q. At a point in time --

A. Okay.

Q. -- say sometime after West County 3 goes into service, 2013, if, all things considered, a general fully litigated rate case would produce lower rates than would otherwise be in effect if the company were able to use the GBRA, then having the GBRA would be better for FPL; correct?

A. Bear with me. So we're out in 2015, West County is already in service, we have a rate case, and --

Q. The scenario I'm posing is rate case versus GBRA. You testified that having the GBRA available minimizes the likelihood of having a rate case. So my question goes to, goes to the potential benefit to FPL of using the GBRA as opposed to having a general rate case.

A. And I guess what I'm saying is that the benefit of the GBRA is it recognizes for the company the revenue requirements of an asset that's going to provide fuel benefits for the customer. So, you know, it's going to be again recognizing the necessary return on investment and return of investment of an asset that's providing benefits to customers. So I think it benefits both.

Q. But the fuel benefits are going to be what they are, aren't they?

A. Well, the fuel benefits are going to be enhanced because we're building more efficient generation.

Q. If the -- sorry. If the plant comes online, the fuel, the company's fuel costs are going to be what they are with the plant online; right?

A. Yes.

Q. And the company will recover its reasonable and prudent fuel costs through the fuel cost recovery clause; right?

A. Correct.

Q. Okay. Again, if, all things considered, i.e., if the PSC were presented with a full rate case -- and this is an assumption.

A. Okay.

Q. But if, all things considered, the totality of FPL's rates would be less following my hypothetical fully litigated rate case than if the company simply implements a rate increase pursuant to a GBRA and avoids a rate increase, that's better for FPL, isn't it?

A. I think the only answer I can give you to that hypothetical is in that hypothetical scenario the Commission would be looking at a situation where presumably we would need to have rates lowered, and that would be despite having a GBRA. I mean, that wouldn't change that situation. I mean, if rates needed to be lowered, the Commission would probably call us in to lower rates. GBRA doesn't change that.

Q. When was the last time the Commission, Commission called FPL in to lower your rates?

A. I don't believe we've been in an overearnings situation that I can remember.

Q. I'll aver to you that something like 40 years ago there were some rate cases in Florida that involved Commission-initiated rate reductions, but I can, I can show that through orders.

MR. BUTLER: I will object to the comments made by Mr. Wright. Apparently he has forgotten Docket 001148 that was initiated by the Commission to review FPL's rates in the year 2000.

COMMISSIONER EDGAR: Mr. Wright, you're coming awfully close to testifying.

MR. WRIGHT: Thank you.

BY MR. WRIGHT:

Q. One more question. I believe Mr. Olivera told me that you could tell me what the company's requested rate case expense in this case is.

A. I believe we've filed $3.7 million.

MR. WRIGHT: Thank you. That's all I have. Thank you.

COMMISSIONER EDGAR: Okay. Are there -- Mr. McGlothlin, have you done cross for this witness?

MR. McGLOTHLIN: We changed our order to deal with some logistics, so I have not crossed yet.

COMMISSIONER EDGAR: You have not? Okay. Let me just ask this before we do that.

I think you've been sitting there for approximately two hours. How are you doing? Do you need a break or would you like to continue?

THE WITNESS: Well, not knowing when the next break might come, it might be a good time.

COMMISSIONER EDGAR: Okay. Why don't we give the witness and the rest of us a short stretch, and we will come back in ten minutes by the clock on the wall.

(Recess taken.)

Okay. We are back on the record. And, Mr. McGlothlin, I believe that you are up for cross.

MR. McGLOTHLIN: Thank you.

CROSS EXAMINATION

BY MR. McGLOTHLIN:

Q. Mr. Barrett, I'm Joe McGlothlin with the

Office of Public Counsel. Good afternoon.

A. Good afternoon.

Q. At Page 7 of your prefiled testimony you acknowledge that the generation base rate adjustment had its origins in a settlement that was approved by the Commission in 2005. Do you see that question and answer?

A. Yes.

Q. And you're aware that the settlement was a settlement of parties to a revenue requirements case that was reached by the parties and presented to and approved by the Commission at the time; is that right?

A. Yes.

Q. During the break my colleague distributed copies of the order of the Commission that approved that settlement. We don't need an exhibit number because it is an order. I'll ask the Commission to take official recognition of Order Number 050188-EI. I'm sorry. PSC-05-0902-S-EI, in Docket Numbers 050045 and 050188 issued September 14th, 2005. Do you have that available to you, Mr. Barrett?

A. Yes.

MR. BUTLER: I'd just note for the record that it is not a complete copy of the order, but that's probably not a concern. I just want to be sure that everybody is aware.

COMMISSIONER EDGAR: So noted.

MR. McGLOTHLIN: I'll be happy, if counsel prefers, to have the full copy provided. But I think for purposes of my limited question this will serve your purposes and mine.

MR. BUTLER: I expect that's right. Let's just see how it goes, but it probably won't be a difficulty.

BY MR. McGLOTHLIN:

Q. Please turn to Page 2 of the order, Mr. Barrett. You'll see Roman numeral II, Stipulation and Settlement, the section in which the Commission summarized the principal provisions of the settlement agreement. And if you'll follow me, I'm going to simply in shorthand fashion identify the principal provisions that are listed here.

The first bullet point reflects that the stipulation and settlement is effective for a term of four years; correct?

A. For a minimum of four years. Yes.

Q. The second bullet point provides that, with limited exceptions, the settlement was for FPL's then existing base rates to continue in effect without change; correct?

A. Correct.

Q. The third bullet point provides that no party to the settlement would request a change in the base rates except as for the limited exceptions; correct?

A. I believe so, yes.

Q. Now with respect to the limited exceptions to that provision, turn to the next page. The exceptions are these. First, there was the provision that if FPL's earnings fell below a 10 percent return on equity, at that trigger point FPL could request a base rate proceeding; correct?

MR. BUTLER: I'm sorry, Mr. McGlothlin. You're referring to Page 3, a particular bullet?

MR. McGLOTHLIN: The top one, yes.

THE WITNESS: Yes.

BY MR. McGLOTHLIN:

Q. And the other exception, if you'll look at the bottom of that page, was the provision that we now call the generation base rate adjustment, correct, which provided the ability of the company to recover the costs of power plants that went through the determination of need process and began commercial operation within the four-year period of the settlement?

MR. BUTLER: Mr. McGlothlin, are you asking him to confirm that those are the only two exceptions or that that is another exception?

MR. McGLOTHLIN: Well, if you see another exception to the base rate limitations, I think those are the major ones for the purpose of my questions.

MR. BUTLER: Do you want him to review the order? At that point it probably is going to be necessary for you to provide us with the entire order if what you're getting him to do is to agree that those are the only exceptions referred to in the stipulation.

MR. McGLOTHLIN: That's right.

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

BY MR. McGLOTHLIN:

Q. Would you agree that the provisions I've identified to you constitute the exceptions to the otherwise applicable freeze on rates as they exist at the time of the settlement?

MR. BUTLER: I'm going to object to this question as -- first of all, I think Mr. Barrett is going to need to review very carefully the settlement agreement. I think it comes pretty close to asking for a legal conclusion. And what he's basically asking him to do is look at the interaction of all of the provisions in the settlement and be sure that he is answering correctly that the two particular bullets

Mr. McGlothlin had referred to are the only exceptions to the freeze on base rates that was referred to in the prior bullet he described.

MR. McGLOTHLIN: Well, I think we can deal with it. I'll rephrase.

BY MR. McGLOTHLIN:

Q. Mr. Barrett, would you agree that the bullet point at the bottom of Page 3 and continuing to the top of Page 4 is the summary, the Commission summary of what we call now the generation base rate adjustment?

A. Those words are not used there, but it's my understanding that that's what it's describing.

Q. And that is the ability of the company during the four-year term of its stipulation to recover the revenue requirements associated with power plants that had received a determination of need and went into commercial service in that time frame?

A. Yes.

Q. With those provisions in mind, I would like to compare the context in which the generation base rate adjustment first appeared, when it originated in the 2002 settlement agreement on the one hand, and the manner in which it is being proposed in this case on the other hand.

With respect to 2002, the settlement agreement reached by the parties and approved by the Commission froze existing rates for four years, provided the parties could not seek a change with the exceptions that FPL had the 10 percent ROE trigger and also had the ability to invoke the generation base rate adjustment mechanism; correct?

A. I believe you said the 2002 settlement. Is that what you intended?

Q. If I did, I misspoke. I meant to say 2005.

A. Again, with the same understanding that I don't believe those are all the provisions of the agreement, those provisions are in the agreement.

Q. And now in this case FPL wants to increase base rates by a billion dollars in 2010, increase them again by $240 million in 2011, increase them again $180 million per year through the generation base rate adjustment mechanism also in 2011, in the context in which there will be no limitation on the company's ability to seek base rates, and the generation base rate adjustment would be effective not for four years but, if the company as proposed, accepted for all time. Did I say that accurately?

A. There was a lot in that, so let me just back up.

Q. Let's take them one point at a time. In this case does FPL ask the Commission to allow, to increase base rates by about a billion dollars effective January 1st, 2010?

A. Yes.

Q. Does FPL ask in this case for approval to increase base rates again by $240 million per year effective January 1st, 2011?

A. Yes.

Q. In this case does FPL ask for approval of a generation base rate adjustment mechanism and ask also that it be applied to West County 3 in 2011?

A. Yes. That's correct.

Q. And would that add an additional $180 million annually to base rates?

A. Yes, it would.

Q. And is it correct that, as proposed by the company in this case, FPL was not -- is not limited in any way by, by its opportunity to seek increases in base rates in the future?

A. Could you rephrase that? I'm sorry.

Q. Yes. As part of its proposal in this case, FPL is not offering to limit its opportunity to seek changes in base rates now or in the future; correct?

A. This base rate proceeding is not a proposal per se like a settlement agreement. It is a proceeding where we're asking the Commission to rule on the appropriateness of the revenue requirements. We're asking for 2010, 2011, and the ongoing use of the GBRA mechanism for West County 3. That is all that's intended in this filing.

Q. I believe your answer is yes, but let me make sure.

If the company's petition is granted and the order approves everything you've asked for, FPL would not be limited in any way by a limitation on its ability to seek additional base rate changes; correct?

A. That is correct.

Q. And as you propose it, the generation base rate mechanism is not limited in terms of duration or time. It would be applicable from this point forward without limitation; correct?

A. That's correct. Our proposal is that the, the GBRA mechanism that has been effectively used for Turkey Point Unit 5 in 2007 and West County Units 1 and 2 this year and West County 3 in 2011 is an effective mechanism to allow the company to recover the first year revenue requirements of the, of the unit going into service while the customer is getting the benefit of the fuel savings that come along with that investment, and that it's limited in that regard.

MR. McGLOTHLIN: Commissioners, I move to strike that last response. My, my question simply asked him to confirm that as proposed by the company the generation base rate mechanism is not limited in its duration, and the response went far beyond anything necessary to explain his yes to that answer.

COMMISSIONER EDGAR: Mr. Butler?

MR. BUTLER: I think that it was responsive and it explained the context in which the company views its proposal, the GBRA mechanism, and I think it provided appropriate context for responding to specifically the question that Mr. McGlothlin had raised.

COMMISSIONER EDGAR: Overruled.

MR. McGLOTHLIN: During the break we handed out another document, Mr. Barrett, and I will ask that an exhibit number be assigned to this one.

COMMISSIONER EDGAR: Okay. I think we are on 415, but let me ask staff to verify. They are nodding, so we will mark 415.

And which document, Mr. McGlothlin, are, are we going to take up?

MR. McGLOTHLIN: We're going to take them both at the same time through, through a short series of questions.

COMMISSIONER EDGAR: Okay.

MR. McGLOTHLIN: There is attached to 415 answers to two interrogatories. And you'll see the cover page, the description is FPL's Response to SFHHA Interrogatories 94 and 95.

COMMISSIONER EDGAR: Okay. I have that. I see it. Does the witness have it?

THE WITNESS: I do.

COMMISSIONER EDGAR: Okay. And, Commissioners, we're good? Okay. So we will mark this as 415 as noted by Mr. McGlothlin with the description on the cover page and use that as our title. Go right ahead.

(Exhibit 415 marked for identification.)

BY MR. McGLOTHLIN:

Q. Take a moment, Mr. Barrett, and become familiar with the questions and answers here.

A. For both?

Q. Yes. You'll note that attached to these documents is an affidavit that you've signed. Do you recognize these as answers that you provided to certain interrogatories from SFHHA?

A. Yes.

Q. I want to direct you to the first sentence in each of the two answers beginning with Interrogatory

Number 94. You state, "FPL is requesting in this proceeding a continuation of the current GBRA mechanism as set forth in the 2005 settlement agreement."

And if you'll turn to the other interrogatory and response, you say, "Yes. FPL is requesting in this proceeding a continuation of the current GBRA mechanism as set forth in the 2005 settlement agreement."

Those were your answers; correct?

A. Correct.

Q. I want to ask you a couple of questions about your choice of words there. First of all, "a continuation as set forth in the agreement." You acknowledge, do you not, that the GBRA as agreed to by the parties was limited in its duration to the four years of the settlement agreement itself?

A. Yes, I do. And what was intended by this response was essentially a continuation of the mechanism.

Q. All right.

A. As described in the agreement.

Q. I want to focus now on that portion of the sentence that says you're seeking a continuation of the GBRA mechanism as set forth in the 2005 settlement agreement. If you'll turn back to the order and turn to Page 13, the paragraph numbered 18. Would you read --

MR. BUTLER: I'm sorry. Mr. McGlothlin, the page number you're referring to is the page number at the bottom of page or the top of the page?

MR. McGLOTHLIN: Bottom of the page.

MR. BUTLER: Okay. It's page 20 of the order, but then Page 13 of the stipulation?

MR. McGLOTHLIN: That's correct.

MR. BUTLER: Okay.

MR. McGLOTHLIN: And to triangulate the matter, the paragraph numbered 18.

MR. BUTLER: Okay. Thank you.

BY MR. McGLOTHLIN:

Q. If you'll read that first sentence in paragraph 18, Mr. Barrett?

A. "This stipulation and settlement is contingent on approval in its entirety by the FPSC."

Q. Do you understand the words "in its entirety" to mean that the GBRA would become effective only if all the other provisions of the settlement agreement became effective?

A. I mean, it's my understanding that -- yes, the entirety of this agreement would mean all the provisions of the agreement.

Q. Would it follow that if you want to continue as set forth in the settlement agreement, you'd have to continue the agreement to abide by existing base rates and limit one's ability to seek increases in the future?

MR. BUTLER: I'm going to object to that as calling for a legal conclusion.

COMMISSIONER EDGAR: Mr. McGlothlin, will you rephrase?

BY MR. McGLOTHLIN:

Q. Would you agree, Mr. Barrett, that essentially by its proposal in this case FPL has taken one component of a negotiated agreement, that component being something that it received in a negotiation, has removed from that component all the things that it gave to receive it and has added that to its petition for a base rate request in this case?

A. I would agree that the GBRA mechanism was a component of the settlement agreement, and we believe it's an effective mechanism that we're proposing that the Commission continue to use as an effective mechanism.

MR. McGLOTHLIN: I move to strike as nonresponsive.

COMMISSIONER EDGAR: Mr. Butler?

MR. BUTLER: I think it was completely responsive. He has indicated that, in response directly to Mr. McGlothlin's question, this is a component of the settlement agreement. We're not looking to have all of the settlement agreement continued. And then he went on to explain why continuing that particular component would be an appropriate step for the Commission to take.

BY MR. McGLOTHLIN:

Q. Would you agree that the GBRA mechanism is something that you received during the negotiations that led to the settlement agreement?

A. I would agree that it was a negotiated part of the settlement agreement.

Q. And would you agree that you have identified that component of the negotiated agreement and have not included any of the components that you gave in the give and take to, to accomplish that end?

A. Yes. And then I would explain that, you know, that was a settlement agreement that was reached four years ago. We are here today looking at our situation with the company today. We still believe it's an effective mechanism to deal with these kinds of situations going forward. All of the other issues that were part of that settlement are addressed, you know, appropriately in a different context. The focus here was the GBRA is an effective mechanism. This Commission felt it was an effective mechanism. All parties at the time felt it was effective as part of the settlement.

We're just merely saying as you move forward from here we continue to believe it's an effective mechanism.

Q. Yesterday you said that you believe the GBRA was effective and efficient, and you also said that the GBRA offers some cost protection for customers. Do you remember that statement?

A. I do.

Q. And do you believe then that it's important to be careful to ensure customers don't pay too much?

A. I believe it's important that the customers pay the right amount and that the GBRA mechanism provides that through its true-up provision.

Q. That true-up provision being the mechanism to ensure that the rates collect only the costs identified as associated with the power plant; correct?

A. Yes. The actual in-service cost, the capital cost of the plant.

Q. You would agree though that the generation base rate adjustment looks only at the power plant and at no other circumstances that affect the company's financial condition?

A. Correct.

Q. Would you agree that whether customers are paying too much on an overall basis without isolating a single power plant is measured in the absence of a stipulation by whether the company is earning a rate of return that is within the range deemed fair and reasonable by the Commission?

A. Yes. And I think the GBRA works very well in that regard in that if there were no GBRA mechanism, obviously the company would not earn any revenues and it would have a pretty serious impact on the company's financial position; whereas, using the GBRA moves the return on the whole company by a very modest amount up or down.

Q. Whether an impact is modest or not depends on circumstances, does it not?

A. It does.

Q. Okay. Now the company's earned rate of return is a function of the revenues received through the application of base rates compared with the operating revenues that are designated as related to those base rates; correct?

A. Please rephrase that.

Q. All right. I'll rephrase.

The company's base rates generate revenues which are then compared with its operating expenses to quantify its net income; correct?

A. Yes. Our operating revenues and our operating expenses combine to provide net operating income, which is then compared to our investment to determine our rate of return.

Q. Right. And the -- excuse me. The net operating income --

MR. McGLOTHLIN: May I take a moment?

COMMISSIONER EDGAR: Take a moment. We have water if you need it.

BY MR. McGLOTHLIN:

Q. Let's see how this goes. The net operating income is affected by a multitude of various cost components and revenues; correct?

A. Correct.

Q. And the net operating income and thus the, and thus the earned rate of return can fluctuate over time; correct?

A. Yes.

Q. Now I want to take a hypothetical scenario that is somewhat different than the one Mr. Wright posed to you, and I'm going to keep it very simple.

A. Thank you.

Q. Let's assume that in a given situation, let's assume it's this coming, let's assume it's the summer of 2011 when West County is expected to enter service, and the company has identified the revenue requirements associated with that power plant as $180 million in round numbers; correct?

A. Correct.

Q. Now at any point in time would you agree with me that if the company is earning somewhere within this range approved as fair and reasonable, there may be the ability of existing base rates to absorb some incremental cost and still remain within the range?

A. Yes. There is always going to be some, some -- things can move up or down and it will determine where you are in the range.

Q. For purposes of my question assume that at that point in time the company is earning within its authorized range of return and the circumstances are such that base rates, existing base rates can absorb $90 million of additional costs and stay within the range. All right?

Now let's take two scenarios. One scenario, there is a GBRA, the other is that there's no GBRA, and that the absence -- in the absence of the GBRA the company files a request for a base rate increase. Bearing in mind that the assumption is that existing earnings can absorb $90 million and making the simplistic assumption that the only thing that affects that situation is the addition of the power plant, would you agree with me that the end result would be an increase in base rates of $90 million?

MR. BUTLER: I'm sorry, Mr. McGlothlin. In your hypothetical is the ability to absorb $90 million, would that take the company down to the bottom of its previously authorized range of return?

MR. McGLOTHLIN: I didn't specify, but we can, we can say the midpoint or the bottom. Let's just use the bottom at this point.

THE WITNESS: That being the case, then I would, I would suggest that -- well, first of all, the costs are going to go up by the $180 million. And so the introduction of a base rate case, that would be a whole new situation where we would determine what is the right range of return and what's the right midpoint, the upper and lower bounds, et cetera. So it's kind of hard to sit here with a hypothetical and say how it would be in that, in that time frame.

BY MR. McGLOTHLIN:

Q. Well, please accept for my hypothetical, which is purposely simplistic, and the hypothetical is -- and we'll use the midpoint of the range. The hypothetical is that the existing base rates can absorb an additional $90 million and stay at the midpoint of the range. That's the hypothetical.

A. Okay.

Q. And the only, the only variant is that there is a base rate proceeding and $180 million of revenue requirements are added. Would you agree with me that in that instance under my assumptions the resulting base rate increase would be $90 million?

A. I think in your hypothetical that would be the case. But I don't know what the introduction of the $180 million into your hypothetical actually would do to our earned return, whether it would push it outside of any range. So it's kind of hard to deal with the hypothetical.

Q. Well, but my assumption was that the $90 million would be to absorb down to the midpoint, and that the addition of the power plant and base rate proceeding designed to take that into account would result in FPL still at the midpoint, but the customers would see an increase of $90 million annually; correct?

A. That would be correct in the hypothetical. And it's important to point out though when you kind of step out of the hypothetical, which is kind of the world that we're living in, that isn't the case in our projections.

Q. Well, your projections are for a particular 2011 year; correct?

A. Which year?

Q. 2011.

A. 2011. Correct. And despite the GBRA, we estimate we need $240 million of additional revenue requirements. So I think the hypothetical is kind of real far afield from reality.

Q. Well, the hypothetical is an all-purpose hypothetical to make a simple point.

A. I understand.

Q. Now the other scenario would be where the generation base rate adjustment is in effect, so you have a situation where existing rates could absorb $90 million without an increase. But because the GBRA is in effect, the company implements that and the customers' rates go up by $180 million instead of the $90 million; correct?

A. The revenue requirement would be $180 million, correct. And that probably wouldn't move the return very much if we were at the midpoint at that point because the GBRA is set at the midpoint.

Q. So at any point in time, and assuming the Commission were to grant the GBRA in the form you request from this point forward for possibly decades, there could be a circumstance in which existing base rates would be adequate to absorb all or some of the cost of the new power plant, with the result that the

Commission, that the company would continue to earn within its range. And notwithstanding that situation, the, the effect of the generation base rate adjustment would be to add the entire increment of revenue requirements associated with the power plant to customers' bills; correct?

A. I believe the right way to think of that is that the GBRA would allow the revenues to go into effect and keep us within an authorized rate of return, or if it were to push us above, through its surveillance process the Commission would certainly be able to pull us into review rates. It's only intended to be an interim step until the next time full base rates are reviewed.

So, you know, I think that's the correct way to look at the GBRA. It's an interim measure. If the inclusion of those revenues were to cause a situation where we were to earn above our return, we have full expectation that the Commission would want to review our rates. It's probably more likely in our view that it would help keep us within the range and prevent a further deterioration in earnings.

Q. But that again would be a function of circumstances at the time, would it not?

A. It would.

Q. And with the generation base rate adjustment in effect, the impact of the GBRA would be to increase base rates without consideration of the entire financial picture of the company at the time; correct?

A. Well, again, the consideration of the entire financial position of the company is done every month through looking at surveillance reports. The only thing we know with certainty is that without the GBRA the company would be having to absorb in the West County case the whole $180 million.

Q. And if that were the case, were there no GBRA, the company would have the ability and the opportunity to fashion a base rate request to coincide with the in-service date of the unit, would it not?

A. Absolutely. And that's why it's a balanced approach. Because to the extent we were to need to come in, we could. If we were overearning, the Commission could bring us in. So the GBRA doesn't really change that balance.

Q. Well, my question assumed that there is no GBRA. In that situation the company could, if it believed the circumstances warranted, could file a base rate request and time it to coincide with the in-service date of the unit, would it not?

A. In the absence of a GBRA, that would be the company's only alternative.

Q. And in that circumstance the, assuming that the in-service date of the unit warranted a base rate increase, the company would see the simultaneous impact of the fuel savings and the recognition of the cost of the unit; correct?

A. I'm sorry. Repeat that.

Q. Where the base rate proceeding is structured in time to end at the same time the in-service date, there would be an identity of points in time during which, at which the company recognized the revenue requirements, recognized the costs associated with owning that unit, and the customers began to receive the fuel benefits. It is possible to structure that in the absence of a GBRA.

A. I think it's possible. But one thing that we know for certain is the GBRA exactly coincides the timing of the unit going into service, the step up in base rates, the fuel savings that would become immediately apparent to, to customers. We don't have any certainty around when we'd be able to get that base rate recovery in the absence of a GBRA. So the nice thing about the GBRA is not only does it provide for the instantaneous, you know, symmetrical treatment of base and fuel, but it also, as we've said before, gives the protection to the customer of -- if we were able to bring the unit in for a cheaper price than we had identified in the need determination, clearly the customer deserves those savings and they get those savings. So it's, it's kind of elegant in its simplicity, if you will, in that it times it exactly right.

Q. I believe you said you began your tenure with Florida Power & Light Company in 2007; is that correct?

A. Actually that's, I began with the company back in 1982 as a child, and most recently I joined FPL in 2007 after having served a brief stint at FPL Energy at the time, NextEra Energy now.

Q. Well, then you may be familiar with the fact that since the last full-blown revenue requirements case, over time FPL has added power plants to its system without seeking a change in base rates and without having something like the GBRA in effect; are you aware of that?

MR. BUTLER: Object to the form of the question. Assumes facts not in evidence.

MR. McGLOTHLIN: As a matter of fact, our witness Sheree Brown testifies that over time FPL has added power plants to its system, reflected them in its rate base, and has not sought a base rate increase associated with those power plants.

MR. BUTLER: Let her testify, let her testify to that then. That's certainly not a fact in evidence at the moment.

MR. McGLOTHLIN: Well, it's, it will be testified to, and I'm asking the witness to assume for the purposes of the question that that's the case.

COMMISSIONER EDGAR: Ms. Helton?

MS. HELTON: Madam Chairman, I have to confess I heard the discussion between the two counsel but I did not hear the question. I was looking at something else.

COMMISSIONER EDGAR: Mr. McGlothlin, could you restate the question?

MR. McGLOTHLIN: Well, let me try it this way.

BY MR. McGLOTHLIN:

Q. If you know, Mr. Barrett, over time has FPL added power plants to its system, incurred those costs without seeking an adjustment in base rates at the time?

A. I don't know the specifics of each of our rate requests and what, what they assumed or didn't assume about the addition of power plants.

Q. Do you know whether Florida Power & Light Company has added power plants to its system since the last fully litigated base rate request?

A. Yes.

Q. I want to ask you several questions in the area of depreciation.

MR. BUTLER: Madam Chairman, I would --

COMMISSIONER EDGAR: Yes, Mr. Butler.

MR. BUTLER: We've had this discussion before regarding Mr. Wright's questions. If it's something that goes to the level and topics regarding depreciation that Mr. Barrett covers in his testimony, I have no objection to it. But the earlier questioning got pretty far afield of that, and we have three witnesses who all cover the subject in a lot more detail than Mr. Barrett. So I just as a prefatory matter ask that we try to keep those questions limited to the aspects of it that Mr. Barrett addresses.

COMMISSIONER EDGAR: Okay. And, Mr. McGlothlin, just as I said to Mr. Wright, and would ask that you keep in mind that we do have other witnesses that I believe have been put forth on the issue of depreciation, more specifics, and keep that in mind and let's see where it takes us.

MR. McGLOTHLIN: Let me just comment that Mr. Barrett discusses at some length what he calls the depreciation changes driver beginning at Page 23, and breaks down the $266 million into his component parts, and with respect to the direct testimony is one of the principal witnesses on the subject. So certainly I intend to keep my questions within what he's capable of answering. But he's the Vice President of Finance, he's talking about depreciation as it relates to the rate case, and I would hope that if he knows the answer to the question, he would say so.

COMMISSIONER EDGAR: Let's ask the questions.

MR. McGLOTHLIN: Okay.

BY MR. McGLOTHLIN:

Q. Please turn to Page 23 of your prefiled testimony, Mr. Barrett.

A. I'm there.

Q. You begin discussing what you call the depreciation changes driver, which is listed above the, at Line 11 as $266 million. And with respect to the component parts at Page 24, you say, "$52 million represents the revenue requirement in 2010 associated with the cumulative effect on the net plant-in-service balance of the depreciation credits taken in 2006 through 2009." Correct?

A. Correct.

Q. And then you say, "Lastly, $89 million reflects the revenue requirement of changes to depreciation expense, including the impact on rate base that results in new rates and other changes delineated in the comprehensive depreciation study."

My first question to you is this. In the $266 million have you included the items that are designated as capital recovery amounts in the depreciation study?

A. I don't believe so.

Q. Are you familiar with the fact that in the depreciation study being sponsored in this case the analyst identifies some $314 million of undepreciated costs of such items as meters being retired, components of nuclear uprate projects being retired and components of the Riviera and Cape Canaveral power plant being retired in conjunction with the improvements going on there?

A. I've not reviewed the study. No.

Q. You're not familiar with the recommendation that some $78 million annually be approved to represent the collection of undepreciated amounts associated with those early retirements?

A. I'm not familiar with the exact numbers. I'm familiar with the concept, but not the numbers.

Q. Okay. So the $266 million, to your knowledge, does not include the amounts incorporated in that capital recovery schedule?

A. To my knowledge, if it, if it may help, let me explain the $89 million.

Q. All right.

A. I think that's the subject that you're speaking of. And, again, I'd want to, as I said yesterday, I forget who I was addressing at the time, but I wanted to put in context this driver analysis is really intended to illustrate a kind of decomposition of the billion-dollar rate request into some major categories of drivers. And so some of this is more indicative of the impacts of these items than the precise calculations that are contained in other testimony, for instance.

But the $89 million essentially looks at the 2010 plant-in-service balances and the impact of the new rates that we are proposing as part of the study versus the current rates that are in existence right now. So when you take the plant-in-service balances and the different rates, calculate it all out, you get $89 million of revenue requirements. It's the change.

Q. I think you've given me the clarification I was looking for. And if you're unfamiliar with the capital recovery aspects, I'll defer those questions to another witness.

Let's focus on the $125 million of annual credits to depreciation that the company has taken in the four-year term of the settlement agreement. As I understand it, one consequence of the $125 million credit depreciation is that it lowers the company's overall expenses, therefore increasing its earned rate of return; correct?

A. During the settlement period that is the case, yes.

Q. That's my question.

A. Yes.

Q. Another consequence of implementing the $125 million annual credit to depreciation is that it also lowers the provision for accumulated depreciation, thereby increasing overall rate base; correct?

A. That is correct.

Q. And I think you indicated that the $52 million component of the 266 represents the revenue requirements associated from having implemented that credit for the four years; correct?

A. Correct. It's --

Q. 125 a year times four is $500 million that was added to rate base as a consequence of implementing the provision.

A. That's correct.

Q. Now you're aware in general terms that the company's analyst has identified a reserve surplus of

$1.25 billion in his depreciation study; correct?

A. I'm not sure who you mean by the company analyst.

Q. I'm talking about Mr. Clarke, your witness who sponsors a depreciation study.

A. Okay. Yes. I'm familiar with that.

Q. And probably if you've been in the hearing room, you're also familiar with the fact that OPC's witness disputes the 1.25 billion and asserts that it's more like $2.7 billion.

A. I'm not familiar with that number.

Q. All right. Well, in any event, the company's witness identifies a surplus of $1.25 billion; correct?

A. Yes.

Q. And that's after the company has taken four years of credits at $125 million each; correct?

A. I'm not going to be able to go very far on this, but as I understand it, that is the -- well, I don't know at what point in time that 1.25 billion represents.

Q. All right. But would you agree that but for the decision of the company to implement those credits for four years, the surplus would have been larger than calculated by that $500 million?

A. I don't know what all goes into the theoretical surplus calculation.

Q. All right. I want to ask you a few questions about the subsequent test year. Are you familiar with the fact that in the past some Commissions have used historic test years as the basis for setting new rates?

MR. BUTLER: I'm going to object to the form of the question again, assuming facts not in evidence. If he's got particular cases in mind or jurisdictions, it would probably be more useful and perhaps provide orders addressing those test years.

MR. McGLOTHLIN: My, my question is a general one, and it asks whether he's aware of the fact that of the test years that are available for use as a ratemaking tool, among them is the use of historic information.

BY MR. McGLOTHLIN:

Q. Are you aware of that, sir?

COMMISSIONER EDGAR: I'll allow.

THE WITNESS: I'm not aware of what goes on in other jurisdictions, if that's your question.

BY MR. McGLOTHLIN:

Q. You don't know whether in ratemaking sometimes regulators look to historic information to fashion a test year?

MR. BUTLER: I'm sorry. Again, without any indication of what regulators, where and when, I think the question is extremely open-ended.

COMMISSIONER EDGAR: Mr. McGlothlin, a little more specificity.

BY MR. McGLOTHLIN:

Q. In the past has the Florida Commission used historic information, to your knowledge?

A. I don't know.

Q. Okay. Would you agree that one criticism of ratemaking in general has been the existence of what has been called regulatory lag as it relates to the disparity between the information used in setting rates and the time period those rates are going to be effective?

MR. BUTLER: I'm going to object again. There is criticism? By whom and in what context?

BY MR. McGLOTHLIN:

Q. Are you familiar with the term "regulatory lag"?

A. I've heard the term.

Q. What do you understand it to be?

A. I understand it to be the time required to get an increase in rates, the time it takes to implement an increase in rates relative to when you actually need to have those revenues. So it's the lag, meaning the time from when you file for an increase to when you actually receive an increase.

Q. Okay. Now in this case the company proposes to have rates take effect on January 1st, 2010; correct?

A. That's correct.

Q. And the company is proposing to use the projected period of January 1st through December 31st, 2010, for the purposes of establishing the data that should be reviewed when fashioning those rates; correct?

A. That's correct.

Q. So would you agree that with the fully projected test year of 2010 the Commission will have eliminated regulatory lag as it relates to the point of time when the rates will take effect?

A. I would agree that if rates go into effect January 1 of 2010 based upon the test year of 2010, then that would have eliminated the regulatory lag.

MR. McGLOTHLIN: Those are all my questions.

COMMISSIONER EDGAR: Thank you.

Are there other Intervenors who have not asked questions on cross of this witness who intend to? And I'm seeing, not hearing a response, so I'm going to take that as a no.

Let me ask this of staff. Are there questions on cross for this witness?

MS. WILLIAMS: Yes, we have some.

COMMISSIONER EDGAR: Okay. Approximately, roughly how many or how long?

MS. WILLIAMS: Probably would go past 1:00, I think.

COMMISSIONER EDGAR: All right. Then in that case, let's go ahead and -- I was going to try to get you off before lunch, but we're going to ask you to come back.

And, Commissioners, staff and parties, I think this is about time for a lunch break. I see it's approximately 12:30ish. Commissioners, does 1:30, 1:45 -- 1:45 I think I'm seeing. So we are going to go on lunch break. We will come back at 1:45 and pick up with questions, questions on -- and I'm not done -- questions on cross for this witness from our staff.

Also on the lunch break, my understanding from this morning is that there was going to be some more discussion between all of the parties and our staff about order of witnesses. If there are any other questions that are still pending in anybody's mind, please all get together at lunch and we will try to address that when we come back.

Ms. Bennett?

MS. BENNETT: We need to collect the

confidential folders.

COMMISSIONER EDGAR: Yes, ma'am. Please come get mine and all of the others too. And of course those can be redistributed this afternoon should the need arise.

Mr. Butler?

MR. BUTLER: Yes, Madam Chairman. We are distributing at the moment, and we can certainly come back and talk about it after the lunch break, but we do have the schedule proposal sort of nailed down by witness as you had requested earlier and are passing out copies. I'd be happy to give the Commissioners copies.

COMMISSIONER EDGAR: Okay. You can go ahead and pass those out. Please make sure that, I'm sure you have, but get with our staff and we will take that up as the first matter before the questions on cross when we come back.

And we are on lunch break.

MR. BUTLER: Thank you.

(Recess taken.)

(Transcript continues in sequence with Volume 13.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

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

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

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

DATED THIS 1st day of September, 2009.

Linda Boles
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