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

VOLUME 14

Pages 1686 through 1788

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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:	Monday, August 31, 2009
TIME:	Commenced at 9:42 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.
269	SJB-1	1693	1786
270	SJB-2	1693	1786
271	SJB-3	1693	1786
272	SJB-4	1693	1786
273	SJB-5	1693	1786
274	SJB-6	1693	1786
275	SJB-7	1693	1786
276	SJB-8	1693	1786
277	SJB-9	1693	1786
278	SJB-10	1693	1786
422	SFHHA Response to Interrogatory 2	1770	1786
423	Response to Staff's 1st POD 1	1770	1786

P R O C E E D I N G

(Transcript continues in sequence from Volume 13.)

CHAIRMAN CARTER: I'd like to call this hearing to order. First of all, good morning to everyone.

Okay. Based upon reports when we left, we were getting ready to take -- Mr. Wiseman, I think you're up.

MR. WISEMAN: Mr. Baron would be the first witness this morning.

CHAIRMAN CARTER: Okay. Has your witness -- the witnesses that we have this week, have they been sworn already or --

MR. WISEMAN: No. He needs to be sworn.

CHAIRMAN CARTER: Let's do this. The witnesses that are here for today that have not been sworn, would you all please stand so I can swear you in as a group, those that are here. Okay.

(Witnesses collectively sworn.)

Thank you. Please be seated.

You may proceed.

MS. CLARK: Mr. Chairman?

CHAIRMAN CARTER: Yes, ma'am, Ms. Clark.

MS. CLARK: I just wanted to clarify something from last week regarding the order of the witnesses. And I believe everyone had agreed to stipulate Mr. Klepper for AFFIRM. I don't think that the representative for AFFIRM, Stephanie Alexander, was here at that time, and I'm not sure -- I don't see her now. I was going to volunteer to get in touch with her and let her know that there was an agreement to stipulate that witness into the record. It's my understanding nobody has any cross for him.

CHAIRMAN CARTER: Is that the understanding of the parties? Mr. Wright?

MR. WRIGHT: Yes, sir. We have no cross of Mr. Klepper. Thanks.

CHAIRMAN CARTER: All right. Mr. Moyle.

MR. MOYLE: That's fine.

CHAIRMAN CARTER: Good morning, Ms. Bradley.

MS. BRADLEY: How are you, sir? I don't know that the attorney knew this, because as of yesterday I think she was still planning to put her witness on. And I guess it would be treated similar to Mr. Reed.

CHAIRMAN CARTER: Okay. Well --

MS. CLARK: Mr. who? I'm sorry.

CHAIRMAN CARTER: Reed.

MS. CLARK: If nobody has any questions, I'm, I guess I'm volunteering to call.

CHAIRMAN CARTER: Well, you just contact her, contact her, and then we can get a, probably during the break we can get a --

MS. CLARK: Sounds good. Thank you.

CHAIRMAN CARTER: Since it is her witness, you know.

MS. CLARK: Okay. Thank you.

CHAIRMAN CARTER: We won't -- we can deal with it that way. Okay. Anything further? Any further preliminary matters?

Mr. Wiseman, you're recognized, sir.

MR. WISEMAN: Thank you, Mr. Chair.

STEPHEN J. BARON

was called as a witness on behalf of SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WISEMAN:

Q. Mr. Baron, could you please state, could you please state your name and business address for the record?

A. Stephen J. Baron. And my business address is Kennedy and Associates, 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. And what party are you here on behalf of to testify this morning?

A. The South Florida Health and Healthcare Association -- South Florida Hospital and Healthcare Association.

Q. Mr. Baron, have you prepared and caused to be filed 51 pages of prepared written testimony?

A. Yes, I have.

Q. Do you have any corrections to that testimony?

A. I have one correction on Page 10 at Line 8. After the word "secondary," the words "and primary" should be inserted.

Q. Mr. Baron, with that correction, if I were to ask you the same questions that are in your prepared testimony, would your answers be the same?

A. Yes, they would.

Q. And do you adopt that testimony as your sworn testimony in this proceeding?

A. I do.

Q. Mr. Baron, also attached to your prepared testimony are Exhibits J, excuse me, SJB-1 through SJB-10. To your knowledge, are those exhibits correct and accurate to the best of your knowledge?

A. Yes.

MR. WISEMAN: Your Honor, that, those exhibits have been marked in staff's Comprehensive Exhibit List as Exhibits 268 through 277.

CHAIRMAN CARTER: I've got 269 through 278.

MR. WISEMAN: I may be looking at a --

CHAIRMAN CARTER: Staff, can you help us here?

First of all, let's do the first things first. The prefiled testimony of the witness will be inserted into the record as though read.

Staff, can you help us with the, for identification purposes, the number of exhibits on the Comprehensive Exhibit List?

MS. HELTON: I'm also showing 269 through 278.

MR. WISEMAN: Mr. Chair, I may be looking at a preliminary draft. I apologize.

CHAIRMAN CARTER: Okay. That's fine.

(Exhibits 269 through 278 marked for identification.)

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

IN RE: PETITION FOR RATE INCREASE BY) DOCKET NO. 080677-EI
FLORIDA POWER & LIGHT COMPANY)

DIRECT TESTIMONY OF STEPHEN J. BARON

I. INTRODUCTION

Q. **Please state your name and business address.**

A. My name is Stephen J. Baron. My business address is J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. **What is your occupation and by whom are you employed?**

A. I am the President and a Principal of Kennedy and Associates, a firm of utility rate, planning, and economic consultants in Atlanta, Georgia.

Q. **Please describe briefly the nature of the consulting services provided by Kennedy and Associates.**

A. Kennedy and Associates provides consulting services in the electric and gas utility industries. Our clients include state agencies and industrial electricity consumers. The firm provides expertise in system planning, load forecasting, financial analysis, cost-of-service, and rate design. Current clients include the Georgia and Louisiana Public Service Commissions, and industrial consumer groups throughout the United States.

Q. Please state your educational background.

A. I graduated from the University of Florida in 1972 with a B.A. degree with high honors in Political Science and significant coursework in Mathematics and Computer Science. In 1974, I received a Master of Arts Degree in Economics, also from the University of Florida. My areas of specialization were econometrics, statistics, and public utility economics. My thesis concerned the development of an econometric model to forecast electricity sales in the State of Florida, for which I received a grant from the Public Utility Research Center of the University of Florida. In addition, I have advanced study and coursework in time series analysis and dynamic model building.

Q. Please describe your professional experience.

A. I have more than thirty years of experience in the electric utility industry in the areas of cost and rate analysis, forecasting, planning, and economic analysis.

Following the completion of my graduate work in economics, I joined the staff of the Florida Public Service Commission in August of 1974 as a Rate Economist. My responsibilities included the analysis of rate cases for electric, telephone, and gas utilities, as well as the preparation of cross-examination material and the preparation of staff recommendations.

In December 1975, I joined the Utility Rate Consulting Division of Ebasco Services, Inc. as an Associate Consultant. In the seven years I worked for Ebasco, I received successive promotions, ultimately to the position of Vice President of Energy Management Services of Ebasco Business Consulting Company. My responsibilities included the management of a staff of consultants engaged in providing services in the areas of econometric modeling, load and energy forecasting, production cost modeling, planning, cost-of-service analysis, cogeneration, and load management.

I joined the public accounting firm of Coopers & Lybrand in 1982 as a Manager of the Atlanta Office of the Utility Regulatory and Advisory Services Group. In this capacity I was responsible for the operation and management of the Atlanta office. My duties included the technical and administrative supervision of the staff, budgeting, recruiting, and marketing as well as project management on client engagements. At Coopers & Lybrand, I specialized in utility cost analysis, forecasting, load analysis, economic analysis, and planning.

In January 1984, I joined the consulting firm of Kennedy and Associates as a Vice President and Principal. I became President of the firm in January 1991.

During the course of my career, I have provided consulting services to numerous industrial, commercial, Public Service Commission and utility clients, including international utility clients.

I have presented numerous papers and published an article entitled "How to Rate Load Management Programs" in the March 1979 edition of "Electrical World." My article on "Standby Electric Rates" was published in the November 8, 1984 issue of "Public Utilities Fortnightly." In February of

1984, I completed a detailed analysis entitled "Load Data Transfer Techniques" on behalf of the Electric Power Research Institute, which published the study.

I have presented testimony as an expert witness in Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Michigan, Minnesota, Maryland, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming, before the Federal Energy Regulatory Commission ("FERC"), and in United States Bankruptcy Court. A list of my specific regulatory appearances can be found in Baron Exhibit ____ (SJB-1).

Q. Do you have previous experience in FPL regulatory proceedings?

A. Yes. I have been involved in a number of FPL rate proceedings during my career. This includes participation as a Florida Public Service Commission Staff member in a 1975 FPL rate case, a generic DSM proceeding in 1993 and FPL rate cases in 2001 and 2005. I have also testified before the Commission in other proceedings on a number of occasions.

Q. On whose behalf are you testifying in this proceeding?

A. I am testifying on behalf of the South Florida Hospital and Healthcare Association, Inc. ("SFHHA" or the "hospitals"). SFHHA members take service on FPL General Service, High load factor-Time of Use and CILC rate schedules throughout the Company's service area.

Q. What is the purpose of your testimony?

A. I will address issues associated with FPL's class cost of service study and its proposed allocation of its requested base rate revenue increase of $1,044 million in 2010 ($969 million in rate schedule increases, $75 million in "other revenue" increases).[1] FPL has filed and supports a 12 CP and 1/13th average demand methodology that does not classify any distribution plant and expense as customer related, other than services and meters. Initially, I will discuss the Company's study and identify what appear to be anomalies in the projections that the Company has made for some rate schedules in the 2010 test year analysis.

[1] Since FPL's 2011 cost of service study uses an identical methodology, my comments, findings and recommendations apply to 2011 as well.

I will present the results of alternative cost of service analyses using other production demand allocation methods that correct for FPL's unreasonable proposals. In addition, I will address the Company's classification of distribution costs and present an analysis that reflects a more reasonable classification of these costs on the basis of the number of customers in each rate schedule, consistent with methodologies addressed in the National Association of Regulatory Utility Commissions ("NARUC") Electric Utility Cost Allocation Manual.

I will also discuss the Company's proposed increases to each rate schedule. FPL has argued that, because of prior settlements, projected 2010 and 2011 rate disparities are excessive and the Company is proposing to eliminate these disparities in this case. This position would produce excessive increases to large general service customers in this case. For example, the Company is proposing a base rate increase for the CILC-D rate schedule, on which many members of SFHHA take service, of 58.8% in 2010, compared to the system average rate schedule increase of 25%. My primary position is that FPL's cost of service allocation methodology is unreasonable. While I recognize that FPL's methodology is consistent with Commission precedent, I will show that the Company's cost of service study does not produce fair, just and reasonable rates under the current circumstances and that the Commission therefore should adopt a different allocation methodology that more appropriately recognizes the cost drivers on FPL's system. I will also discuss anomalies in the Company's projected parity results that I have identified.

I will also address the concept of gradualism in ratemaking and propose an alternative set of rate schedule revenue increases consistent with the Florida Commission's prior precedent of limiting the increase to any rate schedule to 150% of the average increase. Irrespective of the class cost of service study methodology that is approved by the Commission (i.e., FPL's filed 12 CP and $1/13^{th}$ average demand study, the SFHHA study or any alternative cost of service study approved by the Commission), the increase to any rate schedule be limited to 150% of the system average increase.

Q. Would you summarize your conclusions and recommendations?

A. Yes.

- **FPL has used cost of service methodologies in this case that unreasonably attribute cost responsibility to large general service rate schedules and ignore key cost drivers that have the effect of promoting on-peak consumption, which leads to increased costs on the system.**

- **FPL has based its proposed rate schedule increases on the results of its 12 CP and 1/13th average demand cost of service study and a goal to bring each rate schedule to within parity of the system average rate of return. A more reasonable cost of service study for FPL is a method based on a summer CP methodology, coupled with consideration of a "minimum distribution system" approach to the classification of secondary** and primary **distribution facilities. FPL's failure to reasonably allocate costs in this case has resulted in an over-allocation of cost of service to large customers, which FPL then relies on to support significantly above average increases to these rate schedules.**

- **FPL has proposed increases to some rate schedules that are substantially in excess of 1.5 times the average retail base rate increase requested by the Company. Some rate schedules, such as CILC-D, GSLD-1, GSLDT-1, GSLDT-2, HLFT-2 and HLFT-3 will receive increases of 50% to 60% under the Company's proposals in this case. Putting aside for the moment the issue of whether FPL's cost responsibility calculations are correct; in consideration of the impact and the potential for "rate shock" with such large increases, no rate schedule should receive an increase greater than 150% of the system average base rate increase, consistent with the regulatory concept of "gradualism" and the Commission's precedents in other cases.**

II. COST ALLOCATION ISSUES

Q. Would you please discuss the issue of the allocation of demand related production costs?

A. Yes. As required by the MFR, FPL has filed a 12 CP and 1/13th average demand based cost of service study in this case. Another important methodological feature of the Company's cost study (beyond the allocation method for production and transmission demand costs) is the Company's classification of all distribution costs (except meters and services) as demand related. As I will discuss, the Company's methodology ignores any "customer related" cost responsibility for hundreds of millions of dollars of distribution plant and expenses, contrary to the approaches used by many other utilities throughout the country and the NARUC cost allocation manual, which recognizes a "customer component" of distribution cost based on a minimum system concept.

Given the significance placed on the rate of return parities produced by the Company's class cost of service study, these issues (the production demand allocation method and the consideration of a customer component of distribution costs) are highly significant. In particular, the Company's rejection of gradualism in its rate schedule increases places even more importance on these methodological issues. While I agree that parties can, and typically do, reasonably disagree about cost allocation methodologies, the Company's insistence on setting rates at parity in this case places a higher level of significance on the cost of service study issue. Given that general service customers will face increases in excess of twice the average increase in this case under the Company's proposal, it is all the more important to address the reasonableness of the cost of service study relied on by FPL for its recommendations.

Q. What is your understanding of the underpinning for the use of the 12 CP and 1/13th average demand method?

A. This methodology, which is primarily a 12 CP method, allocates production demand costs under the assumption that customer (and ultimately rate schedule) kW demand contributions to each of the 12 monthly coincident peaks have equal "cost responsibility" for the Company's generating units and power purchases (the capacity portion thereof). Thus, for example, the 12 CP method presumes that a residential or general service customer's incremental demand at the time of the August or January system coincident peak is no more "costly" to the system than the same amount of incremental demand at the time of the October or April FPL peak. This method sends price signals to customers that adding demand during any of the monthly peaks throughout the year costs the same to the Company. Correspondingly, if residential loads are being added more rapidly in the summer and winter peak months than in the off-peak months, the impact on class revenue requirements is much less (under FPL's cost methodology) than if a group of general service customers added the identical load during the summer and winter peaks, but also added a like amount of load in the off-peak months. In that case, general service class cost responsibility would increase much more under the Company's cost of service study allocation approach, even though such responsibility was spread throughout the year and not concentrated during the summer and winter peak months. As I will discuss subsequently, the driving factor in the addition of new generating capacity on the FPL system is the peak demand during the summer months. A review of FPL monthly reserve margins clearly demonstrates that it is customer demand during the peak summer months that is the primary cause of new capacity and its associated cost. While annual energy use influences the economics of generation selection, it is the level of customer demand in the summer months that influences the need for the capacity itself. As a result, a methodology, such as 12 CP that attributes the same impact to peak demand during off-peak months such as October or April as it does during peak summer months, does not recognize the actual causation of the need for capacity additions on the system

Q. **Does FPL plan capacity additions to meet minimum reserve requirements during the summer peak?**

A. Yes. Based on the Company's most recent 10 year site plan document, FPL utilizes a 20% minimum planning reserve margin criterion that it applies to both the summer and winter peak load requirements. However, based on expected peak loads on the system over the next 10 years, the summer month reserve margin is the binding constraint for planning. Baron Exhibit__(SJB-2) contains an excerpt from FPL's April 2009 "Ten Year Power Plant Site Plan" covering the period 2009 to 2018. A comparison of Schedule 7.1 of the planning document, which shows summer peak reserve margins to Schedule 7.2, which shows winter peak reserves, clearly demonstrates that FPL summer peak loads drive the need for future capacity additions.

Q. Are peak demands in other months binding constraints on the need for capacity and reserves on the system?

A. No, not based on the relative loads in non-summer months. Figure 1 below shows a chart of actual monthly system peak demands for the five year period 2004 to 2008. This chart clearly demonstrates that summer peak demands are significantly greater than non-summer month demands.

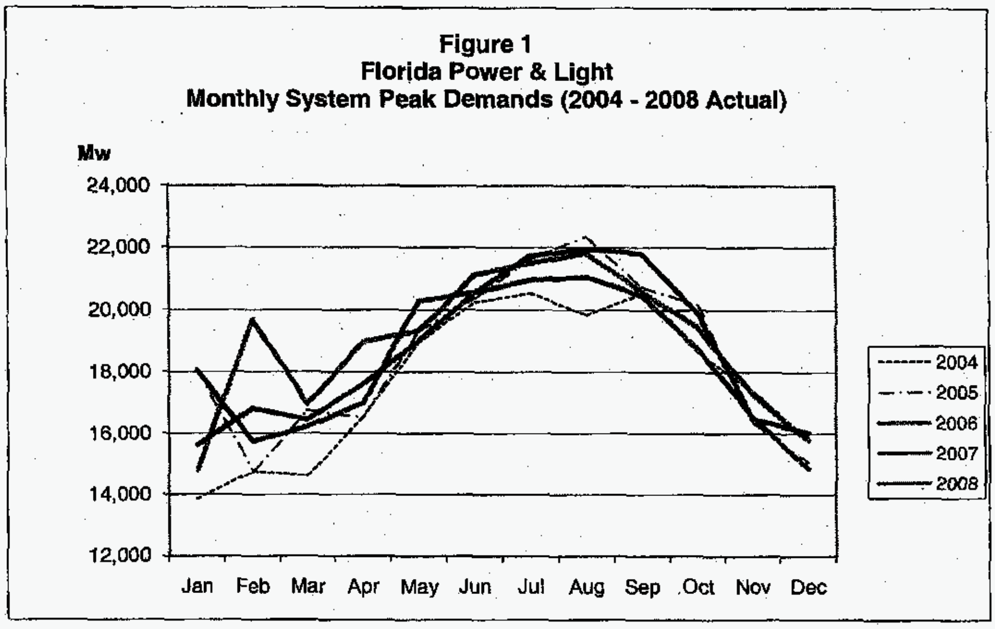


Figure 1
Florida Power & Light
Monthly System Peak Demands (2004 - 2008 Actual)

Customer on-peak usage during the summer is driving the need for capacity on the system and should be the basis for assigning production demand cost responsibility to rate schedules.

Q. **Is this pattern expected to continue during in the future?**

A. Yes. Figure 2 below shows a chart of forecasted monthly peaks for the period 2010 through 2013. FPL continues to expect a pronounced summer peak in future years.

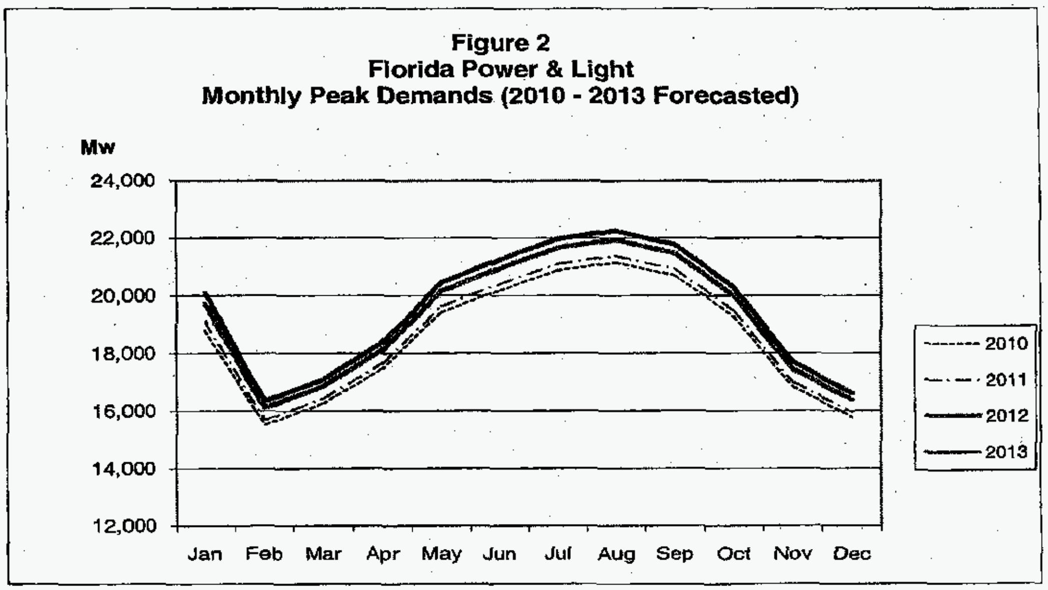


Figure 2
Florida Power & Light
Monthly Peak Demands (2010 - 2013 Forecasted)

Q. What are the implications of this for pricing using the Company's proposed 12 CP and 1/13th average demand methodology?

A. The main implication is that customers are being provided price signals through rates that FPL is indifferent as to whether customers use demand in say March or in August. Even with moderated growth, FPL expects that installed capacity will grow by close to 6,000 mW over the next 10 years, according to Schedule 7.1 of the Company's 10 Year Site Plan [see Baron Exhibit__(SJB-2)]. Based on the Company's planning criteria and its seasonal load shape (pronounced summer peak), it would appear highly unlikely that changes in monthly peak demands in the non-summer months would have a material impact on the need for new capacity. Yet, FPL's 12 CP and 1/13th method assumes that production demand costs are equally driven by customer load coincident with these non-summer months as by customer loads in the summer. FPL continues to argue in its rate filing that customer behavior during any of the 12 months during the year is equally responsible for the Company's need to acquire new generating facilities to meet demand. However, FPL's own data do not support that conclusion. Rather, the data support the conclusion that much of the new generating capacity that FPL is planning would not be required, but for the need to meet summer peak requirements.

Q. **What about the argument that the fuel savings associated with base load generating units support an allocation method that recognizes customer usage in non-peak months or even in the off-peak period?**

A. Though it is certainly true that a base load nuclear unit produces energy at a lower fuel cost than a gas fired combined cycle unit, this does not change the fact that the Company is proposing to add thousands of mW of additional generating capacity to meet its summer peak demand. At the same time, FPL is "telegraphing" its customers through cost allocation and rate design that the "cost" of customer decisions associated with the next unit of consumption during March or October is equally responsible for this new capacity cost as the next unit of consumption during August at the time of the system peak.

Q. **What conclusions do you draw from this analysis?**

A. I believe that it is appropriate for the Commission to depart from its traditional approved 12 CP and $1/13^{th}$ methodology because that methodology is inconsistent with the factors that cause FPL to incur costs associated with new capacity additions. I recommend a summer coincident peak method because it recognizes the factors that actually are driving capital expenditures on FPL's system.

Q. **Would you please discuss the methodology used by FPL to allocate distribution plant investment and expenses to retail rate classes?**

A. Yes. As discussed in FPL witness Joseph Ender's testimony, the Company has classified all distribution plant as demand related except account 369 Services and account 370 meters, which are classified as customer related. The Company's approach does not give any recognition to a customer component of any primary or secondary line, pole or transformer. All of these costs are assigned on the basis of kW demand.

Q. **Do you agree with the Company's classification of these distribution costs?**

A. No. Despite the Commission's prior decision's rejecting a customer component for these distribution facilities, I believe that there is credible evidence to support a classification of some portion of these facilities as customer related. Given the significant reliance that the Company has placed on the results of its cost of service study in assigning its requested revenue increase to rate schedules in this case, it is reasonable for the Commission to consider evidence on alternative methods of classifying distribution costs in this case. FPL has, to a very significant degree, relied on the "parity" results from its cost of service study to assign increases to rate schedules. In particular, the proposed increases to its general service rate schedules are substantially higher than the system average increase due to the parity results. These parity results are driven to a large extent by the methodology used by FPL to classify and allocate costs to rate schedules. This is not purely an argument of academic interest. To the extent that the cost of service study is used to allocate the approved increase in this case, the underlying methodology used in the study will have a material impact on customer rates.

Q. **What is the central argument underlying a classification of some portion of distribution costs (other than services, meters and "primary pull-offs") as customer related?**

A. As described in the NARUC Electric Utility Cost Allocation Manual, the underlying argument in support of a customer component is that there is a minimal level of distribution investment necessary to connect a customer to the distribution system (lines, poles, transformers) that is independent of the level of demand of the customer.[2] To the extent that this component of distribution cost is a function of the requirement to interconnect the customer, regardless of the customer's size, it is appropriate to assign the cost of these facilities to rate schedules on the basis of the number of customers, rather than on the kW demand of the class. As stated on page 90 of the NARUC cost allocation manual:

> **When the utility installs distribution plant to provide service to a customer and to meet the individual customer's peak demand requirements, the utility must classify distribution plant data separately into demand- and customer-related costs.**

Q. Has FPL offered evidence disputing that conclusion?

A. No.

Q. Would you briefly explain the conceptual basis for a minimum distribution cost methodology?

[2] An excerpt from the NARUC manual that discusses the classification of distribution costs is contained in Baron Exhibit__(SJB-3).

A. As discussed in the NARUC cost allocation manual, there are two approaches that are typically used to develop a *customer* component of distribution plant and expenses. Each of the two approaches ("zero-intercept" and "minimum size") is designed to measure a "zero load cost" associated with serving customers. Each methodology attempts to measure the customer component of various distribution plant accounts (e.g., poles, primary lines, secondary lines, line transformers, etc.). Each of the two methods (the zero-intercept method, for example) is designed to estimate the component of distribution plant cost that is incurred by a utility to effectively interconnect a customer to the system, as opposed to providing a specific level of power (kW demand) to the customer. Though arithmetically the zero-intercept method does produce the cost of say "line transformers" associated with "0" kW demand, the more appropriate interpretation of the zero-intercept is that it represents the portion of cost that does not vary with a change in size or kW demand and thus <u>should not</u> be allocated on NCP demand (as FPL has done). Essentially, the "zero-intercept" represents the cost that would be incurred, irrespective of differences in the kW demand of a distribution customer. It is this cost-invariant component that is used in the zero-intercept method to identify the portion of distribution costs that should be allocated to rate classes based on the number of primary and secondary distribution customers taking service in the class.

Conceptually, this analysis is designed to estimate the behavior of costs statistically, as the Company meets growth in both the number of distribution customers and the loads of these customers. This is in contrast to FPL's analysis that is premised on an assumption that all distribution costs (except services and meters) vary directly with kW demand, without any fixed component that should be allocated on the basis of the number of customers in each class.

Q. Do you have any specific examples that could illustrate this point?

A. Yes. In this rate case, FPL has classified all costs in account No. 364, poles, towers and fixtures, as demand related and allocated these costs to rate schedules on the basis of rate class NCP demand. This account mainly consists of primary and secondary poles. Based on the Company's workpapers in this case, there were approximately 185,000 secondary poles in the account that have been allocated to rate schedules using rate class

NCP demand. Table 1 summarizes FPL's implicit allocation of these secondary poles to major general service rate schedules and the residential rate class on the basis of demand. As can be seen in the table, FPL's cost of service study assumes that about 30 residential customers are served from each pole, while it takes about 19 poles to serve a single GSLDT-2 customer. This obviously does not seem realistic; yet, this is the cost allocation underlying FPL's proposed rate schedule increases in this case.

Table 1
FPL's Assignment of Secondary Poles Per Customer

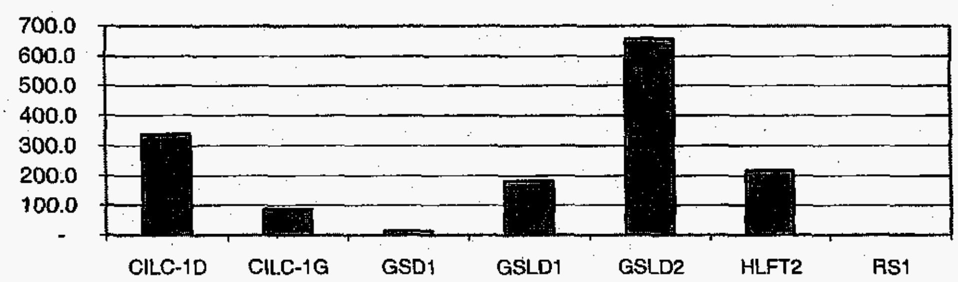
Total Secondary Poles: 185,256

Rate Class	Allocation Factor*	Poles Allocated to Rate	Poles Per Customer	Poles Per Every 35 Customers
CILC-1D	1.444%	2,675	9.62	336.6
CILC-1G	0.145%	269	2.47	86.6
GSD1	21.398%	39,641	0.39	13.5
GSLD1	4.767%	8,831	5.18	181.3
GSLD2	0.526%	974	18.79	657.7
HLFT2	3.965%	7,346	6.18	216.3
RS1	57.231%	106,024	0.03	0.9

* FPL105

Figure 3 below illustrates this in graphic form. This result suggests that the Company's study, which ignores any measure of a customer component for distribution facilities (other than meters and services), overstates cost responsibility for large general service rate schedules.

Figure 3
FPL Cost of Service Study
Secondary Poles Per Every 35 Customers



Q. Does FPL acknowledge that the cost of poles is not fully dictated by customer kW demands, as is assumed in the Company's cost of service study?

A. Yes, I believe that they do acknowledge this fact. In response to SFHHA Interrogatory No. 137, the Company stated that there are numerous factors that determine the type, size and number (and by implication cost) of secondary poles on the system. Baron Exhibit__(SJB-4) contains a copy of this interrogatory response.

Q. **Have you reviewed minimum distribution system classification results from cost studies developed by other utilities?**

A. Yes. I have developed a summary of distribution classification results from five electric utilities, based on class cost of service studies filed by these Companies in regulatory proceedings during the past few years. While these results are not designed to be a comprehensive, random survey of electric utilities, the classification ratios (customer, demand) represent a cross-section of utilities that incorporate a minimum system distribution methodology in class cost of service studies. The summary results are presented in Baron Exhibit__(SJB-5). Based on these results, most distribution accounts are substantially classified as customer related (nearly 50% of most accounts). These customer classified costs are allocated to rate schedule on the basis of the number of customers in the class, not on demand. The remaining costs in each account are allocated on demand.

Q. Do you believe that a minimum distribution system is appropriate for FPL?

A. Yes. At a minimum, given the importance of the cost of service results (parities) in this case, it is appropriate for the Commission to analyze alternative methodologies. The conceptual basis for the zero-intercept method is that it reflects a classification of the distribution facilities that would be required to simply interconnect a customer to the system, irrespective of the kW load of the customer. From a cost causation standpoint, the argument supporting this approach is that all of these minimal facilities are needed to interconnect a customer to the FPL system, including meeting minimum safety standards set forth in the National Electric Safety Code ("NESC"), which the FPSC requires be adhered to for all Florida electric utilities.

Q. Are there other reasons why a customer classification of some portion of distribution plant is appropriate for FPL's system?

A. Yes. In response to the Commission Staff's Third Set of Interrogatories, Interrogatory No. 19, which asked FPL about adjustments that it made to its forecasts in this docket, the Company stated that it made "[A]n adjustment for the increase in the number of minimal usage customers FPL has experienced coincident with the housing crisis." FPL goes on to state that it adjusted its residential net energy for load forecast to reflect an increase in minimal use residential customers due to vacant homes. Since this would also affect residential kW demand, which is used to allocate distribution costs, the Company's test year cost of service study would tend to systematically understate the actual cost responsibility of the residential class for distribution plant and expenses. These distribution facilities are installed to serve these vacant homes, even if there is no usage. As noted, FPL is experiencing a substantial increase in the number of unoccupied residential dwellings. These vacant homes required investments by FPL in primary and secondary lines, poles, conduit and transformers. Yet, because the homes are vacant, the kW demand, which FPL's cost allocation method uses to allocate these distribution facilities to rate schedules are essentially allocated to other rate classes and not the residential rate class. The cost is not allocated to the residential class because there is little or no kW demand associated with a vacant home. While a minimum distribution system methodology may still not fully remedy this problem, it would provide a more reasonable allocation of cost. Baron Exhibit__(SJB-6) contains a copy of the interrogatory response.

Q. Beyond the two methodological concerns that you have identified (production demand allocation method and distribution cost classification method), are there other issues with the Company's class cost of service study?

A. Yes. As I indicated, the Company is proposing to allocate its requested $969 million 2010 rate schedule increase (and its 2011 increase) such that rate parities among rate schedules are equalized (i.e., set to 1.0).[3] These increases are based on the Company's projected test year cost of service study, which requires multiple forecasts of costs, billing determinants and cost allocation factors. Based on a comparison of cost of service results for the recent historical period, compared to the forecasted results for 2010 and 2011, there is reason to question whether the Company's forecast is reasonable. As I will discuss, this is a particular concern for certain large general service rate schedules, such as rates HLFT-2 and HLFT-3. Given the strict adherence FPL makes on its projected cost of service results in allocating the revenues

[3] The remaining $75 million in increased revenue in 2010 (total base revenue increase of $1,044 million) is being recovered from miscellaneous charges.

increase to rate schedules in this case, these concerns with the reasonableness of the Company's forecast should support a more reasoned application of the cost of service parity results – principally, the use of the Commission's gradualism precedent applied to rate schedule increases, such that no rate class receives and increase greater than 1.5 times the average increase.

Table 2 below shows the actual rate of return parities developed by FPL (using its cost of service methodology) for rates HLFT-2 and HLFT-3 for the most recent two years (2006 and 2007), compared to the parities that FPL projects for these two rate schedules for the years 2010 and 2011 if no adjustment is made to current rates.

Table 2
Rate of Return Parity Analysis
2006 to 2007 Actual, 2010 to 2011 Projected

	Actual 2006	Actual 2007	Projected 2010	Projected 2011
HLFT-2	0.62	0.61	0.34	0.35
HLFT-3	0.66	0.60	0.36	0.36

As can be seen from the table, for 2006 and 2007, using actual cost of service results, FPL reports that the rate of return parities for rates HLFT-2 and HLFT-3 were in the range of 0.60 to 0.66. For the forecast period, absent an adjustment to current rates, (2010 and 2011), FPL projects that the rate of return parities for rates HLFT-2 and HLFT-3 will be in the range of only 0.34 to 0.36, only about half the parity level in the recent actual period. This substantial reduction in parities projected by FPL in 2010 and 2011 raises a legitimate question as to the accuracy of the Company's projections. Since FPL is basing its proposed increases to rate schedules on these projected 2010 and 2011 cost of service parity results, without any mitigation or gradualism, this issue is not merely academic – it will impact the electric bills paid by FPL's large customers if the Company's proposals are adopted as filed.

Q. **Do the projected rate of return parity results for other large general service rate schedules exhibit similar anomalies?**

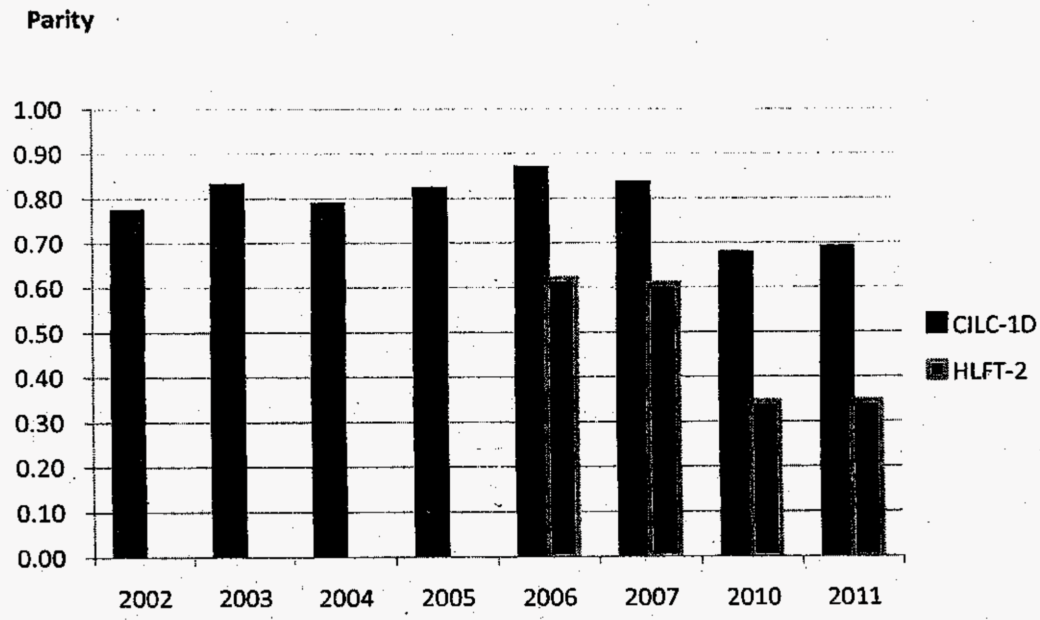
A. Yes, to some extent. Table 3 below shows a comparison of rate of return parities for a group of large general service rate schedules and the residential class for the actual period 2002 through 2007 and the projected periods 2010 and 2011 filed in this case, including rates HLFT-2 and HLFT-3.

Table 3
Rate of Return Parity Analysis
2002 to 2007 Actual, 2010 to 2011 Projected

	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Projected 2010	Projected 2011
CILC-1D	0.77	0.83	0.78	0.82	0.87	0.83	0.68	0.69
GSLD(T)-1	0.61	0.69	0.64	0.59	0.65	0.76	0.58	0.58
GSLD(T)-2	0.59	0.67	0.70	0.71	0.90	0.84	0.67	0.66
GSLD(T)-3	1.06	0.96	1.10	1.07	1.08	1.01	0.85	0.88
HLFT-1					0.82	0.89	0.79	0.79
HLFT-2					0.62	0.61	0.34	0.35
HLFT-3					0.66	0.60	0.36	0.36
RS(T)-1	1.13	1.05	1.08	1.06	1.04	1.05	1.07	1.06

While not as striking as the substantial reductions in parities in the projected period for rate schedules HLFT-2 and HLFT-3, FPL is projecting similar large reductions in parities for rate schedules CILC-1D, GSLD(T)-1, GSLD(T)-2 and GSLD(T)-3, absent a change in current rates. This anomaly is easier to see in Figure 4 below, which only depicts the results for CILC-1D and HLFT-2. Given the significance that these projected rate parities play in FPL's recommended increases, I have concern that the Company's projections are accurate.

Figure 4
Parity Comparison
2002-2007 Actual vs. 2010-2011 Projected



Q. **Have you identified any specific reasons why the CILC-D and HLFT-2 (and HLFT-3) rate of return results have changed so dramatically in the Company's projections, compare to actual results for the past six years for CILC-D and the past two years for HLFT-2 and HLFT-3?**

A. No. However, as shown on Table 4 below, FPL is projecting significant reductions from 2007 actual to 2010 in both 12 CP demand and kWh sales for the system and most rate schedules, though by varying amounts. In particular, the Company is showing increases in HLFT-2 demand and energy, while most other schedules are showing decreases.

Table 4
Comparison of 2007 Actual to Projected 2010 12 CP and kWh Sales
Percent Change 2010 vs. 2007

	Total FPSC	CILC-1D	GSLD1	GSLD2	HLFT2	RS1
fpl101 -12 CP	-1.66%	-2.70%	-6.55%	-6.25%	7.62%	-3.03%
fpl201 - MWH Sales	-3.73%	-5.05%	-13.19%	-12.57%	6.56%	-6.93%

Given the significant change that the Company is projecting for the rate of return parity for HLFT-2, these results call into question whether the forecasted test year class cost of service results are accurate. Though FPL has not proposed to increase HLFT-2 and HLFT-3 by the full amount necessary to achieve parity, the increases are still substantial (58% and 51% respectively). The great weight that the Company has placed on the forecasted rate parity results from its cost of service study (i.e., rejection of any mitigation or gradualism) means that any anomaly should raise a serious red flag as to the reasonableness of the Company's proposals in this case.

Q. You have discussed your recommendation to use a summer CP production demand allocation methodology and a minimum distribution system classification approach in developing the test year class cost of service study for FPL. Have you developed a revised class cost of service study reflecting these two changes to the Company's study?

A. Yes. Baron Exhibit__(SJB-7) presents the summary results of my recommended 2010 class cost of service study that incorporates a summer CP/minimum distribution methodology. This analysis, which reflects the same overall revenue requirement as the Company's MFR cost of service study, reflects the Company's analysis, modified for the two changes that I have discussed. I have not made changes to any other assumptions or methodology in the Company's study beyond the changes made to the production demand allocator and the distribution cost classifications.

Q. With regard to the minimum distribution system classifications, did you perform an independent analysis of FPL's distribution plant accounts to develop the customer and kW demand portion of each account?

A. No. For the purposes of this analysis, I utilized the average customer/demand classification values for each plant account, based on the data contained in Baron Exhibit__(SJB-5).

Q. How do the rate of return parities in your cost of service study compare to the Company's filed MFR cost study?

A. Table 5, which follows, shows the comparison. I have highlighted the large general service rate schedules in Table 5 to show the impact of these changes to the Company's cost of service study. As can be seen from the table, there are significant corrections in the rate of return parities for most large general service rate schedules using my alternative study.

Table 5
Comparison of ROR Parities
FPL COSS vs. Summer CP/Minimum System

	FPL COSS	Summer CP/ Min Sys
CILC-1D	0.67	1.16
CILC-1G	1.21	1.81
CILC-1T	0.64	0.94
CS1	0.91	1.35
CS2	0.90	1.24
GS1	1.50	1.25
GSCU-1	1.81	0.96
GSD1	0.96	1.23
GSLD1	0.58	0.86
GSLD2	0.66	1.06
GSLD3	0.85	1.16
HLFT1	0.79	1.18
HLFT2	0.34	0.65
HLFT3	0.35	0.65
MET	0.88	1.35
OL-1	1.59	0.34
OS-2	0.47	1.27
RS1	1.07	0.91
SDTR-1	0.90	1.67
SDTR-2	0.53	1.06
SDTR-3	0.32	0.72
SL-1	1.02	1.36
SL-2	2.25	3.12
SST-DST	0.74	0.99
SST-TST	3.70	2.62

Q. What is the implication of these results from your alternative cost of service study?

A. Using an alternative methodology that recognizes the importance of summer peak demands and reflects a minimum level of distribution cost associated with connecting customers to the system produces a materially different set of rate schedule revenue increases. I believe that the Commission should adopt my recommendation to use an alternative methodology for cost allocation using a summer CP/minimum distribution system approach.

Q. Have you prepared separate, independent impacts of rate of return parities for each of your two recommended changes to the Company's cost of service study?

A. Yes. Though I am recommending both changes, Table 6 below shows the rate of return parities using a summer CP method (with no change in FPL's distribution cost classifications) and FPL's 12 CP and 1/13th average demand method with a minimum distribution system classification method.

Table 6
ROR Parities - SFHHA Summer CP COSS and 12 CP & 1/13th/Minimum System COSS

	Summer CP COSS	12 CP & 1/13th Min Sys COSS
CILC-1D	0.92	0.91
CILC-1G	1.47	1.53
CILC-1T	0.98	0.64
CS1	1.03	1.21
CS2	0.93	1.19
GS1	1.38	1.35
GSCU-1	2.02	0.86
GSD1	0.96	1.24
GSLD1	0.60	0.84
GSLD2	0.78	0.93
GSLD3	1.20	0.85
HLFT1	0.91	1.04
HLFT2	0.42	0.55
HLFT3	0.43	0.56
MET	1.10	1.11
OL-1	2.00	0.19
OS-2	0.80	0.85
RS1	1.04	0.94
SDTR-1	1.29	1.23
SDTR-2	0.74	0.82
SDTR-3	0.41	0.61
SL-1	1.22	1.16
SL-2	2.64	2.69
SST-DST	0.67	1.07
SST-TST	2.51	3.74

Q. Does your recommendation for the Commission to adopt an alternative cost of service study and use these results to allocate the revenue increases in this case result in "cost shifting"?

A. No. FPL is proposing substantial increases in this proceeding based on the assumption that certain rate classes have under-contributed to their share of the system's costs (e.g., rate schedule CILC-1D, for which FPL is proposing a 58% increase). However, using a more reasonable measure of cost responsibility, these same classes are actually over-contributing to their share of costs. Likewise, some rate schedules (RS-1, for example) are shown to be over-contributing to their share of costs under FPL's cost study, while under a more reasonable measure, these same classes are under-contributing to their share of costs (i.e., producing a parity less than 100%).

III. ALLOCATION OF THE AUTHORIZED REVENUE INCREASE - GRADUALISM

Q. **Would you please briefly describe the methodology that FPL is proposing to use to allocate its requested $969 million increase to rate schedules?**

A. Based on the testimony of FPL witness Renae Deaton, the Company has used the results of its cost of service study to assign the increase to rate schedules such that each rate schedule produces a rate of return on rate base (premised upon the Company's recommended cost allocation study) equal to the system average rate of return (100% parity) "to the greatest extent possible."[4] Table 7 shows the base rate increases proposed by the Company for major rate schedules and the relative increase for that rate schedule compared to the retail average. The Company is proposing increases for some general service rate schedules of as much as 58%, which is 235% of the retail average increase.

Q. **Has the Company given any weight to the regulatory concept of "gradualism" in developing its proposed increases in this case?**

[4] Deaton Direct Testimony at page 13, line 5.

A. No. Based on the proposed increases shown in Table 7 and the Company's own statements, FPL has not implemented any material measure of gradualism or mitigation in assigning increases to rate schedules.

Table 7
FPL Proposed Base Rate Increases

	Percent Increase	Relative Increase *
CILC-1D	58.8%	2.35
CILC-1G	24.3%	0.97
CILC-1T	63.2%	2.53
GS-1	6.3%	0.25
GSD-1	30.7%	1.23
GSLD-1	50.7%	2.03
GSLD-2	46.5%	1.86
GSLD-3	29.4%	1.18
GSLDT-1	50.7%	2.03
GSLDT-2	49.5%	1.98
GSLDT-3	33.6%	1.34
GST-1	16.0%	0.64
HLFT-1	26.6%	1.07
HLFT-2	58.1%	2.33
HLFT-3	50.8%	2.03
MET	33.3%	1.33
RS-1	20.8%	0.83
RST-1	33.2%	1.33
Total Retail	25.0%	1.00

* *Relative to average retail percentage increase*

Baron Exhibit__(SJB-8) contains a copy of the Company's response to SFHHA's First Set of Interrogatories, Interrogatory No. 19, which clearly states that FPL did not give any weight to gradualism or mitigation in developing its proposed rate schedule increases. In response to SFHHA's First Set of Interrogatories, Interrogatory No. 26, the Company stated that it considered limiting the increase to any specific rate schedule to "1.5 times" the average increase, but decided not to use such a measure of mitigation because "it has been 24 years since parity was last addressed."

Q. Do you agree with the Company's proposed increases and its position ignoring gradualism or other measures of mitigation?

A. No. First, as discussed by SFHHA witnesses Lane Kollen and Richard Baudino, SFHHA does not agree with the overall level of proposed revenue requirements reflected in the Company's filing. I also disagree with the Company's proposed allocation of the revenue increase in this case to rate schedules. As I have discussed in the previous section of my testimony, there are legitimate concerns regarding the Company's projection that form the basis for the test year cost of service study results (parities). Also, as I discussed, I believe that the Company's cost of service methodology overstates the allocated costs to general service rate schedules and understates the cost to serve the residential class. Putting aside all of these issues (level of the required revenue increase, concerns with the Company's projections and the cost of service study methodology itself), I also believe that it is appropriate to incorporate a measure of gradualism in the allocation of the approved revenue increase in this case, contrary to FPL's approach that ignore gradualism. As I will discuss, it is reasonable and appropriate for the Commission to continue its past practice of limiting the increase to any rate schedule to 1.5 times the average percentage increase. This Commission policy of incorporating gradualism in the allocation of the approved rate increase to rate classes is appropriate, regardless of the cost of service methodology approved by the Commission – in fact, it is independent of cost of service and focuses instead on the impacts and potential hardships created by the approved rate increase. In this case, in particular, given the very substantial proposed base rate increase requested of 25% and the current economic environment in the State of Florida, the Company's insistence on ignoring mitigation is unreasonable and should be rejected.

Q. Is there any basis for the Company's position that because of prior rate case settlements and other factors that have limited a full litigated

consideration of cost of service and rate parities by the Commission, it is proper to ignore gradualism in this case?

A. No. All of the Company's rate schedules at issue in this case have been approved by the Commission and were thus just and reasonable for each of the past 24 years "since parity was addressed" by the Commission. To the extent that past increases for various rate schedules were developed as part of a settlement of a rate case (such as the 2005 FPL case), these rates were agreed to by virtue of a settlement that was agreed to by FPL as being just and reasonable. FPL's position seems to be that the prior settlements produced unjust rates and therefore in this current case it is necessary to fix the problem and address these past mistakes. There is no basis for the Company's position. Each case rests on its own merits and the application of reasonable ratemaking principles, such as gradualism should not be influenced by the Company's apparent complaint now about the outcome of prior settlements that FPL voluntarily entered into and prospered from. It is especially important for the Commission to continue its past practice of applying gradualism in the development of increases, given the level of the Company's proposed request and the general economic environment that all of the Company's customers are facing. Finally, the Company's test year cost of service results do not provide any basis to draw the conclusion, as FPL does, that the test year rate disparities have existed for 24 years. As shown in Table 3, the rate disparities for a number of the large general service rate schedules (e.g., CILC-D, HLFT-2 and HLFT-3) are projected to change materially in the 2010 and 2011 projected period, compared to actual results. Even if the FPL projected test year cost of service results are assumed to be correct, these results do not mean that the same rate parities have been in effect for 24 years.

Q. Would you explain the regulatory concept of gradualism and how it has been addressed by the Florida Public Service Commission in past rate cases?

A. Gradualism is a ratemaking concept that has been used by the Florida Public Service Commission and other regulatory commissions that incorporates a measure of mitigation into the increases that would otherwise be dictated by the results of an approved cost of service study. Most regulatory commissions, including the FPSC, base their decisions on the allocation of an approved rate increase to rate schedules on the results of a cost of service study. The FPSC has generally allocated increases to rate schedules in a manner that would move rates towards cost of service (i.e., rate parity of 1.0). However, to the extent that such an increase would be excessive, relative to the average increases approved for all rate schedules, regulators have incorporated the concept of rate gradualism into their decisions. The FPSC has traditionally limited the increase to any rate schedule to no more than 1.5 times the average increase, with no rate schedule receiving a decrease. In its recent TECO rate order in Docket No. 080317-EI (Order No. PSC-09-0281-FOF-EI), the Commission affirmed this past practice. The Commission should limit the increase in base rates that is approved in this case to 1.5 times the system average for each rate schedule.

Q. **Have you developed a set of proposed increases using a "1.5 times" limitation, based on your recommended cost of service study parity results?**

A. Yes. Baron Exhibit__(SJB-9) shows the development of a set of rate schedule increases based on my recommended summer CP/minimum distribution system cost of service study results.[5] The methodology reflects an

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[5] Though this recommendation is based on the Company's level of revenue requirements for comparison purposes it should not be construed as a support for the Company's filed requested increase, which SFHHA opposes.

initial set of increases necessary to achieve parity, adjusted to meet the "1.5 times" limitation, consistent with the Commission's recent TECO Order in Docket No. 080317-EI.

Q. **In the event that the Commission adopts FPL's cost of service study results and the Company's proposed increases, have you developed a set of increases that reflects the application of the "1.5 times" limitation?**

A. Yes. Baron Exhibit__(*SJB-10*) shows the adjusted increases using the Company's proposed rate schedule increases, as adjusted to limit the base rate increase to 1.5 times the average increase.

Q. **Would you summarize your recommendation with regard to the allocation of the Commission approved revenue increase in this case?**

A. SFHHA recommends that the Commission adopt a summer CP allocation methodology in conjunction with a minimum distribution system classification method and that rate schedule increases be developed such that rates are set at cost of service, subject to a constraint that no rate schedule should receive an increase greater than 1.5 times the system average increase and that no rate schedule receives a rate decrease, consistent with past Commission practices. Table 8 summarizes the increases that SFHHA recommends using a summer CP/minimum distribution system cost of service study and the increases using FPL's MFR filed cost of service study.[6] Both sets of increases reflect an application of the "1.5 times system average increase" mitigation.

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[6] As noted earlier, SFHHA is recommending substantial adjustments in FPL's requested revenue increases. The increases shown in Table 8 are based on FPL's requested revenue requirements so as to facilitate comparisons to the Company's filing.

Table 8
Comparison of Increases with "1.5x" Cap

	SFHHA Cost of Service		FPL Increases with Cap	
	Increase	%	Increase	%
CILC-1D	13,926,584	26.9%	19,362,722	37.5%
CILC-1G	61,307	1.4%	1,174,681	26.2%
CILC-1T	5,885,579	37.4%	5,895,320	37.5%
CS1-CST1	740,480	14.9%	1,856,227	37.5%
CS2-CST2	360,577	19.3%	698,034	37.5%
GS1-GST1-WIES	45,139,788	15.6%	23,213,707	8.0%
GSCU-1	319,853	22.3%	22,058	1.5%
GSD1-GSDT1	131,884,413	17.8%	242,282,889	32.7%
GSLD1-GSLDT1	45,954,798	32.7%	52,617,291	37.5%
GSLD2-GSLDT2	4,998,825	25.5%	7,340,722	37.5%
GSLD3-GSLDT3	838,340	18.9%	1,556,204	35.0%
HLFT1	6,641,136	20.3%	9,362,521	28.6%
HLFT2	41,236,053	37.4%	41,304,298	37.5%
HLFT3	8,721,923	37.4%	8,736,357	37.5%
MET	392,530	14.0%	992,205	35.3%
OL-1	3,835,668	32.7%	435,458	3.7%
OS-2	140,663	16.8%	313,913	37.5%
RS1-RST1	644,394,329	27.8%	524,910,244	22.7%
SDTR-1	672,221	4.4%	5,928,711	38.6%
SDTR-2	3,714,534	23.9%	5,815,715	37.5%
SDTR-3	625,136	37.4%	626,171	37.5%
SL-1	6,888,634	10.0%	14,488,490	21.0%
SL-2	0	0.0%	17,049	1.5%
SST-DST	72,397	28.3%	95,878	37.5%
SST-TST	0	0.0%	0	0.0%
Total Retail	967,445,767	24.9%	969,046,862	25.0%

* Differences between FPL and SFHHA totals due to rounding

Q. Does that complete your testimony at this time?

A. Yes.

CHAIRMAN CARTER: The other thing, before, before you begin, the witnesses that have not been sworn, they probably didn't hear my spiel on my, on the lights. For the witness that's up at the stand now and the one that will be coming later on, these lights will give you a time for your summary of your testimony. The green light, obviously green is always good. When the amber light comes on, you have two minutes left. When the red light comes on, you have 30 seconds. And if the red light flashes, then the volume on your microphone is turned off. So, okay?

THE WITNESS: I understand. Thank you.

CHAIRMAN CARTER: Okay. Mr. Wiseman.

MR. WISEMAN: Thank you.

BY MR. WISEMAN:

Q. Mr. Baron, have you prepared an oral summary of your testimony?

A. I have.

Q. Can you go ahead and provide that at this time?

A. Yes. My testimony addresses issues associated with FPL's class cost of service study and its proposed allocation of its requested base rate revenue increase of 1,044,000,000 in 2010. Effective January 1, 2010, FPL is proposing to raise base rates for rate schedule

CILC-D, GSLD-1, GSLDT-1, GSLDT-2, HLFT-2, and HLFT-3 rate schedules in the range of 49 to 59 percent.

My testimony shows that FPL's proposal is unreasonable as a matter of policy and also is based upon an allocation methodology that no longer is appropriate to use on FPL's system. FPL's proposed allocation of costs among rate schedules is based on the 12 CP and 1/13th average demand method. I understand that this methodology has been favored by the Commission in the past.

However, I believe the Commission should consider the use of that -- should reconsider the use of that methodology because it does not currently appropriately align cost responsibility with cost causation on FP&L's system. The consequence is a significant overallocation of costs to large general service rate schedules.

Under any definition increases of the magnitude FPL is seeking would result in rate shock to the ratepayers under those rate schedules. This is a result that is in conflict with basic ratemaking policy. The 12 and 1/13th methodology is no longer appropriate because it ignores key cost drivers that cause peak consumption, leading to increased costs on the system.

The cost drivers to which I am referring are the circumstances that cause FPL to add generating capacity. FPL is a summer peaking utility. In other words, the system peak or coincident peak load occurs on the FPL system in the summer. FPL acknowledged in its rebuttal testimony that it adds capacity to meet peak load. As a result, costs are incurred to add that capacity to serve the summer system peak.

My testimony shows that the use of the 12 CP and 1/13th average demand method allocates costs in a manner that fails to recognize the reasons why FPL incurs capital costs associated with generating capacity.

FPL is proposing to add thousands of megawatts of additional generating capacity to meet its summer peak demand. At the same time, FPL is telegraphing to its customers through the use of the 12 CP and 1/13th method and rate design that the cost of customer decisions associated with the next unit of consumption during the October through March period, for example, is equally responsible for the incurrence of this new capacity cost as the next unit of consumption during the August time of the system peak. The 12 and 1/13th method overallocates costs.

I present the results of an alternative cost of service study that makes two changes to the company's model. First, my analysis allocates production demand costs on the basis of rate class contributions to the summer system peak. The second change that I make to the company's analysis is the incorporation of a minimum distribution system methodology that classifies distribution plant and expenses into both a customer and a demand component.

This methodology, which is recognized in the NARUC Electric Utility Cost Allocation Manual as the basis for classifying distribution costs, is premised on the underlying concept of the existence of a minimal level of distribution investment necessary to connect the customer to the distribution system -- lines, poles, transformers. I believe that it is particularly justified in its current environment where there are so many vacant dwellings that have little or no demand and thus are not allocated cost responsibility for distribution plant because there are no demands associated with those, or little or no.

While no cost allocation method is perfect, some classification of distribution plant as customer-related is justified and has been recognized as such by numerous regulatory commissions.

The final issue that I address is the failure of FP&L to provide mitigation to individual rate classes that are facing huge increases under the company's proposal. FPL has refused the Commission -- to incorporate the Commission's mitigation policy of limiting increases to rate schedules to 1.5 times the system average, which I believe is appropriate in this case.

As I mentioned, I'm recommending that regardless of the cost of service method approved by the Commission, that the Commission incorporate the mitigation that it has recently incorporated --

(Microphone turned off.)

CHAIRMAN CARTER: Thank you. Let's see. After last week with the, the lineup being the way it is, what did we -- let's see now, on cross-examination, what's the lineup today? Okay. Who's on first?

Mr. Moyle?

MR. MOYLE: Well, I guess Florida Power & Light probably is adverse, so they may go. I may have just one or two questions. We're not wholly aligned with this witness, FIPUG is not, but whatever your preference is.

CHAIRMAN CARTER: Well, I mean, we've been kind of fluid on this, and I think that -- so let's, why don't you go ahead, Mr. Moyle, go ahead and ask your questions.

MR. MOYLE: Okay.

CROSS EXAMINATION

BY MR. MOYLE:

Q. Sir, good morning.

A. Good morning.

Q. Jon Moyle. I represent FIPUG.

And the 12 CP 1/13th, that's a method of allocation that FP&L has previously used; is that correct?

A. Yes.

Q. And you are suggesting that that should not continue to be used in this case?

A. Yes. I'm recommending an alternative method, the summer coincident peak method.

Q. And what is the basis for that?

A. The basis, excuse me, the basis is that the, that the system peak on FP&L's system that occurs in the summer during August is the driver for the need for capacity addition. The company has a planning criteria which is comprised of a, meeting a 20 percent summer reserve margin. That's the amount of excess additional capacity over and above the summer peak, a similar reserve margin criterion for the winter peak, and to some extent a, what's called a loss of load probability criterion. But the primary factor based on the information that I have reviewed is the summer peak in driving the need for capacity addition.

Q. So your position would be that the causer of that summer peak ought to, ought to bear more of the responsibility for that; is that essentially correct?

A. Yes. Yes. From a cost causality standpoint, that's correct.

Q. All right. You used the term "rate shock." We've had a lot of terms being used in this case, regulatory lag. What is rate shock?

A. Rate shock is basically a characterization of a utility's rate request that is, is substantial in, given the economic environment that the, that exists at the time. For example, today in the United States inflation is running at maybe 2 percent or less. For large general service customers the rate schedules that I talked about, some of the increases that the company is proposing are in the range of 50 to 58 percent, which is an unbelievable large, unbelievably large real price increase over and above general inflation. When you couple that with the economic environment in the country and particularly in Florida, it's, it creates rate shock, meaning that there is a substantial change in the customer's bill as a result of that change in rates.

Q. Now you spoke about a mitigation policy. How do you, how would you mitigate against a rate shock? And my concern, I represent large industrial users, and I think Mr. Pimentel, one of FPL's witnesses, may talk a little bit about the impacts of rates on industrial customers as a class. But what, what mitigation policies are appropriate in your view?

A. Well, in addition to the -- in the first instance, probably the most significant mitigation would be to carefully consider the reasonableness of the company's revenue requirement request. And other witnesses from SFHHA have addressed that issue and found in fact that the company's rate request is substantially overstated.

But absent that, for any, let's -- taking the company's filing as presented, a reasonable mitigation would be to incorporate the Commission's policy that the Commission has used in prior cases of limiting the increases to an individual rate class to no more than 1.5 times the average increase. And that's a way to gradually move rate schedules towards cost of service without imposing a shock.

CHAIRMAN CARTER: Hang on a second. We've got -- now mine won't work.

(Audio difficulties.)

(Recess taken.)

We're back on the record. And let's do this out of an abundance of caution. Commissioners, let's start with you guys and see if your microphones are working.

Commissioner Edgar?

COMMISSIONER EDGAR: Mr. Chairman.

CHAIRMAN CARTER: Commissioner McMurrian?

COMMISSIONER McMURRIAN: Testing.

CHAIRMAN CARTER: Commissioner Skop?

COMMISSIONER SKOP: Mr. Chair.

CHAIRMAN CARTER: Commissioner Argenziano?

COMMISSIONER ARGENZIANO: Yes. Can you hear me okay?

CHAIRMAN CARTER: Okay. That's better. Now let's just, let's do a combo check with the parties.

Mr. Butler, can we --

MR. BUTLER: I'm here.

CHAIRMAN CARTER: No.

MR. BUTLER: No, I'm not here. Testing, testing. Okay. I guess if I get close enough, it's working.

CHAIRMAN CARTER: Okay. Ms. Clark?

MS. CLARK: I'm here.

CHAIRMAN CARTER: Okay.

MS. PERDUE: I'm here.

CHAIRMAN CARTER: Mr. Wiseman?

MR. WISEMAN: Me too.

CHAIRMAN CARTER: Ms. Christensen?

MS. CHRISTENSEN: Yes. Is it working? Yeah, it's working.

CHAIRMAN CARTER: Ms. Bradley? Try again.

MS. BRADLEY: Ms. Chairman.

CHAIRMAN CARTER: Okay. That's better.

Mr. Moyle?

MR. MOYLE: Test, test, test. Test, test.

CHAIRMAN CARTER: Yours was working before.

Mr. Wright?

MR. WRIGHT: The Retail Federation is here, Mr. Chairman. Thank you.

CHAIRMAN CARTER: Okay. I hate to be so rudimentary, but when the system, the sound system went out, then the camera went out. So out of an abundance of caution, I want to make sure that we get from everyone.

Ms. Helton?

MS. HELTON: Testing.

CHAIRMAN CARTER: Okay. Ms. Bennett?

MS. BENNETT: Good morning.

CHAIRMAN CARTER: Okay. Good. All right then. Where were we?

Ms. Clark.

MS. CLARK: Mr. Chairman, I wanted to object to this line of questioning. It goes to the issue of what is known as gradualism, which is Issue 142 in the Prehearing Order. And FIPUG and SFHHA are aligned on this issue, so I would object to this friendly cross.

CHAIRMAN CARTER: Mr. Moyle, to the objection.

MR. MOYLE: I think the key issue that there's a difference of opinion on is how to allocate cost, and FIPUG, Mr. Pollock, and I think I referenced in my opening statement that the 12 CP 1/13th average demand was something that FIPUG was suggesting would be appropriate. This witness and the hospital association are taking a position materially different from that. So that was, I think, creating a point of divergence from our, from our respective views.

I have two or three more questions.

MS. CLARK: Just so I'm clear, we were not objecting to that line of question. It's the line of question having to do with the gradualism and the rate shock issues. They are aligned on that particular issue. Thank you.

CHAIRMAN CARTER: Okay.

MR. MOYLE: I don't have anymore questions on that anyway.

CHAIRMAN CARTER: Okay. Let's, let's do this. Ms. Helton, I'm going to spare you this time. Let's just kind of see where we get to.

Mr. Moyle.

MR. MOYLE: Just another couple of just brief questions and I'll be done.

BY MR. MOYLE:

Q. But there's been some discussion about impacts of the economy on, on ratepayers and classes of ratepayers. Would you agree that the possibility of FPL's proposal as adopted as filed with rates going up by more than 50 percent on some classes will make it more difficult for large industrial users that have to endure 50 percent rate increases to recover from the economic conditions?

MS. CLARK: I would object. Again, I believe this is friendly cross.

CHAIRMAN CARTER: Mr. Moyle, to the objection.

MR. MOYLE: I think, I think the issue is, you know, teed up properly before you. I think he's a qualified expert. He can comment on that, whether it's true or not.

CHAIRMAN CARTER: Ms. Helton.

MS. HELTON: I don't think I heard Mr. Moyle tell us how this party is aligned adversely to his client's position in the hearing.

CHAIRMAN CARTER: Okay. Sustained.

MS. HELTON: With respect to this particular issue.

CHAIRMAN CARTER: Sustained. Move on, Mr. Moyle.

MR. MOYLE: That's all I have. Thank you, Mr. Chairman.

CHAIRMAN CARTER: Ms. Christensen.

MS. CHRISTENSEN: No questions.

CHAIRMAN CARTER: Ms. Bradley.

MS. BRADLEY: No questions.

CHAIRMAN CARTER: Mr. Wright, good morning.

MR. WRIGHT: Good morning. I have no questions for Mr. Baron. Thank you.

CHAIRMAN CARTER: Okay. All right. Any further -- any of the -- did I miss any of the Intervenors?

Okay. Ms. Clark, is it you or Mr. Butler?

MS. CLARK: Me.

CHAIRMAN CARTER: Okay. Ms. Clark is herself. Ms. Clark, you're recognized.

MS. CLARK: Thank, Mr. Chairman.

CROSS EXAMINATION

BY MS. CLARK:

Q. And good morning, Mr. Baron.

A. Good morning.

Q. I really just have a few questions for you. The first one, I would like to, area I'd like to talk to you about is the minimum distribution system for classification of plant, and I think you refer to it as the MDS methodology.

A. Yes. I believe that's a reasonable acronym.

Q. Okay. Are you aware that this Commission has consistently rejected the use of MDS classification methodology by investor-owned utilities for the last 20 years in Florida?

A. Yes, I am aware of that, and I've recognized that in my testimony. I've acknowledged that. And the primary reason that I'm recommending it, and particularly now, is because of this issue that I raised regarding the, the increase in vacant dwellings and foreclosures where demands have dropped. And there is, I referenced an exhibit that FP&L, a data response that FP&L provided that showed that the company had to do an adjustment to reflect a reduction in energy use in the residential class.

And I believe that that, that also requires a reduction in demand, which means that some of the distribution plant that exists for those vacant dwellings is being allocated to other rate classes because there are no demands, when in fact there's, there's legitimately, those facilities have been placed into service, they exist, the company is asking for a return on those to serve residential, those residential dwellings.

Q. If that were not the case today, would you be recommending the MDS method?

A. I would as a matter of cost of service methodology. I recognize, as I said, I recognize the Commission's precedent on that. But it is a reasonable and legitimate methodology, and I, I would recommend it. But I think, as I said, and particularly in this case and in consideration of the company's refusal to provide any type of mitigation to cost of service so that the company is proposing to set rates exactly on the results of its cost of service study resulting in a 58 percent increase, for example, to some of the large general service rates, I think it's important for the Commission to consider that there are other factors that can influence cost of service. It's not an exact science. And the company's failure to mitigate is another reason why I believe it's appropriate for the Commission to consider the possibility of other drivers on cost of service.

Q. Let me ask you something. In your summary you mentioned the NARUC manual. By your testimony in the summary, you are not implying that that manual advocates or endorses the MDS method, are you?

A. I think the, I would say --

MS. CLARK: Mr. Chairman, I would like a yes or no, please.

THE WITNESS: No, I don't think that the manual advocates it. However, in the chapter in the NARUC manual that discusses cost classification for distribution facilities, that is the only, that is the methodology that the, that the manual discusses. It goes through for each of the different types of accounts, for investment and expenses, how those costs would be classified. There's obviously no requirement by NARUC that tells any commission, including the Florida Commission, how to allocate costs. But that is the method that the NARUC manual uses for cost allocation for distribution facilities.

BY MS. CLARK:

Q. Just to be clear, when you say the NARUC manual uses it, would it be more correct to say the NARUC manual only describes it?

A. Yes. That's what the manual is. It's a description of methodologies that are commonly used in the electric utility industry to allocate cost. And for distribution costs, Chapter 6, that, those methods are all related to a customer demand classification.

Q. Let me ask you, are you aware that there is one instance that this Commission allowed the use of the MDS method?

A. Yes.

Q. And that was for Choctawhatchee Electric Cooperative; isn't that correct?

A. That's my understanding, yes.

Q. Are you familiar with CHELCO's -- its nickname I guess is CHELCO. Are you familiar with CHELCO's territory?

A. I am not. I'm generally familiar with electric cooperatives and the type of customers and systems that they have. I'm not specifically familiar with that utility.

Q. So you can't indicate whether or not the service territory is substantially different than FPL's, can you?

A. I can't as a matter of any knowledge that I have. But just as a general matter, I, I would expect that an electric cooperative would have a different composition than FP&L.

Q. In its order approving the use of the MDS methodology for CHELCO, didn't the Commission give four reasons for allowing the use of this method?

A. I, I have not -- I was handed a copy of an excerpt of that order today and I've seen references to it, but I know that -- I believe in some -- maybe in FPL's rebuttal testimony there was some recitation of that. I don't recall all of the exact reasons. I remember that customer density was, was one of those cited.

Q. Well, let me read them to you and let you accept them, subject to check. Those four reasons were extremely low density of customers in a sparsely populated rural area, a large number of customer premises not occupied on a year-round basis, a significant number of customers taking service under multiple accounts and, finally, instability of revenues caused by a small amount of electricity consumed on an annual basis coupled with sporadic usage.

A. I would accept that. I would note that at least with respect to the, the, one of the characteristics that was cited is similar to the characteristic that I was talking about with respect to Florida Power & Light, and that is the rise in vacant dwellings on the system and the fact that there's distribution plant in the ground to serve those dwellings with little or no demand, which means under FP&L's method it gets, those costs get allocated to some other rate class.

Q. But you would agree with me that the, that those four factors existing together do not describe FPL's territory; is that correct?

A. Well, except I think the one that I just talked about sounds similar to one of those four characteristics that you cited.

Q. Let me just follow up. You indicated you were just handed a copy of that order, the Choctawhatchee Electric Cooperative order.

A. Yes.

Q. Who handed you a copy of that?

A. I'm sorry?

Q. Where did that copy come from? Was it something staff gave you?

A. It, I believe it came from the staff and it was handed to me by my attorney.

Q. Okay. So you never looked at it previously in developing your testimony, did you?

A. I don't -- in this case I did not. I may have looked at it in a prior Florida Power & Light case. I've been in a number of them in the past, I guess, ten years.

Q. Regarding your recommendation on production, production plant, I didn't see where you cited to any FPSC order approving this methodology; is that correct?

A. The summer coincident peak method?

Q. Yes.

A. That's correct. I did not cite to any.

Q. I'd like to hand you -- well, I actually think the staff has handed -- maybe not. But I would like to hand you an order which is an order from a rate case, a Gulf Power rate case, and I think we'll get it to you in just a minute.

A. I believe, again, I believe the staff has provided a copy of that order. Well, it's an order dated June 10, 2002?

Q. No, Mr. Baron, that's not the order that I'm looking at.

A. Okay.

MS. CLARK: Mr. Chairman, I would like an exhibit number for that. I won't ask for an exhibit number for the CHELCO order, since I believe the staff is going to be offering that as an exhibit.

CHAIRMAN CARTER: Commissioners, the number in our sequence is 422, Number 422. 422.

Short title, Ms. Clark?

MS. CLARK: 1982 Gulf Power Rate Case Order.

MS. BENNETT: And, Ms. Clark, we don't enter our orders because they're our orders.

MS. CLARK: I beg your pardon.

CHAIRMAN CARTER: What's the plan, staff?

MS. BENNETT: I was just saying that we normally take judicial notice of our orders issued by the Commission, and so we don't enter them into the record. I just wanted to make sure she knew that.

CHAIRMAN CARTER: Okay. That's even better.

MS. CLARK: I'm comfortable with that. So should we --

CHAIRMAN CARTER: So we'll just -- we won't use 422 yet.

MS. CLARK: And I would simply ask you to take judicial notice of the Commission Order 10557 issued in Docket 810136-EU.

CHAIRMAN CARTER: Ms. Helton?

MS. HELTON: I don't even think that's necessary, but it's certainly appropriate, given that we know that it's going to be used for cross-examination purposes.

CHAIRMAN CARTER: Okay. Done.

You may proceed.

BY MS. CLARK:

Q. Mr. Baron, I believe on your copy on Page 29 way down at the bottom we have highlighted some language there. And it starts with the phrase "in doing so."

A. Yes, I see that.

Q. Would you read the highlighted language for me, please?

A. "In so doing, we are departing from our policy in previous cases of limiting the increase to any one class to not more than 1.5 times the system average increase."

Q. Please keep going.

MR. WISEMAN: I'm sorry. Could counsel just clarify what page?

MS. CLARK: I'm sorry. I'm on the Lexus Page 29 over to 30.

MR. WISEMAN: Thank you.

BY MS. CLARK:

Q. Would you continue reading the next two sentences, please?

A. Yes. "Were we to apply that policy in this case, some classes whose present rates of return are above parity would receive an increase. Thus, the greater equity lies in allocating the increase to those classes with substantially lower rates of return."

Q. So in that case at least the Commission decided not to apply the 1.5 limitation; is that correct?

A. I, based on what I read, that's what it would appear to be. I'm not familiar with this case. I don't know the types of increases, but it says what it says. I agree with the English recitation.

Q. So would it be fair to say in preparing your testimony you did not review this case?

A. No. I don't think -- no, I did not review the case.

Q. Are you aware that in the recent Peoples Gas case the Commission again deviated from the 1.5 guideline?

MR. WISEMAN: Objection. Introduces a fact not in evidence.

MS. CLARK: I'm just asking if he's aware of it, and I will ask the Commission to take judicial notice of an order. If he's not aware of it, he can say so.

CHAIRMAN CARTER: Well, let's see. You may proceed.

THE WITNESS: I'm not aware of it.

BY MS. CLARK:

Q. Okay. Thank you.

You are not here today representing residential customers, are you?

A. That's correct.

Q. In this proceeding residential customers would be represented by Public Counsel; is that correct?

A. I assume that would, Public Counsel would be representing residential customers. I don't know whether they would view their responsibility as representing others, but I know they would represent residential.

Q. Okay. And isn't it true that your proposal moves costs from large commercial customers on to residential customers?

A. I don't know if I would character -- it has the result of changing the allocation of the company's revenue increase. That's -- with no question that is the case.

When you say move costs, there's a premise I think to that question that somehow costs are the way FP&L defines it for each rate class and the methodology that I'm recommending changes that. And it does change it and it results in a different responsibility for cost. But I -- and if that's what your question was, then, then I would agree.

Q. Yes. So the --

A. But it doesn't necessarily -- I don't agree that FP&L has defined where costs are and that any change from that is therefore moving costs.

Q. Well, let me ask it a different way. Whatever the revenue requirement in this case is, your proposal will shift more of that revenue requirement on to residential customers; correct?

A. Yes. Well, actually when you consider the totality of the SFHHA proposal, I don't know if that's true. My colleagues who will be testifying on Wednesday are recommending a revenue decrease. And so if the Commission were actually to approve a revenue decrease in this case, then the, there would be no increase presumably.

Q. But with respect to any increase, your proposal will make more of those revenue requirements allocated to the residential class.

A. Yes. That's correct.

Q. Thank you.

MS. CLARK: I believe that's all I have.

Thank you, Mr. Chairman.

CHAIRMAN CARTER: Commissioners, I'm going to go to staff before coming to the bench.

Staff, you're recognized.

MS. BENNETT: To begin with, we have passed out two exhibits and two orders. Let's go ahead, if you don't mind, and mark those two exhibits. The first one would be 422, is South Florida Hospital and Healthcare Association's response to staff's Interrogatory Number 2, or SFHHA --

CHAIRMAN CARTER: Number, number -- hang on a second. Number 422, Commissioners -- staff, what's the short title, Ms. Bennett?

MS. BENNETT: SFHHA's Response to Interrogatory 2.

CHAIRMAN CARTER: You may proceed.

MS. BENNETT: And then the second is 423. The description is Response to Staff's First Production of Documents, Request Number 1.

CHAIRMAN CARTER: Hang on one second.

MS. BENNETT: That wasn't short. I'm sorry.

CHAIRMAN CARTER: I'm still working on the first one. Okay. And the second one is?

MS. BENNETT: Response to First --

CHAIRMAN CARTER: Is that this deal right here that I'm looking at, the thick one?

MS. BENNETT: The big thick one, yes.

CHAIRMAN CARTER: Okay. 423.

MS. BENNETT: 423.

CHAIRMAN CARTER: Okay. Title?

MS. BENNETT: Response to staff's First POD Number 1.

CHAIRMAN CARTER: Okay.

(Exhibits 422 and 423 marked for identification.)

MS. BENNETT: And then we've also provided you with two orders, one of them you've been talking about. I don't need them marked as exhibits. But I'm told it's Choctawhatchee, not Choctawhatchee (pronouncing phonetically), and it's Order Number 020537. I'm sorry. Order No. 02-1169 in Docket Number 020537.

And then the second, the second order is Order Number PSC-02-0787-FOF-EI in Docket Number 010949-EI.

So we'll only be discussing the rate case since we've already talked about the Choctawhatchee order.

CHAIRMAN CARTER: I'm going to pass up this opportunity to haze you on the pronunciation of the name, so --

MS. BENNETT: Tell me, tell me I said it wrong.

CHAIRMAN CARTER: I'm not going to mess with you -- well, no, I wouldn't say today, but maybe just the morning, I guess. Choctawhatchee? You don't pronounce all of the syllables in there. But anyway, I --

MS. CLARK: I think that's why they use CHELCO.

(Laughter.)

CHAIRMAN CARTER: I'm going to pass up this opportunity for now, Ms. Bennett, to haze you, but I'll reserve the right to get you later. You may proceed.

MS. BENNETT: I'll be on my best behavior.

CROSS EXAMINATION

BY MS. BENNETT:

Q. Mr. Baron, you've discussed in your testimony and then also in your cross-examination that you were aware of prior Commission orders talking about the, and rejecting the minimum distribution system that you've recommended.

A. Yes.

Q. Was one of those orders the 2002 Gulf rate case?

A. Yes. I have seen that order.

Q. And you have a copy of that in front of you. Your attorney handed it to you today?

A. Yes.

Q. And did you have an opportunity to review it before we started to discuss this today?

A. I did not. I have reviewed it in the past. I didn't -- and as a result I did not review it again this morning. But I have reviewed it in the past.

Q. And would you agree with me, based on that review in the past, that the Commission considered and rejected the MDS methodology and the ZI methodology that you suggest for the FPL rate case?

A. Yes.

Q. You've explained a couple of reasons why you believe the FPL rate case should be treated differently and use the MDS method. Are there any other reasons to distinguish the Gulf rate case from the FPL rate case?

A. Well, I don't know that I can -- I think the primary reason probably is that it is a, it's a reasonable methodology that recognizes that to some extent there is a minimum cost to interconnect a customer, any customer in the system, and that the, a pure demand allocation of lines, primary and secondary lines, poles and transformers, distribution transformers, on a pure demand basis in my view does not reasonably assign cost. And I've got a -- I had my exhibit, excuse me, my Table 1 just pointed out sort of a clear example of the anomaly --

CHAIRMAN CARTER: Table 1? Where are you? Tell us where --

THE WITNESS: Oh, on Page 24 of my testimony, Your Honor.

CHAIRMAN CARTER: Okay. I'm sorry to interrupt. I just wanted to follow you.

THE WITNESS: Yes. Page 24, where I took the results, I took the results of the company's cost of service study on the, on the allocation of secondary poles. There were, based on the review of the work papers, there were 185,000 secondary poles on the FP&L system. If you allocate them on demand, which is the way the company did, you end up effectively with an allocation that's shown in the third column.

And it just doesn't make sense that the average residential customer would be assigned .03 poles and the average GSLDT-2 customers, customer would be assigned almost 19 poles. That's an anomaly that results from a pure demand allocation methodology on distribution facilities, and I think it's reasonable to consider a customer component.

BY MS. BENNETT:

Q. Well, but that's not a distinction between the Gulf case and the rate case. That's a distinction of the application of the methodology that the Commission has rejected in the past; isn't that true?

A. Well, yes. It doesn't distinguish because I haven't, I don't have a similar analysis for Gulf Power.

I don't know whether this type of result would exist on the Gulf Power system based on a pure demand allocation, so I don't know. But I do know that the results on the, for FP&L in some measure don't make, aren't realistic.

Q. I'm going to ask you now to turn to your interrogatory response that's been marked as Exhibit Number 422, and I'm going to ask, are you familiar with this document and was it prepared by you?

A. Yes.

Q. Okay. And could you read the question for me, please?

A. Yes. "Please refer to the direct testimony of Stephen J. Baron, Page 22, Lines 4 to 12. You discuss the zero intercept and minimum size approaches to allocating distribution costs. How mathematically would one calculate the zero intercept or minimum size for all customer classes?"

Q. And your response states that in order to implement the MDS classification methodology, you first have to identify the minimum size investment for each FERC account; is that correct?

A. Yes.

Q. How is that done? Can you kind of walk me through that minimum size identification, or minimum size investment for each FERC account?

A. Well, generally I think I, maybe I gave an example for poles, but basically one would look at for each of the different FERC accounts the type of, the types of conductors that are being installed on the system, the types of poles, line transformers, and the assumption would be that the minimum size of that particular component would be required for, to serve customers, irrespective of the ultimate level of demand of those customers.

So, for example, in the case of conductors, you would effectively calculate the cost of providing primary and secondary lines using the smallest size conductor that would be installed on the system times the number of feet of that conductor on the system, and that dollars that would be produced from that would be kept classified as customer-related and the residual in the account would be classified as demand-related. That's the minimum size method. The minimum -- the zero intercept is a little different.

Q. I guess I'm asking to even be more specific. When we're talking about the cost of those poles, is there some objective source that we can use to identify the cost of the poles and the distribution lines, those, those types of, of items?

A. The, the objective source would normally be the utility's own cost. In other words, what the company, what types of facilities or investment the company is making and the cost, the installed cost for those, for that type of investment. And so you would use the utility's records to do that.

Q. Okay. I'm going to ask now that you turn to the document marked Exhibit Number 423, which is the rate, is a combination of all of the rate case orders that you cited in SBJ-5 (sic).

So, Commissioners, you might want to look at SBJ-5, and Mr. Baron, as well as these orders as we finish up our discussion on your testimony.

BY MS. BENNETT:

Q. Are you there?

A. Yes.

Q. Okay. It's my understanding that you presented five electric utilities, and those appear in SJB-5, that incorporate a minimum distribution system or MDS methodology in the class of cost to study, and those are listed in SJB-5; is that correct?

A. That's correct. To one extent or another, these, these utilities that I used as a representation of an MDS, a minimum distribution system cost classification.

Q. And you provided, or the attorney for South

Florida Hospital provided orders for the first four of those, which include, are included in this 423; is that correct?

A. Yes. I actually obtained those orders.

Q. Okay. And the first four rate cases, which are Wisconsin Public Service, Ohio Edison, Kentucky Utilities and Louisville Gas & Electric, those were stipulated rate cases, were they not?

A. Yes, I believe that's correct. I, I was in each of those cases and I'm familiar with the basis for the ultimate cost allocation.

For example, in the case of Kentucky Utilities and Louisville Gas & Electric, the stipulation was based on the cost of service study that the company did, prepared using a minimum distribution system method, and together with some modifications that I made. But in both cases it was based on a minimum distribution system, but it was a stipulation.

Q. We had an opportunity to review some of these orders, and I'd like for you to walk us through each of the orders and show where in the orders the commissions adopted those minimum distribution systems.

A. I've re -- I can tell you I've reviewed the orders as well, and they, to the best, to the best extent of my knowledge, those orders do not address the specific cost of service methodology, including the minimum distribution system. I'm, but I'm sitting here testifying, telling you that I was in each of those cases, and the end result of the stipulations were premised on those cost of service studies.

In the case of Wisconsin Public Service, it was, my recollection is it was a very small, maybe a zero increase. But there was no -- that methodology has consistently been used in Wisconsin and in current cases that -- I'm involved in three other cases in, or two other cases in Wisconsin right now for that utility and another utility, and they're all, they all use a minimum distribution system method.

Q. I'm going to ask you to turn to specifically the Wisconsin Service order, Appendix B, Page 1 of 10.

CHAIRMAN CARTER: Did you say D as in dog or B as in boy?

MS. BENNETT: B as in boy.

BY MS. BENNETT:

Q. Let me know when you're there.

A. Okay. Appendix B, and what page?

Q. Page 1 of 10.

A. Yes. I've got that.

Q. Would you agree with me that the residential customer charge for single phase decreased as a result of this stipulation from $8.40 to $5.70?

A. Yes.

Q. Okay. And the final column in SJB-5 that you've stated was, that uses the minimum distribution classification, that's a Virginia Electric and Power case; correct?

A. Correct.

Q. And that case has yet to be decided by the Virginia Commission; is that correct?

A. That's correct. It's still, the company has filed the case, but the staff, the intervenors have not yet filed their testimony.

MS. BENNETT: That's all the questions I have.

CHAIRMAN CARTER: Okay. Commissioners? Okay. Redirect, Mr. Wiseman?

MR. WISEMAN: Thank you, Mr. Chair. Just a few questions.

REDIRECT EXAMINATION

BY MR. WISEMAN:

Q. Mr. Baron, let's talk about the MDS methodology first. Now that, as you stated, it's described in the NARUC manual; is that correct?

A. That's correct.

Q. How many class, classification methodologies concerning distribution are described, distribution plant are described in the NARUC manual?

A. Well, the, the, the only methodology that's described in the NARUC manual for performing cost of service related to distribution involves a customer and demand classification. There are two, as we, I think I discussed with staff counsel, there's a zero intercept method and a minimum size method to arrive at that classification. But there's only one method cited in the NARUC manual.

Q. And how about, with respect to production plant, how many methods are described?

A. There -- I would guess, based on my recollection, at least five, maybe seven or eight.

Q. All right. Now in the exhibits --

A. And those are all completely different methods, including the single CP, the 12 and 1/13th.

Q. All right. Now in the exhibit that you were just discussing with staff, that's your SJB-5, it references five utilities, Wisconsin Public Service, Ohio Edison, Kentucky Utilities, Louisville Gas & Electric and Virginia Electric and Power.

To be clear, your testimony is that each of those utility commissions have authorized the use of the MDS methodology in the past; is that correct?

A. To the best of my knowledge, at least with respect to the first four. With respect to Virginia Electric and Power, that's my understanding. I've reviewed some of their cases in prior years. That's certainly how they're filing at this time. And to the best of my knowledge that is correct.

Q. Are there other utility commissions around the country other than these five that have utilized the MDS method?

A. Yes. I'm -- I've been -- these are cases that I've been in relatively recently. I was in a Pennsylvania Power & Light case within the last three or four years, and PP&L also uses a minimum distribution system method. And to the best of my knowledge, that has been accepted by the Pennsylvania Public Utility Commission.

Q. Now you were also asked some questions about the CHELCO case, do you recall that, the case here before the Commission?

A. Yes.

Q. One of the factors that I believe was discussed in that case was density, customer density. Do you recall that?

A. Yes.

Q. Does customer density have anything to do with the use of the MDS methodology?

A. I believe that the answer to that is it could -- it would affect the weighting between that portion that might be allocated or classified as demand and that portion on customer. But it in and of itself wouldn't dictate that if you are, if you have higher customer density, you therefore should assign 100 percent of distribution costs on demand. It may influence the particular balancing of the classification, but in my view it doesn't dictate that there would not be any classification as demand.

And the pole example that I showed in my Table 1 is a good example. FP&L cites its high customer density, and yet you end up with this anomaly under their method.

Q. Actually go -- if you could refer to your Table 1, and again that's at Page 24 of your prepared testimony.

A. Yes. I've got that.

Q. I just wanted to make sure that, that it was -- that I heard you properly and that this was properly interpreted.

So looking at the residential class, this -- is it my understanding that this table shows that .03 poles are used for each customer?

A. That's the end result of the company's methodology, that FP&L has, out of 185,000 secondary poles on the system, FP&L has allocated 106,000 poles to residential, the residential class. And when you divide that by the number of residential customers, you end up with .03. And the corresponding calculations for the other general service classes that I showed obviously are, are significantly higher. In the, in the really standout case of GSLDT-2, it's almost 19 poles per customer.

Q. And what was the source of your data for this table?

A. Florida Power & Light's cost of service study and its work papers.

Q. All right. Last couple of questions.

A. Sure.

Q. Do you recall Ms. Clark asked you certain questions about SFHHA's proposal and the costs that would be imposed on the residential class versus the commercial class? Do you recall that?

A. Yes.

Q. Okay. Does FPL -- I'm sorry. Strike that. Does SFHHA's proposal propose to shift costs from the commercial class to the residential class?

A. No. That's what I was trying to explain in my answer, that the, if the -- there's no reason to accept the premise of a question regarding cost shifting if you don't accept that the, the status quo cost of service study, for example, that FP&L filed is the actual measure of cost. And so if you're trying -- if you have a different view of cost responsibility for each customer class, it's not a cost shift. It's a, it's an identification of costs. And that's what I've done in my cost of service study.

Q. All right. Last question, I think. Mr. Moyle had asked you questions about your summer coincident peak methodology versus the 12 CP and 1/13th methodology that FPL uses. Do you recall that?

A. Yes.

Q. Can you tell us why -- what was the reason that you proposed the use of the summer CP methodology in this case?

A. Well, in the, in the 2005 Florida Power & Light case I actually recommended a summer/winter average in recognition of the dual reserve margin criteria that the company uses for planning. And in its rebuttal testimony in that case, Dr. Morley, who was the cost of service witness, criticized me and said that the summer peaks are the driving factors, not the summer and winter.

And so in this case I've acknowledged that and have prepared a cost of service study recognizing the, the dominance and significance of the summer peaks in driving the need for capacity.

Q. And just in terms of cost allocation, what's the significance of the fact that, that it's the summer peak that's driving the addition of generation capital additions onto FPL's system?

A. Essentially what it means is that customer usage during the summer months, the on-peak periods during the summer months, is the primary factor that is causing the need for new generating capacity and thus the costs that are, that the company is requesting recovery from in this case among others.

And so if you're doing, preparing a cost of service study that tries to identify the cost causation of customer behavior versus the actual dollars on the company's books, the summer peak is the predominant factor in my view that drives that need.

MR. WISEMAN: Thank you. I have no further questions.

CHAIRMAN CARTER: Okay. Exhibits?

MS. CLARK: Mr. Chairman, if I could, I'd just like to ask Mr. Wiseman to, if he could, give me a copy of the Pennsylvania case that Mr. Baron referred to on his redirect. I'd just like to look at a copy of it.

MR. WISEMAN: I don't think we have it here. If --

MS. CLARK: I'd be happy with the citation.

MR. WISEMAN: We'll try to get that for you.

MS. CLARK: Thank you.

CHAIRMAN CARTER: Okay. That's fine.

Okay. Are there any -- let me find the page. Are there any objections to Exhibits Number 269 on staff's Composite Exhibit list down to Number 278? Are there any objections?

MS. CLARK: No objection.

CHAIRMAN CARTER: Without objection, show it done.

(Exhibits 269 through 278 admitted into the record.)

Okay. Let's do these first, and then I'll come back to you for the back pages, as they say.

Now are there any objections to Exhibits Numbers 422 and 423?

MS. CLARK: No objection, Mr. Chairman.

CHAIRMAN CARTER: Okay. Without objection, show it done.

(Exhibits 422 and 423 admitted into the record.)

Okay. Anything further for this witness

during direct?

MR. WISEMAN: I'm sorry. I missed that.

CHAIRMAN CARTER: Anything further for this witness on direct?

MR. WISEMAN: Oh. No, nothing further, Your Honor.

CHAIRMAN CARTER: Thank you, Mr. Baron. Have a great day.

THE WITNESS: Thank you, Commissioner.

CHAIRMAN CARTER: Call your next witness. Actually who's on next? Let's see. Mr. Wright, are you next, or how do we -- OPC. Okay.

MS. CHRISTENSEN: I believe it's OPC, and Mr. McGlothlin will be introducing our witness.

CHAIRMAN CARTER: Okay. All right. Let's give everybody a chance to shift in and shift out.

Ms. Christensen, you did a great job. I see Mr. Kelly in the back, so I want to make sure I say good things about you while he's here.

MS. CHRISTENSEN: I appreciate it.

CHAIRMAN CARTER: We're off the record.

(Transcript continues in sequence with Volume 15.)

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 3rd day of September, 2009.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734