BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES BY FLORIDA POWER & LIGHT COMPANY. — DOCKET NO. 080677-EI

2009 DEPRECIATION AND DISMANTLEMENT STUDY BY FLORIDA POWER & LIGHT COMPANY. — DOCKET NO. 090130-EI

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Pages 2354 through 2540

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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: Wednesday, September 2, 2009

TIME: Commenced at 9:30 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.
35	(Comprehensive Exhibit List - Page 6, Item 16, and Page 8, Item 30)	2361	2361
98	JAK-1	2361	2361
99	JAK-2	2361	2361
100	JAK-3	2361	2361
101	JAK-4	2361	2361
102	JAK-5	2361	2361
103	JAK-6	2361	2361
223	SLB-1	2412	
224	SLB-2	2412	
225	SLB-3	2412	
226	SLB-4	2412	
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228	SLB-6	2412	
229	SLB-7	2412	
230	SLB-8	2412	
231	SLB-9	2412	
232	SLB-10	2412	
233	SLB-11	2412	
234	SLB-12	2412	
235	SLB-13	2412	
236	SLB-14	2412	
237	SLB-15	2412	

EXHIBITS

NUMBER:	ID.	ADMTD.
238 SLB-16	2412	
239 SLB-17	2412	
240 SLB-18	2412	
241 SLB-19	2412	
242 SLB-20	2412	
243 SLB-21	2412	
244 SLB-22	2412	
245 SLB-23	2412	
246 SLB-24	2412	
247 SLB-25	2412	
248 SLB-26	2412	
329 RH-1	2360	2360
330 KLW-1	2360	2360
331 KLW-2	2360	2360
443 IRS Decommissioning Regulations	2528	
444 Decommissioning Fund Requirements	2530	

P R O C E E D I N G S

(Transcript continues in sequence from Volume 18.)

CHAIRMAN CARTER: I'd like to call this hearing to order. Good morning to everyone.

MR. BUTLER: Good morning.

CHAIRMAN CARTER: I hope everyone is doing fine. It's a beautiful day outside. It's not raining as hard today as it was yesterday.

We have some preliminary matters, Commissioners, so I'll start with those, and then we'll go ahead on with the case.

Staff, you're recognized for preliminary matters.

MS. BENNETT: I believe that there are three witnesses who could be stipulated into the record at this time: Rhonda Hicks, staff witness, and Dale Mailhot, staff witness. And the parties have agreed to include staff's exhibits for Mr. Sonnelitter, so Sonnelitter could -- is it Mr. Sonnelitter or Ms. Sonnelitter?

CHAIRMAN CARTER: Are there any objections?

MR. BUTLER: Ms. Sonnelitter.

CHAIRMAN CARTER: Are there any objections? Okay.

MR. McGLOTHLIN: No.

CHAIRMAN CARTER: Okay.

MS. BENNETT: Before, before we -- I think Commissioner Skop needed to make a statement about --

CHAIRMAN CARTER: Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I guess Ms. Sonnelitter's testimony will adopt the testimony of Mr. Keener. And in the interest of full disclosure, I need to disclose that Ms. Sonnelitter and I previously worked together in the business management group of FPL Energy, which is the unregulated subsidiary of FPL Group. As it was not foreseeable that we would be in our respective positions today nearly ten years later, I wanted to state for the record that our prior working relationship will not impact my ability to decide this case on the merits in a fair and impartial manner. Thank you.

CHAIRMAN CARTER: Okay. Hearing that, any comments or statements by any of the parties? Okay.

Hearing none, was there any objection to the stipulation as delineated by staff, both the witnesses and exhibits? Hearing none, show it done. This is Witnesses Hicks, Mailhot and Sonnelitter. Did I get the name right this time?

MS. BENNETT: And for Hicks and Mailhot, those are Exhibits 329, 330 and 331. We'd ask that they be moved into the record at this time.

CHAIRMAN CARTER: Are there any objections? Okay. Give me those numbers again. I beg your pardon.

MS. BENNETT: I closed the page.

CHAIRMAN CARTER: I'm on the wrong page here.

MS. HELTON: Page 39 of the Comprehensive Exhibit List.

CHAIRMAN CARTER: Okay.

MS. BENNETT: And it's, excuse me, 329, 330 and 331.

CHAIRMAN CARTER: Are there any objections? Without objection, show it done. Okay.

(Exhibits 329, 330 and 331 marked for identification and admitted into the record.)

MR. BUTLER: And, Mr. Chairman --

CHAIRMAN CARTER: Yes, sir.

MR. BUTLER: -- I would move, I would move admission of Exhibits 98 through 103, which are the exhibits of Mr. Keener that Ms. Sonnelitter had adopted.

CHAIRMAN CARTER: 98 through 103?

MR. BUTLER: That's right.

CHAIRMAN CARTER: Are there any objections? Okay. Without objection, show it done.

(Exhibits 98 through 103 marked for identification and admitted into the record.)

MS. BENNETT: And then part of staff's composite exhibit includes some interrogatories responded to by Ms. Sonnelitter or Mr. Keener, and those would be on the comprehensive exhibit, Page 8, Item 30, South Florida -- SFHHA's fifth set of interrogatories, Numbers 248, 253, 254 and 255. And on Page 6, Item 16, OPC's fourth set of interrogatories Number 202.

CHAIRMAN CARTER: Are there any objections? Okay. Without objection, show it done.

(Exhibit 35 on Comprehensive Exhibit List, Page 6, Item 16, and Page 8, Item 30, marked for identification and admitted into the record.)

DIRECT TESTIMONY OF RHONDA L. HICKS

Q. Please state your name and address.

A. My name is Rhonda L. Hicks. My address is 2540 Shumard Oak Boulevard; Tallahassee, Florida; 32399-0850.

Q. By whom are you employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC) as Chief of the Bureau of Consumer Assistance in the Division of Service, Safety, and Consumer Assistance.

Q. Please give a brief description of your educational background and professional experience.

A. I graduated from Florida A&M University in 1986 with a Bachelor of Science degree in Accounting. I have worked for the Florida Public Service Commission for 23 years. I have varied experience in the electric, gas, telephone, and water and wastewater industries. My work experience includes rate cases, cost recovery clauses, depreciation studies, tax, audit, consumer outreach and consumer complaints. I currently work in the Bureau of Consumer Assistance within the Division of Service, Safety, and Consumer Assistance where I manage consumer complaints and inquiries.

Q. What is the function of the Bureau of Consumer Assistance?

A. The bureau's function is to resolve disputes between regulated companies and their customers as quickly, effectively, and inexpensively as possible.

Q. Do all consumers, who have disputes with their regulated company, contact the Bureau of Consumer Assistance?

A. No. Consumers may initially file their complaint with the regulated company and reach resolution without the bureau's intervention. In fact, consumers are encouraged to allow the regulated company the opportunity to resolve the dispute prior to any

Commission involvement.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to advise the Commission of the number of consumer complaints logged against Florida Power and Light Company under Rule 25-22.032, Florida Administrative Code, Consumer Complaints, from July 1, 2007 through June 30, 2009. My testimony will also provide information on the type of complaints logged and those complaints that appear to be rule violations.

Q. What do your records indicate concerning the number of complaints logged against Florida Power and Light Company?

A. From July 1, 1007, through June 30, 2009, the Florida Public Service Commission logged 14,700 complaints against Florida Power and Light Company. Of those, 12,236 complaints were transferred directly to the company for resolution via the Commission's Transfer-Connect Program.

Q. What have been the most common types of complaints logged against Florida Power and Light Company?

A. During the specified time period, approximately seventy-one (71%) percent of the complaints logged with the Florida Public Service Commission concerned billing issues, while approximately twenty-nine (29%) of the complaints involved quality of service issues.

Q. Do you have any exhibits attached to your testimony?

A. Yes. I am sponsoring Exhibit RLH-1.

Q. Would you explain Exhibit RLH-1?

A. Yes. Exhibit RLH-1 is a summary listing of complaints logged against Florida Power and Light Company under Rule 25-22.032, Florida Administrative Code. The complaints, received July 1, 2007 through June 30, 2009, were captured in the

Commission's Consumer Activity Tracking System (CATS). The summary groups the complaints by Close Type and within each Close Type, the complaints are segregated by Pre-Close Type. The first grouping is Pre-Close types that are still pending. The remaining groupings are categorized by Close Type codes such as ES-08, ES-14, GI-02, etc.

Q. What is a Pre-Close Type?

A. A Pre-Close Type is an internal categorization code that is applied to each complaint upon receipt. A complaint is assigned a Pre-Close Type based solely on the initial information provided by the consumer.

Q. What is a Close Type?

A. A Close Type is also an internal categorization code. It is assigned to each complaint once staff completes its investigation and a proposed resolution is provided to the consumer. In some instances, the Pre-Close Type will differ from the Close Type because staff's investigation reveals facts that were not available upon receipt of the complaint.

Q. A great majority of complaints were resolved as Close Type GI-02, Courtesy Call/Warm Transfer. Can you explain this Close-Type?

A. Yes. Florida Power and Light Company participates in the Commission's Transfer-Connect (Warm Transfer) System. This system allows the Commission to directly transfer a customer to the company's customer service personnel. Once the call is transferred to Florida Power and Light Company, it provides the customer with a proposed resolution. Customers who are not satisfied with the company's proposed resolution have the option of recontacting the Commission. While the Commission is able to assign a Pre-Close Type to each of the complaints in this category, a specific Close Type is not assigned because the proposed resolution is provided by Florida

Power and Light Company. Consequently, the assigned Close Type allows staff to monitor the number of complaints resolved via the Commission's Transfer-Connect System.

Q. How many of the complaints summarized on your exhibit has staff determined may be a violation of Commission rules?

A. Of the 14,700 complaints, staff determined that two appear to be violations of Commission rules.

Q. What was the nature of the apparent rule violations?

A. The apparent rule violations were failure to respond to the customer and improperly disconnecting service.

Q. Does this conclude your testimony?

A. Yes, it does.

DIRECT TESTIMONY OF KATHY L. WELCH

Q. Please state your name and business address.

A. My name is Kathy L. Welch and my business address is 3625 N.W. 82nd Ave., Suite 400, Miami, Florida, 33166.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission as a Public Utilities Supervisor in the Division of Regulatory Compliance.

Q. How long have you been employed by the Commission?

A. I have been employed by the Florida Public Service Commission since June, 1979.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Business Administration degree with a major in accounting from Florida Atlantic University and a Masters of Adult Education and Human Resource Development from Florida International University. I have a Certified Public Manager certificate from Florida State University. I am also a Certified Public Accountant licensed in the State of Florida, and I am a member of the American and Florida Institutes of Certified Public Accountants. I was hired as a Public Utilities Analyst I by the Florida Public Service Commission in June of 1979. I was promoted to Public Utilities Supervisor on June 1, 2001.

Q. Please describe your current responsibilities.

A. Currently, I am a Public Utilities Supervisor with the responsibilities of administering the District Office and reviewing work load and allocating resources to complete field work and issue audit reports when due. I also supervise, plan, and conduct utility audits of manual and automated accounting systems for historical and forecasted data.

Q. Have you presented testimony before this Commission or any other

regulatory agency?

A. Yes. I have testified in several cases before the Florida Public Service Commission. Exhibit KLW-1 lists these cases.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to sponsor the staff audit report of Florida Power & Light Company (FPL or Utility) which addresses the Utility's application for a rate increase. We issued an audit report in this docket for the historical test year, 2008. This audit report is filed with my testimony and is identified as Exhibit KLW-2.

Q. Was this audit prepared by you or under your direction?

A. Yes, it was prepared under my direction.

Q. Please describe the work you performed in these audits.

A. We obtained a 13-month trial balance for 2008 and reconciled it to the general ledger and to the filing for rate base, net operating income and capital structure. We reconciled the adjustments for 2008 to the ledger or other supporting documentation. We verified that the adjustments were necessary based on past orders or rules.

Affiliate Transactions:

We reviewed the methodology used to allocate the management fee for 2008, the generation division allocation, the nuclear division allocation and the energy marketing and trading allocation for reasonableness and traced amounts to source documents. We compared the methodology to the allocation methodology in the last rate case. We obtained supporting documentation for the factors used. We reviewed other budget units to determine if other costs should have been included. We selected a sample of the entries charged from FPL to affiliates and from affiliates to FPL and reviewed the source documentation supporting the entries. We reviewed samples of work orders, working capital accounts and expense accounts to determine if they contained rate base or expense items that should have been allocated but were not.

Rate Base:

We obtained the list of projects included in construction work in progress in the 2008 rate base and determined if they were eligible for AFUDC according to the rule. AFUDC was recalculated for a work order that included AFUDC. We reconciled the last rate case trial balance to the 2008 beginning balance for plant and the reserve balances. We selected work orders added since the last rate case through 2008 and tested the additions to supporting documentation. We also verified that there were retirement work orders recorded if we found plant that was being replaced. We obtained the depreciation schedules, reconciled them to the ledgers and the filing and compared the rates used to Commission Orders No. PSC-05-0902-S-EI and PSC-08-0095-PAA-EI.

The accounts included in working capital in 2008 were obtained and reviewed for items that may earn interest. The interest income and expense accounts were reviewed and we verified that the accounts associated with interest were not included in working capital unless the interest also was. We determined if clearing accounts, stores inventory, prepayments, deferred debits, deferred credits, and accrued liabilities were included in working capital and selected the material accounts. We sampled these accounts and traced the items to source documentation to determine if they were related to the utility and appropriately charged to working capital.

Net Operating Income:

The unbilled revenue calculation was reviewed and traced to the filing.

We prepared an analytical review of expenses. We compared the expenses in 2008 to 2007 and to 2002 and determined accounts that appeared to have increased higher than inflation. We obtained computerized ledger data for these accounts for 2008 and reviewed all entries to these accounts that were over $150,000. We sampled most of these entries. In addition, we selected samples of expenses between $1,000 and $150,000. We obtained source documentation for all sample items selected. The source documentation was reviewed to determine if the amounts were for the proper period, were in the correct account, were recurring, and were not related to the affiliates. We selected a sample of the advertising account and reviewed the sample ads. We obtained a list of all legal cases and the dollars expended. We reviewed the list to determine if any of the cases related to affiliates and questioned the utility on cases that could not be determined based on the titles. We reviewed insurance entries as part of the review of affiliate transactions. We determined that insurance refunds were properly included in the test year expenses.

Taxes Other Than Income:

We obtained the sales tax reports and compared them to the sales tax accounts to determine that the discounts were properly included as miscellaneous revenue. We verified the revenue reported on the Regulatory Assessment Fee return to the ledger. We reconciled the payroll tax returns to the ledger and sampled the property tax invoices.

Income Tax:

We traced the 2008 filing for taxes other than income taxes to the ledger and reconciled to the tax returns. The 2008 state and federal income tax returns have not been filed yet. We traced the deferred income tax balances to the company's schedules and tax reports.

Cost of Capital:

We obtained the rate base/capital structure reconciliation for 2008 and determined that the non-utility adjustments removed in rate base were removed in the capital structure.

We obtained a 13-month average trial balance and reconciled it to the general ledger and to the cost of capital filings for 2008. We traced the cost of capital cost rates for 2008 to the debt documentation, prior audits, and external audit workpapers. We obtained a reconciliation indicating how each rate base adjustment was adjusted in the capital structure and reconciled it to the general ledger and the filing.

Other:

We reviewed the internal and external audits to determine if there were any adjustments that materially affected the 2008 test year. We read the FERC audit and determined that the adjustments were made and that FPL changed its procedures.

Q. Please review the audit findings in this audit report, KLW-2, which addresses the 2008 actual filings for the FPL Rate Case.

A. We found items which may not be recurring or were incorrect in the historical test year. The audit staff only audited the 2008 historical test year per the audit services request. Since rates in this case will be set based on a 2010 forecasted test year, additional work will need to be performed to determine the effect, if any, of the findings on the 2010 test year.

Audit Finding No. 1

Storage fees for two combustion turbines purchased and recorded in the books of FPL Group were included in 2008 expenses.

Audit Finding No. 2

Rate Base for 2008 was overstated because some Environmental Cost Recovery Clause construction work in progress projects were not removed in the adjusting entries.

Audit Finding No. 3

Revenue for 2008 was overstated because a Fuel Cost Recovery Clause Revenue Account was not removed in the adjusting entries.

Audit Finding No. 4

Non-recurring Green Energy expenses were included in 2008.

Audit Finding No. 5

Non-recurring Oil Spill expenses were recorded in 2008.

Audit Finding No. 6

Non-recurring write-offs were recorded in 2008.

Q. Does that conclude your testimony?

A. Yes.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

DIRECT TESTIMONY OF JAMES A. KEENER

DOCKET NO. 080677-EI

Q. Please state your name and business address.

A. My name is James A. Keener. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company ("FPL" or the "Company") as Vice President of Transmission and Substation.

Q. Please describe your duties and responsibilities in that position.

A. I am responsible for FPL's bulk and regional transmission planning, operations, maintenance, engineering and construction activities, including ensuring the reliability and security of the FPL transmission and substation facilities in a safe and effective manner, consistent with the applicable reliability standards.

Q. Please describe your educational background and professional experience.

A. I graduated from the University of Florida in 1976 with a Bachelor of Science degree in Electrical Engineering and from Nova Southeastern University in 1984 with a Masters of Business Administration degree. I am also a graduate of the Program for Management Development at Harvard University.

I began working at FPL in 1976 in the area of Protection and Control at the Manatee Plant. I have both Generation and Power Delivery electric utility experience consisting of engineering, leadership and management positions with NextEra Energy Resources, LLC and FPL. I have held the positions of Plant General Manager of the FPL Martin site and Vice President of Plant Operations and Management for NextEra Energy Resources, LLC. In February 2007, I assumed my present position.

Q. Are you sponsoring any exhibits in this case?

A. Yes. I am sponsoring the following exhibits, which are attached to my direct testimony:

- JAK-1, 2008 SGS Transmission Reliability Benchmarking Study All Voltages 2005-2007 (3 years)
- JAK-2, FPL Transmission Lines Lightning Outages per 100,000 Strikes
- JAK-3, Transmission Line Bird Outages 1998-2008
- JAK-4, Transmission Vegetation Events 1998-2008
- JAK-5, Transformer Ages Year Ending 2008
- JAK-6, Transmission Circuit Miles Years Since Installation

Q. Are you sponsoring or co-sponsoring any Minimum Filing Requirements (MFRs) in this case?

A. Yes. I am co-sponsoring the following MFRs:

- B-13, Construction Work in Progress
- B-15, Property Held for Future Use – 13 Month Average
- C-8, Detail of Changes in Expenses

- C-15, Industry Association Dues
- C-34, Statistical Information
- C-41, O&M Benchmark Variance by Function

In addition, I am co-sponsoring the following 2009 supplemental MFR schedule that FPL has agreed with the Florida Public Service Commission ("FPSC" or the "Commission") Staff and the Office of Public Counsel to file:

- B-13, Construction Work in Progress
- C-15, Industry Association Dues
- C-34, Statistical Information
- C-41, O&M Benchmark Variance by Function

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to: (1) describe the excellent track record of the Transmission and Substation Business Unit (Transmission), based on system performance and reliability, including the programs that help to provide FPL customers a high level of reliable service in a cost-effective manner; (2) address the initiatives that improve the storm resiliency of the transmission system's infrastructure; (3) explain the ongoing need for capital investments required [a] to address the overall challenges to reliability which include the aging infrastructure, and [b] to maintain FPL's high level of reliability; (4) describe how Transmission effectively managed Operations & Maintenance (O&M) expense levels from 2006 to the present, and how it intends to continue this trend through 2011; and (5) discuss FPL's efforts to meet its commitments to customers and to ensure compliance with all applicable regulatory and reliability standards.

Q. Please summarize your testimony.

A. Transmission provides a high level of reliable service through a proactive approach to reliability. During the period of sustained growth since FPL's last general base rate increase, Transmission has provided customers with consistently high levels of reliable service in a cost-effective manner, despite the increasing age of the transmission infrastructure. The requested base rate increase will permit FPL to maintain its current high level of reliability while promoting compliance with all applicable regulatory commitments.

In recent transmission reliability benchmarking based on 2007 data, FPL's composite reliability score was in the top 25% of the participants. FPL also was "Best-In-Class" for the benchmarking metric Average Duration of Sustained Outages. This excellent overall performance is a direct result of the commitment of FPL's management and employees to providing superior reliability and service at a reasonable cost.

Transmission's reliability program is based primarily on condition-based maintenance programs used to evaluate equipment and determine remaining useful life. Combining equipment assessment with a comprehensive risk management approach leads to development of an appropriate, cost-effective plan to extend the life of FPL's transmission and substation assets and to replace those assets only when appropriate. An important part of this process involves the Company's use of both FPL and industry experience to focus on predictive maintenance and prevention of recurrence of events to reduce the frequency and duration of customer outages.

Notwithstanding these efforts, FPL will require an increased level of transmission and substation capital expenditures to maintain system stability and the high levels of service reliability that customers expect. The required increases are driven by the need for transmission infrastructure improvements, storm hardening efforts, and regulatory commitments. While FPL must continue to refurbish or replace aging facilities, the Company also must invest in transmission system expansion projects and added capacity where technology improvements and equipment upgrades already have maximized the efficiency of the existing infrastructure. Given current capacity limitations and FPL's assessment of its system, the Company has developed a sound plan to replace infrastructure and add new capacity through the projects described later in my testimony. FPL must responsibly move forward with this work to maintain and expand a safe and reliable system for the benefit of its current and future customers.

OVERVIEW OF TRANSMISSION AND SUBSTATION

Q. Please describe the FPL transmission and substation system.

A. As of December 31, 2008, the FPL transmission and substation system was comprised of 6,727 circuit miles of transmission lines, 512 distribution substations and 95 transmission substations. The FPL transmission system is designed to integrate all of FPL's generation resources in a reliable and cost-effective manner to serve FPL's customers. FPL is required to plan, design and operate its transmission and substation system to meet all applicable reliability standards.

RELIABILITY

Q. How is Transmission reliability performance measured, and how does FPL compare to other electric utilities?

A. To evaluate reliability performance, FPL uses standard industry measures for frequency and duration of outages impacting customers such as System Average Interruption Duration Index (SAIDI). These standard industry measurements provide a comprehensive and useful indication of the level of reliability FPL provides to its customers.

In a recent transmission reliability benchmarking study, FPL's transmission composite availability score, an indicator of bulk power system availability, was in the top 25% among the participants. FPL was also best in class for 2007 and top 10% for 2002 through 2007 for the metric transmission Average Duration of Sustained Outages (also known as industry metric System Average Restoration Index (SARI)). The same benchmarking study also looked at customer impact reliability, and FPL was in the top 10% for transmission SAIDI comparisons to other participants from 2005 through 2007 (Exhibit JAK-1).

FPL's transmission SAIDI for 2008 was significantly higher than in prior years due to the outage that occurred on February 26, 2008. However, notwithstanding this outlier event, when FPL's transmission reliability indicators are viewed over the four year period of time from 2005 through 2008, FPL expects to remain in the top 25% in industry benchmarking studies, underscoring FPL's long history of strong performance and overall achievements in the area of transmission and substation reliability.

Q. **Please describe Transmission's reliability programs.**

A. Transmission's reliability programs and processes are grounded in the use of diagnostics to assess equipment and facility conditions. The knowledge obtained from these assessments is used to develop a plan for asset maintenance and replacement. Resulting processes and initiatives are executed in a cost-effective manner to maintain grid reliability and reduce the frequency and duration a customer is without electricity due to transmission and substation events. The two main processes are the Condition Assessment Process and Event Response Process. These processes support the main Transmission programs: Facility/System Assessments, Life Extension Maintenance, Prevention through Prediction, Prevention of Reoccurrence, and Vegetation Management.

The Condition Assessment Process has three main components that involve transmission line and substation assessments, remaining useful life determination for assets, and risk management. The second key process, Event Response Process, is designed to determine the root cause for every unplanned outage of transmission and substation equipment. Each event is recorded, classified and analyzed. The results of each outage cause analysis are then used in the Condition Assessment Process and incorporated into the design and engineering of future facilities. This approach supports prevention of recurrence and mitigation of future events, together with a resulting reduction in the frequency and duration of customer outages. These two processes support Transmission's reliability programs.

Q. Please provide some examples of Transmission's reliability programs and explain how these programs benefit FPL's customers.

A. The following are some examples of Transmission's reliability programs:

Facility/System Assessments – Transmission line and substation assessments are conducted using equipment diagnostics and both on-site and remote system surveillance. The assessments include oil sampling and testing, equipment and protective system testing, thermal imaging of components, climbing inspections and station assessments, all of which provide information used to prevent or predict equipment or facility failures. Part of system surveillance is accomplished through equipment performance monitoring and diagnostics, consistent with Smart Grid initiatives, using remote monitoring tools and analysis programs which are deployed in the Transmission and Performance Diagnostic Center (TPDC).

Life Extension Maintenance – Information obtained during condition assessment is evaluated using predictive models to determine Remaining Useful Life. A plan is then developed to replace or conduct life extension maintenance on major equipment and facilities. Life extension maintenance for equipment and facilities extends the remaining useful life of the equipment while minimizing cost and significantly deferring the need for substantial investment in new equipment and capital projects.

Prevention through Prediction – By combining Remaining Useful Life determination with risk assessment of the transmission system, a plan is developed to replace major equipment and facilities in a predictive manner. Predictive replacements minimize customer impact and cost while maximizing asset utilization. When predictive replacements are made, customers benefit from FPL's use of technological advances and design improvements. These improvements reduce the likelihood of interruptions and mitigate the effects on customers when interruptions do occur.

Prevention of Recurrence – Through the use of the Event Response Process described above, Transmission develops countermeasures to prevent the recurrence of similar events that could cause outages. An example of such a countermeasure is FPL's effort to prevent outages initiated by lightning strikes. FPL's service territory is one of the highest lightning density (strikes/square-mile/year) areas in the United States, and lightning has historically been a cause of outages. Using information gained through experience and analyses, a variety of innovative countermeasures to reduce lightning outages have been developed, including new design standards, grounding improvements and installation of lightning arrestors. The use of these countermeasures minimizes the recurrence of lightning related outages. As depicted on Exhibit JAK-2, the number of lightning outages per 100,000 strikes in FPL's service territory has been reduced by over 50% since the development and implementation of the countermeasures over the past 11 years.

Additional countermeasures developed through the use of the Event Response Process mitigate bird-caused outages. FPL has instituted several environmentally friendly initiatives consisting of design modifications to structures to make them less prone to bird-related events. The creation of customized bird perch discouragers specific to types of birds in a particular area, and installation of bird perch discouragers, attempts to guide birds to roost on less vulnerable areas of a structure. Transmission and substation equipment outages as a result of bird-related events present a significant challenge. As shown in Exhibit JAK-3, the implementation of these initiatives has contributed to a 47% reduction of outages related to birds in the last 11 years.

Vegetation Management – FPL has improved system reliability by reducing the number of transmission outages related to vegetation events by over 88% over the last 11 years (Exhibit JAK-4). The growth of vegetation into overhead power lines presents a major challenge to electric utilities. This is particularly true in Florida with the year-round growing season. Transmission's vegetation management program involves trimming and right-of-way clearance and has two main focuses: System Stability and Customer Impact Reliability. From the perspective of System Stability, this work focuses on preserving right-of-way requirements for higher voltage transmission lines (500 kV and 230 kV) that can affect the entire system. FPL's program for Customer Impact Reliability is equally focused on transmission lines which do not fall under the bulk power line definitions for high-voltage lines that impact system stability. FPL's program includes condition assessments of the remaining lower voltage transmission lines in order to determine appropriate maintenance trimming requirements.

As a result of the Northeast Blackout of 2003, mandatory reliability standards related to vegetation management went into effect in 2007. These standards require a more robust vegetation management process completed by qualified personnel. In order to help meet this requirement, Transmission requires its utility arborists to be certified by the International Society of Arboriculture. While Transmission has always had a program in place for vegetation management, there is now a regulatory obligation to document vegetation inspections.

FPL attributes the success of its vegetation management program to the increased frequency of patrol and inspection work followed by remediation of risks found as a result of the inspections. The current draft of the Transmission Owners and

Operators Forum Best Management Practices, a well recognized forum established to develop best practices as they relate to the reliability of the transmission grid, recommends a minimum of one inspection per year. FPL complies with this practice and also schedules additional inspections in critical areas. Additionally, following events such as seasonal storms, tornados, and tree outages, FPL performs targeted inspections in the affected areas. The increased inspections enable FPL to identify areas of risk and allow the Company to redirect resources from areas that have not grown as expected and present minimal risk, thereby increasing efficiency and maximizing resources.

In summary, FPL's reliability initiatives significantly contribute to the prevention and minimization of outages and customer inconvenience, while at the same time extending the life of equipment and infrastructure in an appropriate and cost-effective manner.

Q. How has FPL used technology to improve the monitoring and control of its transmission system?

A. FPL is implementing the following initiatives to improve the overall reliability of the transmission system:

Evolution of the FPL System Control Center – The FPL System Control Center (SCC) has developed over the past 30 years to become a state-of-the-art operational structure that plays a key role in the efficient operation of FPL's transmission and substation systems. The high quality and availability of tools and information on the status of FPL's system is a hallmark of FPL's SCC. Information access and coordination among FPL and the other members of the Florida Reliability Coordinating Council (FRCC) to improve system management demonstrates FPL's continuous commitment to the reliable operation of the electric system.

The operation of the transmission system, including the SCC, is committed to full compliance with all applicable standards.. The North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) standards provide a cyber security framework for the identification and protection of critical cyber assets to support the reliable operation of the bulk electric system. The CIP standards include controlling and monitoring both physical and electronic access to the cyber equipment. The standards also require processes and procedures for securing the cyber equipment and training programs to instruct operations employees on expectations. Controlling electronic access requires new equipment to limit and monitor access. Transmission has implemented state-of-the-art cyber security measures which have received high marks from government agencies and the electric utility industry. Currently, Transmission is working to fully comply with the NERC CIP standard prior to scheduled milestone date requirements.

Transmission Performance and Diagnostic Center (TPDC) – Another example of a major transmission reliability initiative is the creation of the TPDC. The TPDC is a nerve center for monitoring of critical operating parameters of transmission equipment and performing subsequent analysis. Current and near-future assessment methods provide early prediction of asset failures by using state-of-the-art monitoring and real-time statistical analysis of equipment performance to identify abnormal conditions. The TPDC also acts as a transmission and substation command center to respond with analysis of system events through:

- Multiple party teleconferencing to facilitate internal communications;
- Communication to substation equipment to download records;
- Real-time views and alarms available from the SCC;
- Historical and real-time equipment monitoring views;
- Substation security views;
- Geographic view of system overlay with weather, fire, customer trouble, and real time outage data; and
- Performance modeling on major equipment, with real-time alarms for equipment excursions.

The TPDC enhances FPL's predictive capabilities by providing remote analysis of transmission and substation asset performance. The actual performance of equipment is compared to various equipment technical operating parameters to determine the present condition of installed equipment. Deviations from the technical operating parameters of the equipment can then be further assessed and investigated to minimize impacts on the system.

Q. What other factors have contributed to Transmission's operational excellence?

A. Another factor that contributes to FPL's operational excellence is the planning that takes place years ahead of the operation of the transmission and substation system. FPL plans the transmission and substation system (consistent with applicable reliability standards) to integrate current and future planned generation resources with FPL's forecasted load. FPL carries out this process in a manner that meets these objectives in a cost-effective manner, while at the same time taking into account potential impacts on the environment and the communities in which these facilities are located.

Over the years, FPL has successfully met planning and operational challenges, and has in place an organization and management team with the experience and expertise to successfully meet these challenges in the future.

INFRASTRUCTURE IMPROVEMENTS – STORM RESILIENCY

Q. Did Transmission make any changes regarding the strength and resiliency of its infrastructure as a result of the 2004 and 2005 storm seasons?

A. Yes. The seven hurricanes (five direct landfalls and two indirect impacts) that affected FPL's service territory during 2004 and 2005 resulted in significant customer outages and required extraordinary efforts to rebuild and restore the system. During that time frame, forecasters also were predicting decades of heightened tropical storm activities. Transmission therefore performed an engineering evaluation to identify opportunities for hardening the system and concluded that the strategic replacement of single-pole unguyed wood structures and replacement of ceramic post insulators on single-pole concrete structures would help meet this objective.

Q. **What actions did Transmission take to effect these changes?**

A. In 2006, Transmission filed and implemented a plan to strengthen its transmission infrastructure in accordance with the Florida Public Service Commission (FPSC) 10 Point Storm Preparedness Initiatives. FPL's initiatives included the replacement of existing single-pole unguyed wood transmission structures with concrete structures, and existing ceramic post insulators on concrete transmission poles.

Q. **Please describe FPL's progress on the storm hardening program involving the replacement of the types of poles and insulators addressed above.**

A. In January 2006, FPL's transmission system included 4,786 single pole un-guyed wood structures and 5,562 concrete transmission structures with ceramic post insulators. FPL has replaced 1,133 single-pole unguyed wood structures and 1,681 ceramic post insulators on concrete structures at a cost of $12.8 million.

Q. **Has FPL expanded its plans for continuing to harden the transmission infrastructure?**

A. Yes. Beginning in 2008, FPL enhanced its wood pole hardening initiative which previously targeted only single-pole unguyed wood structures. FPL's enhanced initiative will replace all wood transmission structures with concrete structures over a 25 to 30-year period. FPL also continued the initiative focused on upgrading ceramic post insulators on square concrete transmission poles. There will be additional replacements of wood structures as part of system expansion, relocations, and pro-active transmission line maintenance rebuilds.

FPL also is replacing insulators to reduce their susceptibility to failure due to windblown salt and other contaminants. This improves storm resiliency and reliability of transmission substation by replacing existing insulators with insulators which have a much better contamination performance at critical 500 kV and 230 kV substations.

Q. How does the storm hardening program benefit customers?

A. Strengthening FPL's transmission infrastructure through the storm hardening initiatives will allow the Company to reduce the number and duration of service interruptions to customers during storm and other weather events and improve transmission reliability in a cost-effective manner.

TRANSMISSION O&M EXPENSE

Q. What are some of the major components associated with Transmission O&M Expense actual and projected costs?

A. In order to maintain FPL's high level of reliable service while at the same time addressing aging infrastructure, Transmission engages in a number of initiatives which impact Transmission O&M. These initiatives generally fall into the following categories:

1. Enhanced transmission and substation maintenance and condition assessment activities in order to assure reliability;
2. Analysis and implementation of studies that address multiple levels of contingencies in order to increase reliability and in all pockets of load;
3. Response to events and restoration of equipment; and
4. Regulatory commitments including compliance oversight and computer enhancements, vegetation management programs, training certification and re-certification programs, and storm hardening and pole inspection programs.

As transmission and substation aging infrastructure reaches end of life, the maintenance costs increase. In order to maximize the life of major transmission and substation equipment, proper and timely maintenance is required. Transmission's condition assessment program uses detailed risk assessments and life-cycle projections, using predictive techniques to prioritize maintenance activities and equipment repair on an appropriate schedule to extend the life of the equipment. Without this program, FPL's costs would be greater because equipment replacement costs are higher than life extension costs. Additionally, as FPL's TPDC programs become more sophisticated, FPL's proactive intervention should result in reduced outages, consequently reducing restoration costs.

Q. How do FPL's projected O&M expenses for 2010 for the transmission functional area compare to the actual O&M expenses incurred in 2006?

A. FPL's transmission function O&M expenses in 2006 were $41.4 million while the 2010 projected O&M expenses are $60.3 million. Drivers of the $18.9 million increase from 2006 to 2010 include initiatives associated with continuing compliance with NERC reliability standards such as development and implementation of programs, standard modules, external audits, self-assessments, training, certification and re-certification programs, and reliability studies. Telecommunications and software license cost increases and increased staffing required by NERC for the SCC, vegetation management mandated by NERC standard FAC 003-1, compliance oversight of NERC reliability standards, and pole inspection program and storm hardening required by the FPSC all contribute to this variance. FPL also projects increased expenditures related to additional condition assessment and life extension activities that support a high level of reliability and maximize the life of major equipment, thereby deferring the need for substantial investment in capital projects.

Q. How do FPL's projected 2010 O&M expenses for the Transmission functional area compare to the Commission O&M benchmark for 2010?

A. The Commission O&M benchmark for the Transmission functional area would be $43.8 million. The projected 2010 expenses total $60.3 million. A number of key drivers of the $16.5 million difference between the Commission benchmark and FPL's 2010 projections are discussed below.

Initiatives associated with continuing compliance with NERC reliability standards and FPL's reliability enhancement program contribute to the increase in projected expenditures for 2010. This includes development and implementation of programs, standard modules, external audits, self-assessments, training, certification and re-certification programs, and reliability studies. Telecommunications/software license and increased staffing required by NERC for the SCC represent additional regulatory commitments that require increased expenditures. Additional condition assessment and life extension activities which maximize the life of major equipment and defer the need for substantial investment in capital projects also account for projected increases for 2010.

Vegetation management expenditures, primarily required to comply with NERC standard FAC 003-1, represent another area of increase over the Commission benchmark. FPSC 10 Point Storm Preparedness Initiatives which are focused on the pole inspection program and storm hardening required by the FPSC are additional significant drivers of the increase.

Q. **How do FPL's projected 2011 O&M expenses for the Transmission functional area compare to the Commission O&M benchmark for 2011?**

A. The Commission's benchmark for the Transmission functional area would be $45.3. FPL's 2011 projected O&M expenses total $54.6 million. The primary drivers of the $9.3 million difference between the Commission benchmark and the FPL request for 2011 are briefly addressed below.

Regulatory commitments again represent a key driver for the 2011 projected expenditures. These include telecommunication/software license and increased staffing required by NERC for SCC, training, certification and re-certification programs that support continuing compliance with reliability standards, vegetation management expenditures required to comply with NERC standard FAC 003-1, and the pole inspection program and storm hardening required by the FPSC. Additional condition assessment and life extension activities on aging infrastructure and TPDC initiatives to perform real time statistical analysis of equipment performance also contribute to the increase in O&M expenditures required in 2011.

TRANSMISSION CAPITAL EXPENDITURES

Q. **How do FPL projected transmission infrastructure capital expenditures for 2010 compare to the actual capital expenditures incurred in 2006?**

A. FPL's transmission infrastructure capital expenses in 2006 were $294.3 million while the 2010 projected capital expenses are $302.9 million.

Q. **What FPL transmission infrastructure capital expenditures are projected for 2011?**

A. FPL's projected transmission infrastructure 2011 capital expenses are $320.6 million.

Q. **Please describe the cumulative FPL transmission infrastructure capital expenditures for 2006 through 2010 and 2006 through 2011.**

A. FPL's actual and projected cumulative transmission infrastructure capital expenditures are $1.6 billion for 2006 through 2010 and, $1.9 billion for 2006 through 2011.

Q. What are the major cost drivers for Transmission's Capital Expenditures?

A. The major cost drivers associated with Transmission's Capital Expenditures are:

(1) Storm Hardening;

(2) Aging Infrastructure replacement and refurbishment;

(3) 500 kV reinsulation; and

(4) Expansion projects to meet forecasted load.

Storm Hardening: The replacement of transmission unguyed wood poles and ceramic post insulators on concrete poles accounts for projected capital expenditures of $11.5 million, $14.6 million and $14.8 million for the years 2009, 2010 and 2011, respectively. Capital expenditures of $4.2 million in 2010 and $3.5 million in 2011 are projected for substation insulator replacement to reduce failures due to windblown salt and other contaminants.

Aging Substation Infrastructure Replacement: As the aging fleet of substation equipment such as transformers, breakers, capacitor banks and other associated equipment approach the end of their useful life, FPL optimizes the replacement process with respect to interruption avoidance, resource allocation, and asset utilization. The graphical representation in Exhibits JAK-5 provides data regarding the age of FPL's fleet of transformers.

Typically, failures associated with transformers occur either initially (i.e., first two years of life) or after approximately 30 years of useful life. FPL currently has 355 transformers, approximately 25 percent of the transformer fleet, that are near the end of their useful lives and will need to be replaced. The condition assessment process for FPL's fleet of transformers determines optimal replacement timing.

Replacement and refurbishment of aging substation equipment will minimize service interruptions to customers. Capital expenditures for the replacement of aging substation equipment for the period from 2009 through 2011 are projected to be $221.9 million.

Aging Transmission Infrastructure Refurbishment: The aging transmission infrastructure (Exhibit JAK-6) requires refurbishment to keep the facilities serviceable and maintain a consistently high level of reliability. Inspections of transmission facilities through reliability programs or following an outage event have identified follow-up refurbishment work. These refurbishments involve all types of components associated with the transmission system such as cross arms, insulators, overhead ground wires, poles and splices. For the 2009 through 2011 period, capital expenditures will total approximately $68.6 million on this refurbishment and replacement work.

500 kV Line Re-insulation: FPL will continue its reliability initiative to replace insulators on 500 kV transmission lines. Projected expenditures of $5.7 million, $3.4 million and $3.4 million are planned for the years 2009, 2010 and 2011 respectively. FPL requires a reliable 500 kV system for bulk transmission power flow within its service area and to meet regulatory commitments and maintain transmission grid stability. These replacements are part of FPL's ongoing 500 kV reliability plan which is based on the previously described Condition Assessment process. FPL learned from this process, and from Remaining Useful Life determinations, that the expected useful life of these insulators is 35 years. Many insulators on FPL's 1,100 circuit miles of 500 kV transmission are either approaching or at the end of useful life, since the majority of the 500 kV facilities were constructed in the late 1970s or early 1980s. The size of the remaining at-risk population of 500kV insulators necessitates a phased-in replacement program based on condition assessment prioritizations. Failure of these insulators could be critical to the reliability of the system; therefore, preemptive replacements are required.

Q. Has FPL planned any new transmission expansion projects to meet forecasted growth (future and past) which require significant capital expenditures?

A. Yes. FPL has developed a plan to replace facilities and add new capacity through system expansion injection projects. The following are examples of projects requiring significant capital expenditures for system expansion that will increase transmission system capability:

Norris-Volusia Area 230 kV Injection: FPL has experienced significant load growth in the north area since the bulk of the transmission system in this region was constructed 30 to 40 years ago. While load growth has slowed recently, over the next decade load is expected to increase substantially in this area. The increased load over the past 30 to 40 years, coupled with forecasted future demands, will cause the capacity of the transmission network serving the area to be exceeded under certain single contingency conditions affecting more than 22,000 customers. The total cost of this project is estimated at $52.0 million and it is scheduled to be completed by the end of 2011.

Princeton 230 kV Injection: FPL has experienced rapid growth in the South Miami-Dade area. The increased load, coupled with forecasted future demands, will cause the capacity of the transmission network serving the area to be exceeded under certain single contingency conditions affecting more than 21,000 customers. This project will increase the transmission capability in the South Miami-Dade area. The total cost of this project is estimated at $45.7 million and it is scheduled to be completed by the summer of 2011.

Bobwhite Manatee 230 kV Line: FPL has experienced significant growth in the west area. The increased load, coupled with forecasted future demands, will cause the capacity of the transmission network serving the area to be exceeded under certain single contingency conditions affecting more than 15,000 customers. This project also provides transmission corridor diversity supporting reliability in the entire west area. The total cost of this project is estimated at $37.3 million. While this project was originally scheduled to be completed by the end of 2011, FPL's recent load forecast has deferred the need for the project to 2012.

Bunnell - West Palm Coast – St. Johns 230 kV Injection: FPL has experienced significant growth in the St. Johns area requiring transmission service to new distribution stations. The increased load, coupled with forecasted future demands, will cause the capacity of the transmission system serving the area to be exceeded under certain single contingency conditions affecting more than 9,000 customers. This project also provides an additional injection into the area improving system reliability. The total cost of this project is estimated at $21.3 million and it is scheduled to be completed by the end of 2011.

Q. Has FPL planned any new distribution substation expansion projects which require capital expenditures and which are necessary to meet forecasted growth?

A. Yes. As part of its annual capacity planning process, FPL examines existing and projected loading conditions and evaluates the need for additional distribution substations, expansion and/or modification of existing distribution substations, and the need for additional feeders to ensure that increased capacity requirements are met and reliable electric service is maintained. During the period 2006 through 2008, FPL added 31 new distribution substations, increased capacity and/or modified 60 distribution substations, and added 97 new feeders, all at a total cost of $161.7 million. As a result of its most recently completed planning process, FPL's plans for 2009 through 2011 require adding 16 new distribution substations, increasing capacity and/or modifying 32 existing distribution substations, and adding 97 new feeders, all at a total cost of $133.5 million.

Q. Has Transmission adopted enhanced cost control measures as a result of the economic downturn?

A. Yes. FPL has evaluated expansion project need dates based on updated load forecasts, resulting in a postponement of many expansion projects. FPL also revisited the in-service dates for third-party expansion projects and transmission line/pole relocation projects with transmission customers, agencies and other outside parties. As a result, certain projects were postponed based on this updated information.

The replacement of lower risk major equipment was delayed, requiring increased monitoring of the existing equipment. The implementation of these cost control measures requires FPL to remain cognizant of the fact that these expansion projects and major equipment replacements are typically multi-year in duration and have long lead times. Long-range planning must be considered for incremental load growth in certain areas of FPL territory where capacity has been reached.

Q. Does this conclude your direct testimony?

A. Yes.

ERRATA SHEET

WITNESS: Pamela L. Sonnelitter

PAGE#	LINE#	CHANGE
1	1-21	Replace all
2	1-7	Replace all

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

DIRECT TESTIMONY OF PAMELA L. SONNELITTER

DOCKET NO. 080677-EI

Q. Please state your name and business address.

A. My name is Pamela L. Sonnelitter. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company ("FPL" or the "Company") as Director of Business Management and Delivery Assurance.

Q. Please describe your duties and responsibilities in that position.

A. As Director of Business Management and Delivery Assurance, I am responsible for business planning and development and management of budget and performance indicators for planning, construction, and operation and maintenance activities in FPL's Transmission and Substation department.

Q. Please describe your educational background and professional experience.

A. I received a Bachelor of Science degree in Electrical Engineering from Boston University in 1981. I also received Master of Engineering and Master of Business Administration degrees in 1985 from Widener University in Chester, Pennsylvania. I have been employed by FPL Group since 1995. In that time, I have held various positions with NextEra Energy Resources, LLC's Business Management Department from March 1995 through October 2003 and I was

General Manager of Business Services in the Power Generation Division of FPL from November 2003 to April 2007 when I transferred to my current position. Prior to my employment with FPL, I worked for Niagara Mohawk Power Corporation for nine years; 2 years in fossil generation engineering and 7 years in project engineering and asset management positions in their unregulated independent power subsidiary. Prior to my employment with NMPC, I worked for E.I. DuPont de Nemours and Co., Inc., for 5 years as an instrument and electrical design engineer.

CHAIRMAN CARTER: Okay. You may proceed with preliminary matters, staff.

MS. BENNETT: I don't believe that there are any other preliminary matters other than --

CHAIRMAN CARTER: Let's see what the parties, are there any preliminary matters of the parties?

MS. BENNETT: I do believe that FPL does have a preliminary matter.

CHAIRMAN CARTER: Mr. Butler.

MR. BUTLER: Yes, Mr. Chairman. Due to schedule considerations as well as the logistics of possible deferrals to other of the specific area witnesses, we have asked that Mr. Olivera's rebuttal testimony be moved up immediately after Mr. Harris and before Ms. Ousdahl, which is what's shown on the tentative revised order of witnesses dated 9/2 8:00 a.m. that I handed out earlier this morning. And I asked all the parties yesterday by e-mail if there were any objections. So far I've not heard any objections to reordering it in that manner.

CHAIRMAN CARTER: Is there, from the parties, any objections from any of the Intervenors?

MR. McGLOTHLIN: No.

CHAIRMAN CARTER: Okay. Show it done.

MS. BENNETT: Mr. Chairman?

COMMISSIONER EDGAR: Yes, ma'am.

MS. BENNETT: We did discuss with FPL --

CHAIRMAN CARTER: Turn your microphone on. Okay.

MS. BENNETT: We did discuss with FPL, there are several questions for Ms. Slattery. We think that Ms. Slattery will be able to answer them all. In the rare event that one is deferred from Mr., to Mr. Olivera, we had asked and FPL, I think, had agreed that they would bring him back to, to answer those questions.

CHAIRMAN CARTER: Okay. Mr. Butler.

MR. BUTLER: That is our understanding. We have discussed that with Ms. Slattery, who, as you might imagine, is loathe to defer questions back to Mr. Olivera. So I don't think that, I don't think we'll have that problem. But in the remote event it arose, yes, that's our understanding.

CHAIRMAN CARTER: Okay. Any -- Mr. McGlothlin. Good morning, sir.

MR. McGLOTHLIN: I have one small matter.

CHAIRMAN CARTER: Yes, sir.

MR. McGLOTHLIN: The revised order indicates correctly that OPC witness Woolridge will be taken on Thursday. I learned this morning that Mr. Woolridge has a midday flight. So if we could just bear in mind that he needs to be during the morning of Thursday, I'd appreciate it.

CHAIRMAN CARTER: We will be more than happy to accommodate you if things work out like that. No problem at all. We'll work, as I said on day one, which seems like forever ago, we're going to work with you guys and try to accommodate people's schedules, because we know that it's a long case and people are from different places and all like that. Some witnesses don't live in town. That's okay. We'll accommodate you on that.

Any other preliminary matters from any of the parties?

COMMISSIONER EDGAR: Mr. Chairman?

CHAIRMAN CARTER: Commissioner Edgar.

COMMISSIONER EDGAR: Just to try to think ahead through the day, on Friday we had some discussion on possibly stipulating Witness Klepper, and I'm just wondering, since I see that witness on the hopeful potential list for this afternoon, if the possibility of stipulation is there.

MR. BUTLER: Commissioner Edgar?

COMMISSIONER EDGAR: Yes, sir.

CHAIRMAN CARTER: Turn your microphone on, Mr. Butler.

MR. BUTLER: We have received an e-mail from counsel for AFFIRM indicating that AFFIRM does want Mr. Klepper to appear at the hearing. I'm looking down, I'm not seeing AFFIRM's counsel here at the moment. But that's the reason that on the order we did not show him as being stipulated. I think that, well, I know FPL and I believe the other parties are in the position that we would be willing to stipulate him, but I think that AFFIRM's counsel wanted him to appear.

COMMISSIONER EDGAR: Okay. Thank you.

CHAIRMAN CARTER: Mr. Wiseman?

MR. WISEMAN: I was just going to add that I know that Mr. Klepper actually is here this morning, so.

CHAIRMAN CARTER: Okay. Is the attorney for AFFIRM, is she here as well? Okay. Well, we'll work it out. And obviously I want to make sure that we accommodate people, and I know that folk have schedules and all like that, but we'll do that.

For planning purposes, Commissioners, we're going to probably go until about 7:00 tonight. And we'll get back on our one -- what was it, 1:00 to -- how did I do that before on the lunch? 1:00 to 2:15 for lunch. And I've asked Chris to talk to DMS and they'll keep, they'll have us some air conditioning so we'll be comfortable as we do that. We are scheduled to go --

COMMISSIONER EDGAR: Could we just ask that the air conditioning keep us comfortable and not frigid?

CHAIRMAN CARTER: I think when everybody else goes home, they just dump it all over here on us.

MS. BRADLEY: I'd like to second that.

COMMISSIONER EDGAR: Thank you, Ms. Bradley.

CHAIRMAN CARTER: Okay. And we are scheduled for Saturday. I hope to have -- if, if we don't complete it on Saturday, I hope by after lunch to come back to you and give you some ideas on, I've got staff working on some possibility, possible open dates on the -- well, we don't really have any open dates, but we may have a couple of dates that we can do that on. When I say couple, I don't -- I'm really talking about I think they've identified one. So, so that's a term of art, not exactly a term, a precise term.

Anything -- Commissioner Skop, did you have a preliminary matter?

COMMISSIONER SKOP: It was in relation to taking up continuing with the proceeding on Saturday. So I guess Saturday has been reserved. I was trying to get a little bit of foresight, but I think that you mentioned it's still on the plate.

CHAIRMAN CARTER: Yes. Saturday is definitely still in play.

COMMISSIONER ARGENZIANO: Mr. Chair?

CHAIRMAN CARTER: Commissioner Argenziano, good morning to you.

COMMISSIONER ARGENZIANO: Good morning. And what time would we start on Saturday? Do you have an idea yet?

CHAIRMAN CARTER: Well, you know, we normally start at 9:30. And I don't know, maybe we could -- I certainly don't plan on us going to 7:00 on Saturday, I can tell you that up-front, in terms of ending.

COMMISSIONER ARGENZIANO: Okay. Just so I know what time we're going to start. I have no problem with it. I didn't know if we'd start 9:30 or before or after.

CHAIRMAN CARTER: I figured we could probably do maybe a half day on Saturday. That's what I was thinking, that we could probably -- I'm still thinking in my head about the start time, but I'm thinking that we could probably end about 1:00 or something like that on Saturday.

COMMISSIONER ARGENZIANO: Okay. Just -- okay. You'll announce to us before the end of the day, I guess.

CHAIRMAN CARTER: Yes, ma'am. But I have not -- I think we could probably start around 9:00 or something like that. That's what I'm thinking in my mind. I mean, I'm kind of thinking aloud. But I certainly would hopefully by this afternoon when we come back after lunch have some directions in terms of that day that I think that we can pull into it if we need it, and also probably going from maybe 9:00 to 1:00 on Saturday. That way we don't mess up everybody's weekend, but we can get some work done. That's my thinking aloud. Maybe I should be writing this down, huh? Okay.

COMMISSIONER EDGAR: Mr. Chairman, I would hope that would be with the understanding that we see where we are Friday afternoon.

CHAIRMAN CARTER: Oh, absolutely. We may be done on Friday, might not even need Saturday. I mean, I remain an eternal optimist. And so I'll come back to you guys after lunch on that. But, again, lunch today is 1:00 to 2:15. Okay? All right.

Any further preliminary matters from any of the parties?

Okay. Who's on first? Have we got a witness up?

MR. McGLOTHLIN: OPC calls Sheree Brown. Ms. Brown has not been sworn.

CHAIRMAN CARTER: Okay. She has not been sworn?

Ms. Brown, would you please stand and raise your right hand.

Additionally, are there other witnesses that are here that will be testifying today? If you're here in the room, would you please stand and raise your right hand so we can swear you in as a group?

(Witnesses collectively sworn.)

Thank you. Please be seated.

Mr. McGlothlin.

SHEREE BROWN

was called as a witness on behalf of the Office of Public Counsel and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. McGLOTHLIN:

Q. Please state your name and business address.

A. My name is Sheree Brown. My business address is 530 Mandalay Road, Orlando, Florida 32809.

Q. By whom are you employed, Ms. Brown, and in what capacity?

A. I am employed by Utility Advisors' Network as a managing principal.

Q. Ms. Brown, on behalf of the Office of Public

Counsel, did you prepare the document captioned Direct Testimony of Sheree L. Brown on behalf of the Citizens of the State of Florida dated July 16th, 2009?

A. Yes, I did.

Q. And did you subsequently prepare the document captioned Supplemental Testimony to Incorporate Corrections of Sheree L. Brown dated August 19th?

A. Yes, I did.

Q. Do you have any changes or corrections to make to the two documents at this point?

A. Yes, I do, just a few. On the direct testimony on Page 48, Line 3, after the word "compensation" should be added "named executive officers." On Page 51, Line 11, after the word "factor" add "for named executives." On Page 51, Line 17, after the word "each" add "named." On Page 51, Line 18, add the sentence, "The weighting of the performance targets for the remaining executives was not disclosed." And on Page 64, line 19, the word "million" should be "billion."

Q. Are those all of your corrections?

A. Yes. That's all the corrections.

Q. As corrected, Ms. Brown, do you adopt the questions and answers contained in the direct testimony and the supplemental testimony as your testimony before the Commission today?

A. Yes, I do.

MR. McGLOTHLIN: I request that the direct testimony and the supplemental testimony be inserted at this point.

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

Before you proceed, Mr. McGlothlin, since these witnesses are new and I haven't gone through my litany of the lights, let me just kind of go through it one time and we can be done with it.

Those of you that will be testifying, you can listen in too. The sequence of these lights is that as you're doing the summation of your testimony, that the green light will go on as you begin. When you have two minutes left, the amber light will come on. When the red light comes on, you have 30 seconds. And at the end of 30 seconds if you're still going on, then we won't be able to hear you because your mikes will be off. Okay?

Mr. McGlothlin.

BY MR. McGLOTHLIN:

Q. Ms. Brown, did you also prepare the exhibits and revised exhibits that are attached to the direct and supplemental testimonies?

A. Yes, I did.

(Exhibits 223 through 248 marked for identification.)

DIRECT TESTIMONY

OF

Sheree L. Brown

On Behalf of the Office of Public Counsel

Before the

Florida Public Service Commission

Docket Nos. 080677-EI and 090130-EI

Statement of Qualifications

Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS ADDRESS.

A. My name is Sheree L. Brown. I am employed by Utility Advisors' Network, Inc. ("UAN"). My business address is 530 Mandalay Rd., Orlando, Florida 32809.

Q. PLEASE GIVE A SUMMARY OF YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I received a B. A. in Accounting from the University of West Florida and a Masters in Business Administration from the University of Central Florida. I am a Certified Public Accountant in the State of Florida.

I have been providing utility consulting services to municipal, cooperative, county, and institutional utilities and industrial and commercial consumers since 1981. My work has primarily focused in the areas of revenue requirements and costs of service, rates and rate design, deregulation and stranded costs, valuation and acquisition, feasibility studies, and contract negotiations.

Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE UTILITY REGULATORY AUTHORITIES?

A: Yes. I have participated in numerous proceedings before the Federal Energy Regulatory Commission and various state and local commissions, including the Arkansas Public Service Commission, the Connecticut Department of Public Utility Control, the Council of the City of New Orleans, the Florida Public Service Commission, the Georgia Public Service Commission, the Illinois Commerce Commission, the Louisiana Public Service Commission, the Massachusetts Department of Telecommunications & Energy, the Minnesota Public Utilities Commission, the New Hampshire Public Utilities Commission, the North Carolina Utilities Commission, and the Texas Public Utilities Commission. I also have presented arbitration reports and testimony in valuation proceedings in circuit court proceedings.

My testimony has addressed a wide range of regulatory and utility-related issues, including revenue requirements, cost of service, cost allocation, rate design, terms and conditions of service, merger impacts, utility valuations, stranded costs, and deregulation. My resume is included as Exhibit__(SLB-1).

Q: **ON WHOSE BEHALF ARE YOU TESTIFYING?**

A: I am testifying on behalf of the citizens of the State of Florida represented by the Office of Public Counsel ("OPC").

Q: **WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

A: The purpose of my testimony is to address the revenue requirements proposed by Florida Power & Light Company ("FPL") for the Test Years ending December 31, 2010 and 2011 and FPL's proposed Generation Base Rate Adjustment ("GBRA") mechanism. I will address FPL's treatment of transmission wheeling revenues; uncollectible accounts expense; late payment fees; the load forecast; payroll expenses associated with employee projections, executive compensation, and other incentive compensation; the storm damage accrual; the environmental insurance refund; end-of-life nuclear materials and supplies and last core nuclear fuel; and the anticipated settlement from the Department of Energy ("DOE"). I am also sponsoring the development of the revenue impacts associated with OPC's combined case, incorporating the recommended adjustments of OPC's witnesses Mr. Jacob Pous, Ms. Kimberly Dismukes, and Dr. J. Randall Woolridge.

Summary

Q: PLEASE SUMMARIZE OPC'S POSITION IN THIS PROCEEDING.

A: OPC believes that FPL's proposed rate increase should be denied and, in fact, FPL's present rates should be reduced. Further, OPC believes that the Commission should deny FPL's increase for a subsequent year adjustment as the projections used to establish the 2011 Test Year revenue requirement are too uncertain, as explained later in my testimony.

The impact of the adjustments to FPL's requested revenue requirements proposed by OPC's witnesses is a reduction in jurisdictional revenue requirements of $1.332 billion in 2010. FPL's present rates will produce $363.699 million in excess of the revenues required to cover all of FPL's costs of providing service and provide a fair and reasonable return. The adjustments are described more fully herein and in the testimony of OPC's other witnesses. Based on the consolidated impact of the adjustments recommended and supported by the OPC witnesses in this proceeding, OPC believes that rates should be reduced by approximately $364 million annually.

Test Years

Q: **WHAT ARE THE TEST YEARS FILED BY FPL IN THIS PROCEEDING?**

A: FPL has filed two test years in this proceeding. The first Test Year is 2010, which coincides with the requested effective date of rates to be established in this proceeding. The second Test Year is 2011, called the "Subsequent Year", which FPL has filed in support of its request for an incremental increase to its rates. In addition to the two Test Years, FPL filed supplemental schedules showing certain data from 2009. Lastly, FPL filed separate schedules supporting its request for recovery of costs and investments associated with its West County Energy Center through the GBRA. FPL requests continuation of the GBRA for additional generation as it is added between base rate proceedings.

Q: **PRIOR TO FPL'S FILING, OPC REQUESTED THAT THE COMMISSION REQUIRE FPL'S CASE TO BE FILED BASED ON 2009 DATA. WHAT IS OPC'S CURRENT POSITION ON THE USE OF THE 2010 TEST YEAR TO ESTABLISH RATES?**

A: As explained in OPC's letter to Chairman Carter, dated December 2, 2008, OPC's concerns over using the 2010 Test Year are related to the speculative nature of efforts to project farther into the future. Customers must have confidence that the rates they pay are based on accurate and reliable information. The farther into the future that a utility attempts to project data, there is a greater amount of uncertainty and the data becomes less reliable. While OPC believes that the 2010 projections are less reliable than the 2009 data, OPC will not object to the use of the 2010 Test Year in this proceeding. However, OPC does object to the subsequent year adjustments based on 2011 projections.

Q: **PLEASE EXPLAIN WHY OPC OBJECTS TO THE SUBSEQUENT YEAR ADJUSTMENTS.**

A: As explained above, data projections and assumptions used in making those projections farther in the future are generally less certain than shorter-term projections. This is particularly of concern as our country and the customers in FPL's service territory are facing the current economic crisis. Projections of when and how economic recovery will occur are extremely speculative. FPL's base rate request comes at a time when many of FPL's assumptions are based on the economic downturn. If economic recovery is either faster or greater than expected under FPL's assumptions, then there is the potential for excess earnings at ratepayer expense. FPL would have no obligation to then reduce rates without customer or Commission intervention.

Q: **WHAT ARE SOME OF THE ASSUMPTIONS THAT FPL HAS MADE BASED ON THE ECONOMIC DOWNTURN?**

A: FPL has made numerous assumptions regarding the economic downturn. The Company's load forecast is based on estimates of population, Florida household disposable income, real price, and minimum use customers. Each of these factors was derived based on estimates of the effects of the economic downturn and speculation on the recovery. The Company's higher bad debt experience has also been reflected in the Test Years. As explained by FPL's witness, Mr. Barrett, "every major assumption used in the forecast reflects the severe economic downturn." (Barrett direct testimony, page 17)

Q: **MR. BARRETT ALSO NOTES THAT FPL'S FORECASTS HAVE BEEN ACCURATE IN THE PAST. DOES THIS ALLEVIATE YOUR CONCERNS OVER THE USE OF A 2011 TEST YEAR?**

A: No. Mr. Barrett contends that the forecasts have been accurate in the past based on FPL's actual net income results, which varied 2.3% from budget over the past 5 years. He concludes that FPL's process for budgeting is highly effective in predicting future operating results and can be relied upon in a rate setting procedure. Net income, however, is targeted and the Company can, and does, take actions to achieve net income targets. In other words, if revenues are down, FPL can take actions to cut expenses to attempt to achieve net income targets. In fact, Mr. Barrett goes on to explain that this is exactly what the Company did in 2008 in response to the deterioration of economic conditions. Mr. Barrett noted that "FPL anticipates that this economic downturn will continue to have an impact through 2011 and beyond." (Barrett direct testimony, page 18)

Q: DOES MR. BARRETT ADDRESS THE ECONOMIC UNCERTAINTY AND ITS EFFECT ON THE COMPANY'S FORECASTS?

A: Yes. He explains that although the economic environment is "highly uncertain," FPL used a rigorous process with reliable advice of subject experts and that the forecast is the Company's best assessment of the expected economic environment during the period. He concludes that "if economic conditions were to improve faster than anticipated, resulting in more growth during the forecast period, revenue requirements likely would need to increase to support that increased growth."

Q: DOES MR. BARRETT'S CONCLUSION ALLEVIATE YOUR CONCERNS OVER THE 2011 TEST YEAR?

A: No. The only thing that is certain at this time is that the economic environment is highly uncertain. Although Mr. Barrett claims that FPL has used a rigorous process to project the 2011 Test year, this rigorous process cannot remedy the uncertainty of the projections made in this time of economic instability. Thus, while OPC is willing to accept a 2010 Test Year, the 2011 Test Year projections incorporate an unacceptable additional level of uncertainty and should be rejected.

Q: **HAVE YOU ADDRESSED FPL'S 2011 TEST YEAR REVENUE REQUIREMENTS IN THE REMAINDER OF YOUR TESTIMONY?**

A: Yes. Although OPC does not believe the 2011 Test Year subsequent adjustment should be allowed in the this proceeding, I have addressed the revenue impacts of my recommended adjustments for both the 2010 and 2011 Test Years. In the event the Commission decides to entertain the Company's proposal for a subsequent year rate adjustment, these analyses will provide the Commission with the adjustments proposed by the OPC witnesses.

Generation Base Rate Adjustment

Q: **WHAT IS THE GENERATION BASE RATE ADJUSTMENT?**

A: The GBRA was one provision within the 2005 rate case settlement that was specific with respect to the time frame during which it would apply and with respect to the power plants that would be included. This mechanism was included as a negotiated exception to the four-year rate freeze that was implemented as a part of the overall settlement. The settlement also included a revenue sharing mechanism as well as other items of "give and take", such as allowing FPL the option of reducing depreciation expense annually during the settlement period. Under the terms of the settlement, the costs associated with plants that were scheduled to come on-line during the settlement period were recovered through an adder to base rates – the GBRA.

Q: **WHAT IS FPL'S PROPOSAL REGARDING THE GBRA IN THIS PROCEEDING?**

A: FPL is proposing to continue the GBRA perpetually, thus allowing FPL to create a base-rate adder for all generating plant that is placed in service between rate proceedings without the regulatory scrutiny that would normally be required for base rate adjustments.

Q: WHAT REASONS DID FPL PROVIDE FOR CONTINUATION OF THE GBRA?

A: FPL's witness, Ms. Ousdahl, claims that the mechanism is an efficient and effective way of providing for new generating plant inclusion in base rates commensurate with the time fuel savings are achieved and that it allows the avoidance of the costs and resources associated with back-to-back rate proceedings.

Q: DO THE BENEFITS OF THE GBRA OUTWEIGH THE RISKS?

A: No. While the GBRA may be an efficient and effective way for FPL to increase rates without regulatory consideration of all aspects of its operations, it does not outweigh the risks to ratepayers and, much like FPL's numerous cost recovery clauses, would transfer risks from FPL to its ratepayers. As explained above, the base rates are being evaluated and determined in this proceeding based on the worst economic environment we have experienced in decades. Once the rates are established, the impacts of economic recovery may result in higher returns to FPL's shareholders—returns that may be sufficient to absorb the costs associated with FPL's new units without the necessity of a base rate increase designed to add some or all of the revenue requirements of the new unit to customers' bills. The GBRA mechanism would allow FPL to avoid having to use those returns to cover the costs associated with the new facilities. Instead, FPL could "pocket" those returns, while simply imposing a surcharge on customers' bills to cover the costs associated with a single component of its overall costs of providing service. Once the base rates are established, FPL does not have an incentive to reduce base rates. This lack of incentive would be further aggravated by the ability to add the full revenue requirements of individual capital investments to base rates incrementally, without evaluation of whether existing rates are sufficient to cover all or some of the related costs.

Q: PLEASE ELABORATE ON YOUR STATEMENT THAT THE GBRA WOULD TRANSFER RISK FROM FPL TO ITS CUSTOMERS.

A. Base rates are designed to cover a utility's cost of providing service, including a fair and reasonable return on the utility's investment in facilities. Although the Commission establishes an authorized rate of return, the achieved rate of return will vary based on actual costs and revenues. The utility's operation is dynamic and costs and revenue may increase or decrease based on numerous factors. If the resulting rate of return is too low, the utility may request an increase in base rates. However, if the resulting rate of return is too high, the utility does not have the incentive to reduce rates and the burden falls to the Commission or intervenors to request a base rate reduction.

Under traditional ratemaking, the Commission provides a utility subject to its jurisdiction an *opportunity* to earn a reasonable return--not a guarantee.

FPL has been successful in moving a large portion of its revenue recovery out of base rates, where these traditional principles apply, and into clauses, which eliminates a large portion of FPL's risks that its base rates will be insufficient to cover its costs of providing service. Based on FPL's revenue allocations in MFR Schedule C-2, FPL is collecting more than 61% of its total revenues through "pass-through" mechanisms and cost recovery clauses that operate outside of base rates.

While the GBRA is not a pure pass-through mechanism, it is a mechanism that allows FPL to avoid the regulatory oversight of its overall costs of providing service and, instead gives it an adder to its base rates—regardless of the achieved rate of return earned at the time the new plant is added. Ratepayers thus bear the risk of unwarranted increases in base rates—unwarranted in the sense that if existing earnings are sufficient to absorb some or all of the costs of the addition, the increase, or a portion of the increase, associated with the application of the GBRA to customers' bills would be higher than necessary to produce a fair return.

Q. PLEASE ILLUSTRATE YOUR POINT.

A. FPL is requesting a GBRA adjustment for West County Energy Center Unit 3 ("WCEC3") of $181.9 million based on an annualized revenue requirement. As explained earlier in my testimony, many of the assumptions FPL made in calculating its 2011 revenue requirement were based on the economic downturn. If economic recovery resulted in an increase in net income, FPL's achieved return on equity would increase. In that case, a portion of the WCEC3 costs could be recovered through the increased return and rates charged to customers should not increase by the full amount of the WCEC3 costs. However, if the GBRA were in effect, the GBRA would add the full WCEC3 revenue requirement to customers' bills on an incremental, stand-alone basis.

Q: AS PROPOSED BY FPL, WOULD THE GBRA BE LIMITED TO THE WEST COUNTY ENERGY CENTER UNIT THAT IS SCHEDULED TO BEGIN SERVICE IN 2011?

A: No. As I understand the proposal, FPL wants to apply the GBRA to all future power plants. As explained above, the need for the GBRA to cover the costs of WCEC3 two years into the future is uncertain. Despite this uncertainty, the Commission is being asked in this proceeding to approve this mechanism for units that may be added 5, 10, or 15 years into the future. Such approval would surmise that the Company's earnings would be insufficient to cover the addition of new units without regulatory oversight and would take away the ratepayer protections afforded by utility regulation.

Q: HAS FPL ALWAYS FILED FOR AN INCREASE IN BASE RATES WHENEVER A NEW PLANT IS PLACED IN SERVICE?

A: No. In past years, FPL has in fact absorbed new power plants without increasing base rates at the time. As noted by FPL's witness, Mr. Armado Olivera, the last time FPL requested and received a general base rate increase was in 1985 and, since then, base rates were lowered three times (in 1990, 1999, and 2002). Yet, during this time, FPL added several generating units. If FPL could have justified higher base rates due to the single issue of a new plant, then one would expect to have seen a rate case in each year a unit was placed in service. Assuming that FPL's returns were sufficient to absorb the cost of the new units, then the use of the GBRA would have resulted in unnecessarily high costs to ratepayers —unless and until the Commission conducted proceedings to reduce rates.

Q. IS THE GBRA NECESSARY TO ASSURE THAT THE COSTS OF THE NEW POWER PLANT ARE RECOGNIZED AT THE SAME TIME THE POWER PLANT BEGINS TO PROVIDE BENEFITS SUCH AS FUEL SAVINGS?

A. No. Although FPL's witness, Ms. Ousdahl, asserts that the GBRA will assure that the costs of the new power plant are recognized at the same time the fuel savings are achieved, the underlying assumption in her statement is that the costs of the new power plant are not reflected in the rates that are in effect at that time. As explained above, it is possible that at least a portion of the costs of WCEC3 will be able to be absorbed through the rates that are effective at the time WCEC3 is placed in service. While FPL currently believes that the rates will be insufficient to cover the costs of WCEC3, the uncertainty of the assumptions made in developing projections two years into the future in a period of economic uncertainty could result in net income sufficient to support the addition of WCEC3 without the need for an additional increase in rates.

Q. FPL ASSERTS THAT THE GBRA WOULD BE MORE EFFICIENT THAN A BASE RATE PROCEEDING. SHOULD THE EFFICIENCY OF THE RATE MECHANISM AFFECT THE COMMISSION'S DECISION ON CONTINUATION OF THE GBRA?

A. No. The only efficiency gained by using the GBRA to pass-through costs associated with individual generating units is the avoidance of a full base rate proceeding. This efficiency is not an adequate basis for continuing such a base rate adjustment mechanism. The Commission's greater concern should be to balance the interests of FPL and its ratepayers by taking into account all factors that bear on the reasonableness of the earned return at the time. If the Commission allows the GBRA to continue, increases will be allowed without having all pertinent and reliable information. If such increases are unwarranted and lead to overearnings, the Commission will face the prospect of a base rate proceeding in any event—a proceeding to reduce rates that are higher than necessary to produce a fair return.

Q: WHAT IS YOUR RECOMMENDATION REGARDING THE GBRA?

A: I am recommending that the Commission deny FPL's request for continuation of the GBRA.

Q: HOW HAVE YOU TREATED THE WCEC3 COSTS FOR PURPOSES OF THE 2011 TEST YEAR ANALYSES?

A: As explained earlier, although I am recommending that FPL's use of the 2011 Test Year to determine a subsequent year adjustment be denied by the Commission, I have addressed the 2011 Test Year revenue requirements throughout the remainder of my testimony. When calculating the overall revenue requirements for 2011, I have added back the WCEC3 costs.

Cost of Service Analyses

Q: HAVE YOU PREPARED COST OF SERVICE ANALYSES TO EVALUATE FPL'S REVENUE REQUIREMENTS FOR THE 2010 AND 2011 TEST YEARS?

A: Yes. In order to determine the impact of the various adjustments described herein and proposed by OPC's other witnesses, it was first necessary to re-create FPL's jurisdictional cost of service studies and total system cost of service analyses for 2010 and 2011. I re-created these studies to verify the accuracy of the model. The model summaries are attached to my testimony as Exhibit__(SLB-2), Pages 1 and 2 of 2.

Jurisdictional Transmission Allocations

Q: PLEASE EXPLAIN YOUR CONCERN REGARDING FPL'S ALLOCATION OF TRANSMISSION COSTS IN THIS PROCEEDING.

A: FPL has allocated the test year transmission service revenues and all transmission revenue requirements to the retail jurisdiction and to wholesale customers that are currently still on a bundled wholesale rate. This is a "revenue credit" methodology that simply charges the retail jurisdiction with all costs of transmission, while providing an offsetting revenue credit for transmission revenues received from non-jurisdictional customers. While this may be appropriate for non-firm or short-term transmission service revenues, it is not appropriate for FPL's long-term firm transmission service customers and, in fact, creates a significant subsidy of the costs of providing transmission service to those customers.

Q: HOW DOES FPL'S ALLOCATION OF TRANSMISSION COSTS AND REVENUES CREATE A SUBSIDY OF THE COSTS OF PROVIDING TRANSMISSION SERVICE TO FPL'S LONG-TERM FIRM TRANSMISSION CUSTOMERS?

A: In the late 1990's, the Federal Energy Regulatory Commission ("FERC") issued orders requiring non-discriminatory access to transmission. In providing non-discriminatory access to FPL's transmission system, FPL is to be treated in a similar manner to all customers requesting transmission services over FPL's system. FPL and its retail customers are essentially supposed to be paying the same amounts for the same services offered to other customers. FPL's transmission rates for wholesale customers are set forth in its Open Access Transmission Tariff. If FPL experiences increases in its costs of providing transmission service, then its remedy is to seek an adjustment of its transmission service rates at the FERC. If FPL's transmission rates under its OATT were presently covering the costs of providing transmission service, as such costs have been represented by FPL in this case, then the transmission service revenues would be approximately equal to the allocation of transmission revenue requirements. In that event, the retail jurisdiction customers would be indifferent as to whether costs are allocated directly to the long-term firm transmission service customers or whether the revenue credit methodology is employed. However, a review of FPL's long-term firm transmission service revenues as compared to the allocated costs to provide this service shows a significant deficiency. Using the revenue credit methodology thus transfers this deficiency to the retail jurisdiction.

Q: WHAT IS THE LEVEL OF DEFICIENCY TRANSFERRED TO THE RETAIL JURISDICTION THROUGH THIS REVENUE CREDIT METHODOLOGY?

A: The total deficiency transferred to the retail jurisdiction by this revenue credit methodology is $18.5 million in 2010 and $19.0 million in 2011.

Q: HOW DID YOU DETERMINE THE LEVEL OF THE DEFICIENCY TRANSFERRED TO THE RETAIL JURISDICTION?

A: To determine the level of the deficiency transferred to the retail jurisdiction, I modified the Company's cost of service analyses that were re-created in Exhibit__(SLB-2). I removed all of FPL's long-term firm network, point-to-point, and other long-term firm service revenues to assure that the retail jurisdiction did not receive credit for the revenues. This included the firm network service revenues for the Florida Municipal Power Agency ("FMPA"), Seminole Electric Cooperative, Inc. ("SECI"), Lee County Electric Cooperative ("LCEC"), and the City of Key West; the long-term firm point-to-point revenues for FMPA, Georgia Transmission Company ("GTC"), the City of Homestead, Metro-Dade County Resource Recovery, and the Orlando Utilities Commission. In addition, revenues associated with other long-term firm service to New Smyrna Beach were reallocated. SECI receives an annual credit of $6,797,000 against its firm network service costs in recognition of its investment in transmission facilities. I did not reallocate this credit, as this is essentially a system transmission cost.

Next, I modified FPL's transmission allocator, allocator FPL101, which was developed in MFR Schedule E-10, to add the 12 month average long-term firm network, point-to-point and other service customers' demands to the non-jurisdictional demands and to the total system demands. The summary of FPL's transmission revenues for 2008 through 2011 is shown in Exhibit__(SLB-3), page 1 of 5. The results of the revisions to the cost of service are shown on Exhibit__(SLB-3), Page 2 of 5 and the adjustments to the FPL101 transmission allocator which were used in developing the revised cost of service are shown in Page 3 of 5 of Exhibit__(SLB-3). The summary of the revised 2011 cost of service is shown in Exhibit__(SLB-3), page 4 of 5 and the 2011 revised FPL 101 allocator is shown on Exhibit__(SLB-3), page 5 of 5.

Q: DID YOU REVIEW ANY ADDITIONAL DATA TO CONFIRM THE REASONABLENESS OF YOUR ADJUSTMENT?

A: Yes. Since the discrepancy was significant, it indicated that FPL's current OATT is significantly under-recovery FPL's represented cost of providing transmission service. Therefore, to confirm the reasonableness of the adjustment, I reviewed the changes in FPL's transmission costs and loads from the year in which FPL's current OATT rates were established to the 2010 Test Year.

FPL's current OATT shows that Schedule H, the rate of firm network service, has not been revised since at least January 1, 2000. The monthly firm network service rate posted on Oasis is \$1.23/KW-month, while the tariff attached to Oasis shows an effective date of January 1, 2000 and a rate of \$1.27/KW-month.

Since the tariff shows Schedule H to be an original sheet, it is likely that the rate was actually developed in an earlier year. I then compared several components of the transmission-related revenue requirement from FPL's 1999 FERC Form 1 to the same components of the transmission-related revenue requirement in the 2010 test year in this proceeding. The results are shown in Exhibit__(SLB-4).

As shown in Exhibit__(SLB-4), the costs of providing transmission service have increased substantially since FPL last changed its transmission service rates. Since rates are also a function of the amount of service provided, I also wanted to compare the amount of transmission service provided in 1999 as compared to the most recent historical year, 2008. The billing demands for FMPA and SECI were redacted in the public version of the 1999 FERC Form 1. As shown on page 400 of FPL's 2008 FERC Form 1, the system demands make up 91.67% of the combined system, SECI firm network, and FMPA firm network demands in 2008; therefore, I used the system demands as a reasonable proxy for the growth rate experienced on the system from 1999 to 2008. The sum of the monthly peak demands grew from 184,800 MW in 1999 to 220,461 MW in 2008, or an increase of 19%. Given the disproportionate increase in the costs of providing service and the level of firm service provided, I believe it is reasonable to assume that the result of my cost of service adjustment fairly represents the transfer of costs from the wholesale firm network service customers to the retail jurisdiction.

<u>Uncollectible Account Expense</u>

Q: WHAT IS THE LEVEL OF UNCOLLECTIBLE ACCOUNTS EXPENSE INCLUDED IN THE 2010 AND 2011 TEST YEAR REVENUE REQUIREMENTS?

A: As shown on Schedule C-11 for the corresponding year, FPL has estimated uncollectible accounts expense, before provision adjustments, of $28.017 million for 2010 and $22.992 million for 2011. As shown in Schedule C-4, the amounts included in Account 904, Uncollectible Accounts Expense are $26.325 million in 2010 and $21.730 million in 2011. These amounts include offsets for provision adjustments. FPL allocated the Account 904 expenses between the base rates and the clauses. Based on this allocation process, FPL has included $9.432 million of uncollectible accounts expense in its base rate revenue requirement for 2010 and $7.855 million in its base rate revenue requirement for 2011.

Q: HOW DID FPL DETERMINE THE LEVEL OF UNCOLLECTIBLE ACCOUNTS EXPENSE?

A: FPL used a regression analysis to forecast the uncollectible accounts expense using historical and projected data such as the real price of electricity, kWh sales, and unemployment. A summary of the regression model used by FPL was provided in response to OPC's Second Request for Production of Documents, Question No. 12, in the file "050608 UAR Estimate for 2009 2011.xls".

Q: DO YOU HAVE ANY CONCERNS WITH FPL'S PROJECTION OF UNCOLLECTIBLE ACCOUNTS EXPENSE FOR THE TEST YEARS?

A: Yes. I have two significant concerns. First, the assumptions used in the regression model were apparently made prior to economic changes that were utilized by FPL in preparing other components of its filing. These assumptions would cause the overstatement of bad debt. Second, although FPL has included increased costs for enhanced collection and assistance programs, the benefits of these programs have not been increased to reflect a sufficient level of write-off savings.

Q: PLEASE EXPLAIN HOW THE ASSUMPTIONS USED IN THE REGRESSION MODEL WOULD CAUSE THE OVERSTATEMENT OF BAD DEBT.

A: As noted by FPL Witness Morley, the two main drivers of the customer's ability to make payment are the dollar amount of the bill and the economic conditions currently impacting their ability to pay. (Morley Direct, page 43.) The level of revenues is thus a critical factor in determining the expected uncollectible accounts expense. In FPL's regression, it assumed a much higher level of real price of electricity than the prices shown in its load forecast modeling. Retail kWh sales were also higher than FPL's final projections for the Test Years. During the time period in which FPL was running its uncollectible accounts expense analyses, the revenue projections for 2010 were $12.896 million. If later estimates of real prices and sales had been used, the bad debt calculated from the regression would have been reduced. Thus, while the models may reasonably estimate the bad debt factor based on the historical sales and real price levels, the values calculated for the Test Years would need to be adjusted to reflect the adjusted revenue forecast for the Test Years. This was not done. In carrying the net write-off over into Schedule C-11, FPL did not reflect the bad debt factors of .217% and .175% derived from its analyses, but, instead, input the expense derived from the much higher revenue level and "backed into" a higher bad debt factor of .26% for 2010 and .207% for 2011.

Q: DID FPL UPDATE ITS PROJECTIONS?

A: Yes. Although FPL did not utilize its updated projections in its calculation of the 2010 and 2011 revenue requirements, FPL did provide an update of its net write-off forecast as of December 1, 2008. In that forecast, FPL showed revenues of $12.004 million and net write-offs of $24.151 million for an unlagged write-off rate of .201%. In 2011, revenues were reduced to $12.774 million with net write-offs of $21.484 million, or .168%. Therefore, not only did revenue expectations decrease, but the percent of expected write-offs decreased as well.

Q: WHAT ACTIONS HAS FPL TAKEN TO REDUCE UNCOLLECTIBLE ACCOUNTS?

A: According to FPL's witness, Ms. Santos, FPL has aggressively sought to reduce uncollectibles through numerous programs. These programs include assistance programs through social agency and customer contributions, increased used of automatic bill payments, and energy affordability initiatives such as energy conservation programs. Ms. Santos noted that in 2008, over 83,000 assistance payments were received from numerous agencies, representing approximately $15.6 million toward customers' electric bills. The use of automatic bill payments has also reduced net write-offs and the number of customers using FPL's automatic bill payment program has increased substantially over the last few years. Ms. Santos explained that the mitigation actions accounted for $4.1 million of the increase in customer service costs from 2006 to 2008.

Q: HOW HAS FPL REFLECTED THE IMPACTS OF THE MITIGATION ACTIONS IN ITS FORECAST OF BAD DEBTS FOR THE TEST YEARS?

A: FPL first offset its net write-off from the regression by estimates of the impacts of management actions. In preparing its 2008 budget, FPL estimated the impact of management actions to be $2,894,894, including $882,266 of reductions in write-offs due to individual management actions and an additional reduction of $2,012,628 as a "stretch goal", or target. In 2009, FPL estimated the write-off impact of the total management actions to be only $844,964, but also noted a stretch goal of $1.9 million, which was not incorporated into the bad debt calculation. These management actions included the automatic bill payments, the customer assistance programs, performance tracking, and outsourcing of the probate process. In 2010, the management actions were estimated to increase to $1.168 million. In addition to the adjustment for management actions, FPL also offset the 2010 and 2011 projections by $383,780 and $2,607,651, respectively, in undefined "RCS" actions.

Q: HOW DID FPL ESTIMATE THE LEVEL OF WRITE-OFF REDUCTIONS ASSOCIATED WITH AUTOMATIC BILL PAYMENTS?

A: FPL estimated the number of automatic bill payment customers at the end of 2008 and 2009 and estimated savings of $19.71 per account per year. They calculated the difference between the 2008 and 2009 estimated write-off savings and determined an increase in write-off savings of $561,964. This level of savings did not change in the 2010 and 2011 Test Years.

Q: SHOULD FPL HAVE ADJUSTED THE EXPECTED SAVINGS FROM AUTOMATED BILL PAYMENTS?

A: Yes. The number of automated bill payment customers increased at an annual compound average growth rate of 111% a year from 2005 to 2008 and, based on FPL's estimates, will increase another 13% from 2008 to 2009. It is reasonable to assume that additional write-off savings will be realized as more customers switch to automatic bill payments. In addition, the reduction in write-offs was treated as incremental to 2008 write-offs, which assumes that the regression already reflected the 2008 write-offs. The regression equation was based on actual data through August, 2008; therefore, the incremental savings should reflect comparison to only a partial year for 2008.

Q: DID FPL PROVIDE A DESCRIPTION OF THE "RCS" WRITE-OFF SAVINGS?

A: I have not seen a description of the RCS write-off savings. These savings are based on FPL's avoidance of 50% of its 2007 residential write-offs over a 5-year period beginning in 2010, with sustained savings at the full 50% level thereafter. FPL's deployment rate for this program was only 4% in 2010 with 30% recaptured in 2011, ramping up to the full 100% in 2014. FPL used this methodology to determine the offset to 2010 and 2011 bad debt expense of $383,780 and $2,607,651, respectively. Savings increase to $4.8 million in 2012, $6.9 million in 2013, and $8.6 million in 2014 and thereafter. This annual increase does not indicate an amortization of a particular year's avoided write-off, but rather reflects an expectation of avoided write-offs increasing each year based on mitigation actions. In other words, the analysis reflects a stream of avoided write-offs all assuming the 2007 residential write-off level of $17.1 million with recovery over a 5-year period beginning in the third year following the initial write-off. If FPL anticipates recovering 50% of its write-offs over time, it is not appropriate to charge ratepayers for those write-offs.

Q: WHAT IS YOUR RECOMMENDATION FOR RECOGNIZING THE AVOIDED NET WRITE-OFFS?

A: While it is not appropriate to charge ratepayers for write-offs that the Company believes it can avoid, I am only recommending that the Commission recognize a greater portion of the RCS avoided write-off savings by assuming an earlier deployment of RCS avoided write-offs. I recommend a 5-year straight amortization of the expected RCS savings, which increases the third-year deployment rate from 4% to 20% and reduces the fourth-year deployment rate from 26% to 20%. This brings the 2010 adjustment up from $383,506 to $1,713,305, which is still well within FPL's noted stretch goals of $2.0 million in 2008 and $1.9 million in 2009. In 2011, the savings increase from $2.6 million to $4.0 million reflecting a reduced amortization rate, but incorporating additional write-off savings from 2008 write-offs, which would begin amortization in 2011 under FPL's assumed three-year lag.

Q: WHAT IS YOURRECOMMENDATION FOR THE TREATMENT OF BAD DEBT EXPENSE IN THE TEST YEARS?

A: I am recommending that the Commission first begin with FPL's updated net write-off forecast from December 1, 2008. The 2010 and 2011 Test Year net write-offs should then be reduced by the impacts of additional automatic bill payments and the incremental avoided write-offs. Exhibit__(SLB-5) shows the calculations of the additional automatic bill payments and the incremental avoided write-offs.

After calculating the bad debt expense from the December 1, 2008 model, as adjusted, the net write-off percentage calculated from the higher revenues on which the forecast was based should be applied to the Test Year revenues. Exhibit__(SLB-6) sets forth these adjustments. As shown on Exhibit__(SLB-6), the net impact of these adjustments is to reduce the base rate revenue requirement by $2.869 million in 2010 and $2.495 million in 2011. The impact includes both the change to the uncollectible accounts expense for the test years at present rates and the change to the revenue expansion factor on Schedule C-44.

Q: DO YOU HAVE ANY ADDITIONAL CONCERNS ABOUT FPL'S REQUESTED TREATMENT OF UNCOLLECTIBLE ACCOUNTS EXPENSE?

A: Yes. The Company has proposed that the portion of the uncollectible accounts expense that is clause-related should be removed from base rates and collected through the various clauses. This treatment creates an additional need for regulatory oversight and adjustments. FPL's process for determining the accrual for uncollectible accounts expense is based on a 5-month lagged write-off rate for the same month of the prior year. In other words, in February, 2009, the accrual is based on the February, 2008 write-offs as a percentage of the September, 2007 revenues applied to the September, 2008 revenues. This amount is then adjusted based on actual write-off experience. In order to apply this process to the clauses, FPL would need to develop separate write-off rates and establish separate accrual provisions for each clause as the clause components of uncollectible accounts would vary by month and by customer. FPL has not proposed a process for recognizing the uncollectible accounts expenses through the various clauses.

In addition, transfer of the uncollectible accounts expense to the clauses again increases the portion of FPL's revenue that is collected through clauses. As noted earlier in my testimony, FPL has increased its base O&M costs to incorporate additional revenue collection costs. If 61% of the uncollectible accounts are simply passed through a clause, then FPL's incentive to continue its efforts to reduce uncollectible accounts is reduced.

OPC is thus recommending that the uncollectible accounts expense remain in base rates. When viewed on a stand-alone basis, this treatment would increase the jurisdictional revenue requirement by $16.949 million in 2010 and $13.914 million in 2011. In conjunction with my recommended adjustments to uncollectible accounts expense, this adjustment would increase the jurisdictional revenue requirement by $12.618 million in 2010 and $10.461 million in 2011.

Late Payment Fees

Q: **WHAT MODIFICATION IS THE COMPANY PROPOSING TO ITS LATE PAYMENT FEES?**

A: The present late payment fee is 1.5% of the late payment. FPL is proposing to add a minimum payment of $10. This would impact all late-paying customers with bills that are less than or equal to $667.

Q: DO YOU HAVE ANY CONCERNS WITH THE COMPANY'S CALCULATIONS OF THE INCREASED REVENUES ASSOCIATED WITH THE IMPLEMENTATION OF A MINIMUM PAYMENT OF $10?

A: Yes. The Company has had significant increases in late payment fees over recent years; however, in projecting the late payments fees for the test years, FPL has assumed that percentage of late paid accounts will remain at the same levels as the 2008 experience. In addition, the Company has offset the increased late payment fees by a 2% write-off rate and a 30% "behavior change" associated with accounts that would be subject to the minimum charge. These adjustments have resulted in an understatement of the late payment revenues under the revised structure.

In addition, under the new rate structure, a portion of the late payment fees will still be derived from a variable rate structure—1.5% of the late payment. This additional revenue should be reflected in FPL's revenue expansion factor.

Q: PLEASE EXPLAIN HOW FPL'S LATE PAYMENTS HAVE INCREASED OVER RECENT YEARS.

A: As shown in the response to OPC's Second Request for Production of Documents, No. 12 (LPC Forecast $10 01262009.xls) and summarized in Exhibit__(SLB-7), Page 1 of 3, FPL's late payment fees have increased from $15.4 million in 2005 to $40.95 million in 2008, or at a compound average annual growth rate of over 38% since 2005. In addition, the number of late payments as a percentage of total bills has increased from 11.1% to 22.3 % over that same time period.

Q: WHAT ASSUMPTION DID FPL MAKE REGARDING THE NUMBER OF LATE PAYMENTS FOR THE TEST YEAR?

A: FPL first assumed that the number of late payments in 2010 and 2011 would be proportionate to the number of late payments as a percentage of the total customer bills from 2008. FPL then adjusted this figure down for 2% write-offs. For customers that would receive a minimum late payment fee of $10 under the new structure, FPL further reduced the number of late payments down by 30%, assuming that the higher charge would cause 30% of these customers to modify their behavior and pay their bills on time. The resulting number of late payments assumed by FPL is 8,456,689 out of a total of 54,585,108 projected bills, or 15.5%.

Q: **DID FPL PROVIDE ANY JUSTIFICATION FOR ITS ASSUMPTION THAT THE IMPLEMENTATION OF THE $10 MINIMUM LATE FEE WOULD CAUSE 30% OF THE AFFECTED CUSTOMERS TO PAY THEIR BILLS ON TIME?**

A: No.

Q: **IS IT REASONABLE TO ASSUME THAT THERE WILL BE SOME BEHAVIOR MODIFICATION AS A RESULT OF THE IMPLEMENTATION OF THE MINIMUM LATE PAYMENT FEE?**

A: Yes, however, there is no evidence supporting a 30% behavior modification that effectively reduces the percent of late-paid bills down to pre-2007 levels—particularly in light of the high growth in late payments experienced over the past few years.

Q: **DOES FPL REPORT WRITE-OFFS OF LATE PAYMENTS SEPARATELY FROM ITS OTHER WRITE-OFFS WHICH ARE INCLUDED IN ITS UNCOLLECTIBLE ACCOUNTS EXPENSE?**

A: No. The write-offs included in FPL's bad debt, or uncollectible account expense, are reported in total; therefore, the projections of uncollectible account expense for the test years would already incorporate any write-offs of late payments.

Q: WHAT IS YOUR RECOMMENDATION FOR ESTIMATING THE LEVEL OF LATE PAYMENT FEES FOR THE TEST YEARS?

A: I recommend eliminating the 2% write-off adjustment, which should already be incorporated into the uncollectible accounts expense. In addition, I am recommending that the Commission eliminate the 30% behavior modification adjustment and, instead, use an average of the 2007 and 2008 late payments as a percentage of total bills.

Q: HOW DOES THIS METHODOLOGY RECOGNIZE SOME LEVEL OF BEHAVIOR MODIFICATION?

A: Using this methodology, 20% of customer bills are assumed to be paid late. This is less than the 22.3% level experienced in 2008. As explained by Witness Morley at page 56 of her testimony, FPL has seen a steady increase in the number of customers making late payments. She noted the increase was an average of 150,000 customers per month. Using the 20% average late payment percentage not only recognizes a reduction in FPL's late payment percentage from 2008, but also fully offsets any increases in late payment experience that would be expected based on FPL's history and the economic factors that FPL has recognized throughout its application.

Q: WHAT IS THE IMPACT OF YOUR RECOMMENDED CHANGES?

A: The recalculation of the late payment fees is set forth in Exhibit__(SLB-7). As shown in Exhibit__(SLB-7), the late payment fees for 2010 are estimated to be $117,701,025. This is $25,024,251 greater than FPL's estimate using the 30% behavior modification. The late payment fees for 2011 are estimated to be $119,771,078, which is $26,034,753 greater than FPL's estimate. In preparing these estimates, I have (i) eliminated the 30% behavior modification adjustment and the 2% write-off, (ii) used an average of the 2007 and 2008 late payments as a percentage of the total bills to recognize some behavior modification, and (iii) reduced the revenues attributable to the customers that are not subject to the minimum fee to reflect lower overall anticipated revenues for 2010 than 2008.

Q: DO YOU HAVE ANY OTHER CONCERNS WITH THE IMPACT OF THE LATE PAYMENT CHARGES ON FPL'S TOTAL REQUESTED RATE INCREASE?

A: Yes. Since a portion of the late payment fees will still be calculated as 1.5% of the late payment, it is reasonable to assume that any increases in revenues will result in increased late payment fees. As with the bad debt factor application to the revenue expansion factor, it is appropriate to include an offset to the revenue expansion factor for this additional revenue. Based on FPL's payment history as shown in the response to OPC's Second Request for Production of Documents, Question 12, (LPC Query Details.xls), FPL received late payment revenues of $10,028,545 from customers that would not be subject to the minimum fee in the period from October, 2007 through September, 2008. At 1.5%, this equates to total late payments of $668,569,666. During that same period of time, FPL had total revenues of $11,582,744,853 as shown in the response to OPC's Second Request for Production of Documents, Question 12, (LPC Forecast $10 01262009.xls). Therefore, 5.7721% of the revenue was subject to a late fee at 1.5%, resulting in a factor of .08658%. As shown on Exhibit ____(SLB-8), incorporating this offset to the revenue expansion factor reduces the 2010 and 2011 test year revenue requirements by $905,000 and $1,132,000, respectively.

Load and Revenue Forecast

Q: PLEASE DESCRIBE HOW THE COMPANY HAS FORECAST ITS LOADS AND REVENUES FOR THE TEST YEARS.

A: The Company has prepared regression models to forecast the number of total customers and Net Energy for Load ("NEL"). FPL also prepared regression models to forecast customers for the residential, commercial, industrial, and street & highway revenue classes. Customer forecasts for the remaining classes were based on class-specific information. Any differences between the total customer regression model forecast and the sum of the individual class customer forecasts is then adjusted in the residential forecast.

FPL prepared additional regression models to forecast sales for the residential, commercial, and industrial revenue classes. Sales forecasts for the remaining classes were based on class-specific information.

The NEL was adjusted to the sales level by application of a loss factor/billing cycle adjustment factor. Any differences between the individual sales forecasts and the NEL forecast, adjusted to the sales level, were then allocated between the residential and commercial classes.

Once the NEL was allocated to the various customer classes, the resulting billing determinants were used to develop the revenue projections for the test years and to develop allocation factors for development of the allocated cost of service model.

Q: WHY DID FPL RELY ON THE NEL MODEL RATHER THAN THE INDIVIDUAL CLASS SALES MODELS?

A: Witness Morley states, at page 7 of her testimony, that:

> "A superior econometric forecasting model is obtained if NEL, instead of billed energy sales, is matched to the explanatory variables. This is because the NEL data does not have to be attuned to account for billing cycle

adjustments, which might distort the real time match between production and consumption of electricity."

Q: **WHAT FACTORS DID FPL DETERMINE WERE PREDICTIVE IN DETERMINING THE USAGE PER CUSTOMER FOR ITS NEL FORECAST?**

A: FPL's NEL regression equation found that heating and cooling degree hours, Florida real household disposable income (adjusted for FPL's estimation of recovery expectations), the real average price of electricity (based on FPL's internal calculations of the price of electricity divided by CPI), two dummy variables (February and a specific variable for March, 2003), and an autoregressive term. The usage per customer was then multiplied by the total forecasted customers to derive the Predicted NEL (before any further adjustments).

Q: **DID FPL TEST THE OVERALL REASONABLENESS OF THE NEL FORECASTING MODEL?**

A: Yes. Witness Hanser explained that he had evaluated FPL's NEL model and felt that it generated reasonable predictions based on his calculation of the mean absolute percentage error ("MAPE") statistics. He also noted the various coefficients of the independent variables had the expected impacts on the use of energy and that the regression statistics indicated that the model was reasonable.

Q: **WHAT WAS THE MAPE FOR THE NEL MODEL?**

A: As shown on the response to OPC's Second Request for Production of Documents, (OPC's 2nd Request for Production of Documents No.14.xls), the MAPE statistic was calculated by comparing the model results to the actual usage per customer for the period from February, 1998 through October, 2008. The MAPE was 1.75%. Witness Hanser then calculated an out-of-sample MAPE by estimating the model over the January, 1998 through December, 2006 time period and determining the percentage errors over the January, 2007 through October, 2008 time period. This MAPE was 3.73%, indicating that the original model was better at predicting NEL. Witness Hanser concluded, though, that "both of these MAPE values are small and within the acceptable limits to deem a forecasting model to be a reliable model."

Q: DID WITNESS HANSER RUN ANY ADDITIONAL STATISTICS TO EVALUATE THE VALIDITY OF THE MODEL?

A: Yes. Mr. Hanser noted that the model showed a tendency to over-forecast NEL beginning March 2008. He tested this by running the mean percentage error ("MPE") over the total historical period and over the pre-March 2008 historical period and the post-March 2008 historical period. The MPE over the total period was -.04% and it was .16% prior to March 2008 and -3.08% from March 2008 through October 2008. He concluded that the model was over-forecasting starting in early 2008.

Q: DID MR. HANSER PROVIDE ANY EXPLANATION AS TO THE REASON FOR THE MODEL'S TENDENCY TO OVER-FORECAST NEL BEGINNING IN EARLY 2008?

A: Yes. Mr. Hanser explained that the recent history of usage per customer has significantly departed from the past usage, resulting in the inability of the historical data to be as predictive of the future use.

Q: DID FPL MAKE ADJUSTMENTS TO ITS NEL MODEL TO CORRECT FOR THIS OVER-FORECASTING TENDENCY?

A: Yes. FPL made several adjustments to its NEL model results. The first adjustment was to reflect incremental reductions in load caused by energy efficiency improvements that FPL claims were not in the historical database and, thus, would not be explained by the model. Next, the Company made known and measurable changes to the wholesale sales to remove Seminole Electric Cooperative loads due to contract termination and to add loads associated with a new contract with Lee County Electric Cooperative. After making these adjustments, FPL calculated the average error in the NEL for the period from January, 2008 through December, 2008 and adjusted all future projections for this average error. FPL called this a "re-anchoring" adjustment. In addition, FPL noted that the number of customers using minimum levels of energy had recently increased as a function of the economy and the housing market. FPL thus made a final adjustment to its adjusted NEL forecast to shift a greater number of customers from average use to minimum, or zero, usage.

Q: DO YOU HAVE ANY CONCERNS WITH FPL'S ENERGY FORECAST?

A: Yes. First, FPL has not shown that its NEL forecasting model was unreasonable prior to the application of the adjustments. Second, the application of the minimum usage accounts adjustment is inherently duplicative of the re-anchoring adjustment. Third, the calculation of the minimum usage adjustment overstates the impact of the increase in minimum use customers. Lastly, the adjustment to calculate the re-anchoring and minimum use adjustments was overstated due to a formula error.

Q: PLEASE EXPLAIN WHY FPL HAS NOT SHOWN THAT ITS NEL FORECASTING MODEL WAS UNREASONABLE PRIOR TO THE APPLICATION OF THE ADJUSTMENTS.

A: While Mr. Hanser has correctly observed a shift from over-forecasting to under-forecasting in 2008, FPL has not shown that the resulting model is outside the range of reasonable results. In fact, in response to OPC's Third Set of Interrogatories, No. 161, FPL noted that:

"In-sample MAPE statistic value for the NEL model is 2.69% when calculated for the January 2008 through October 2008 period. This is slightly larger than 1.75%, the in-sample MAPE value calculated over the January 1998 through October 2008 period, but is still small and within the acceptable limits to deem a forecasting model to be a reliable forecasting model."

As recognized by Mr. Hanser, when more recent history has diverged from the past, the model error can increase. Mr. Hanser specifically noted one example of such change is the change in efficiency standards, which are not reflected in the historical database. Another example of a recent change is the increase in minimum use customers. While the model error of 2.69% was supposedly deemed to be reliable, FPL's first adjustment for energy efficiency impacts partially corrected for this error. The resulting error calculated for 2008 was 1.29% after adjustments for the energy efficiency impacts and the known load of the wholesale customers. The resulting error rate is even better than the MAPE statistic calculated for the unadjusted model, which Mr. Hanser deems to be a reliable model.

Given the resulting error level, FPL has not shown that the model, as adjusted for energy efficiency impacts and the wholesale loads, is unreasonable.

Q: HOW IS THE MINIMUM USE ADJUSTMENT DUPLICATIVE OF THE RE-ANCHORING ADJUSTMENT?

A: As explained by FPL Witness Hanser, the number of customers using between 1 kWh and 200 kWh per month has increased noticeably through the end of 2008. To the extent that the number of minimum use customers has increased through the end of 2008, this reduction is already reflected in the use per customer and resulting NEL for that period. The re-anchoring adjustment thus corrects for the reductions in load associated with increases in minimum usage. In other words, since an increase in minimum use customers was already included in the actual NEL for 2008, the portion of the model error attributable to that increase in 2008 was already reflected in the overall model error of -1.29% calculated by FPL. If FPL had corrected for the decrease in NEL associated with the increase in minimum usage customers before calculating the overall model error, the error would have been reduced. The application of the model error and the increase in minimum usage accounts thus overstates the overall error and understates the NEL.

Q: HOW DID FPL DETERMINE THE IMPACT OF THE INCREASE IN MINIMUM USE CUSTOMERS?

A: FPL applied adjustments to the NEL forecasts of -.9%, -1.1%, and -.55% for 2009, 2010, and 2011, respectively. These adjustments were calculated in the following manner:

1) FPL determined the number of minimum use customers for each month from January 2009 through December 2010. Minimum use customers were defined as customers using less than 200 kWh per month. In projecting the level of minimum use customers, FPL increased the monthly percentage by the same percent increase experienced from October, 2007 to October, 2008.
2) FPL then took the percentage of minimum use customers at December, 2009 and December, 2010, which were determined to be 8.68% and 8.96%, and subtracted the "historic average" of 7% to determine the increase in minimum use customers. The 12 month rolling average minimum use customers was provided in the response to OPC's Third set of Interrogatories, Interrogatory No. 175.

3) The increase in percentage of minimum use customers was applied to a projection of residential customers for 2009 and 2010 to determine the increase in minimum use customers.

4) FPL calculated the average use of residential customers that used above 200 kWhs per month as 1200 kWh. The increase in minimum use customers was then multiplied by 1200 kWhs per month to determine the overall decrease in kWh sales.

5) The overall decrease in kWh sales was then divided by a projection of total sales to determine the percent decrease in total kWh sales associated with the increase in minimum usage accounts. The result was the -.9% and -1.1% adjustments applied to the NEL for 2009 and 2010, respectively.

6) The -.55% adjustment for 2011 was simply half of the 2010 adjustment.

Q: **HOW DID FPL OVERSTATE THE IMPACT OF THE INCREASE IN MINIMUM USE CUSTOMERS?**

A: In calculating the historic average of minimum use customers, FPL used the 12 month rolling minimum use customers as a percent of total customers for only August 2003 through December 2004. The use of this limited time period is not representative of the period included in the database on which the NEL model was developed.

Q: **DID FPL PROVIDE ADDITIONAL HISTORICAL DATA?**

A: Yes. In FPL's file "OPC's 2nd POD No 14 Supplemental – Adjustment for Empty Houses.xls.", FPL provided monthly data from September 2002 through December, 2007 and 12-month rolling average data for August 2003 through October, 2008. This is the data FPL used to make its minimum use customer adjustment to the NEL forecast. In its response to OPC's Second Request for Production of Documents No.

14, FPL also provided a file called "empty_homes_history.xls." This file provided monthly data from June, 1997 through January, 2009, as well as rolling 12 month average data for May, 1998 to September, 2008.

Q: DID YOU COMPARE THE MONTHLY CALCULATIONS FROM THE DIFFERENT EMPTY HOMES FILES PROVIDED BY FPL?

A: Yes. A comparison of the data in these two files shows small differences from January 2005 until the beginning of 2007, with the differences rising thereafter. The only data to compare prior to that time was the information from September 2002 through June 2004. The differences between the databases shown in the two files was significant, with an average of 1% difference in the total number of residential customers and 13.5% difference in the number of minimum use customers. While there is no explanation for the discrepancy between the databases, there was obviously a change that occurred in FPL's identification of customer accounts and minimum use accounts. Therefore, while it would be appropriate to use the minimum use data for the longer period of time that more closely aligns with the historical data used in the NEL regression, I concluded that the data was not reliable and, thus, limited my calculation of the historical minimum use percentage to data available from FPL's more recent calculations which went back to September, 2002.

Q: WHAT IS FPL'S HISTORIC AVERAGE PERCENTAGE OF RESIDENTIAL CUSTOMERS TAKING LESS THAN 200 KWH PER MONTH?

A: FPL's actual historic average percent of residential customers taking less than 200 kWh per month is 7.42% from September, 2002 through December, 2007. Therefore, while the percentage of residential customers at minimum use has been rising, the level of increase from the historic database should be calculated using the higher 7.42%, rather than the 7% history calculated from the August, 2003 to December, 2004 time period used by FPL in its NEL adjustment.

Q: DID FPL PROVIDE ITS PROJECTIONS OF MINIMUM USE CUSTOMERS FOR 2009, 2010, AND 2011?

A: Yes. In response to OPC's Third Set of Interrogatories, Question No. 175, FPL provided the projected 12 month rolling average number of minimum use customers for each month from January, 2009 through December, 2011.

Q: DID FPL USE THIS INFORMATION TO CALCULATE ITS MINIMUM USE ADJUSTMENT TO THE NEL FORECAST?

A: The adjustments to the 2009 and 2010 NEL forecast were based on percentages of total residential customers that were assumed to be minimum use customers on a 12 month rolling average basis at December, 2009 and December, 2010, as calculated by FPL in its file "OPC's 2nd POD No 14 Supplemental – Adjustment for Empty Houses.xls." The 12-month rolling average percentages of minimum use customers in that file were 8.68% and 8.96% at December, 2009 and December, 2010, respectively. FPL did not calculate the percentages for 2011, but simply applied ½ of the 2010 minimum use adjustment to the 2011 NEL forecast. The information provided in the response to OPC's Third Set of Interrogatories, Question No. 175 provides similar results, although not identical percentages, to the information in the file "OPC's 2nd POD No 14 Supplemental – Adjustment for Empty Houses.xls." The information for 2011 provided in the response to Question No. 175 appeared to be miscalculated. From January, 2006 through December, 2008, actual minimum use customers were never less than 280,000 customers and FPL projected minimum use customers rising to over 300,000 throughout 2009 and 2010, reaching a level of 359,000 in December, 2010. However, beginning in January, 2011, FPL shows minimum use customers dropping to 175,000 and rising slowly thereafter. This information does not make sense and if I had used it to adjust the NEL forecast, it would have actually resulted in an increase in the forecast. I thus accepted FPL's application of ½ of the 2010 minimum homes adjustment for 2011.

Q: DID FPL MAKE ANY OTHER ASSUMPTIONS THAT OVERSTATED THE IMPACT OF THE INCREASE IN MINIMUM USE CUSTOMERS?

A: Yes. In determining the level of lost kWh sales associated with the increase in minimum use customers, FPL assumed that all minimum use customers would have zero usage. The minimum use customers are defined by FPL as those customers using less than 200 kWh per month, not just customers that have zero usage.

Q: DO YOU HAVE ANY OTHER CONCERNS WITH THE NEL FORECAST MODEL?

A: Yes. In calculating the re-anchoring adjustment, FPL calculated the percentage of error from the NEL model output, adjusted for energy efficiency impacts associated with programs arising from the National Energy Policy Act ("NEPACT") and wholesale sales, to the actual sales for 2008. However, in applying the re-anchoring adjustment, FPL applied the model correction to the NEL model output before the adjustment. While the wholesale sales only contained a small value for Seminole in December, 2008, the effect of this error on the adjustments for NEPACT were significant.

Q: DID YOU PREPARE ADJUSTMENTS TO THE LOAD FORECAST?

A: Yes. Exhibit__(SLB-9), Page 1 of 3, sets forth my first adjustment to the load forecast. This adjustment reduces the minimum usage correction to reflect the historical average of 7.42% over the historical period from September, 2002 through December, 2007, rather than the 7% used by FPL from a shorter time period. I also recalculate the re-anchoring adjustment based on the revised 2008 error after the minimum usage adjustment and the NEPACT adjustments. In preparing this adjustment, I used the following steps:

1) First, I calculated the percent of residential customers taking minimum use from September, 2002 through December, 2007. Over this time period, 7.42% of FPL's residential customers used less than 200 kWhs per month. As explained above, information provided back to 1997 indicated much higher minimum usage percentages, but could not be reconciled to the database used by FPL to calculate its minimum usage adjustment, so I used the more conservative data from the later period.
2) I compared the 2008 monthly minimum use customers to the historical average of 7.42% to determine the incremental minimum use customers for each month of 2008.
3) In order to determine an appropriate level of minimum use kWh sales to offset against the average use, I calculated the number of minimum use customers falling into the 0-50 kWh, 51-100 kWh, 101-150 kWh, and 151-200 kWh blocks for each month of 2008. I then assumed the mid-point of usage for each group, assigning average use of 25, 75, 125, and 175 kWhs for each customer in these blocks. The average was approximately 103 kWhs; therefore, I assumed that, on average, the minimum use customers would use 100 kWhs per month.
4) Subtracting the minimum use from FPL's calculated average use per residential customer above the minimum usage level of 1,200 kWhs per month gives a lost sales estimate of 1,100 kWhs per month. After deriving the net loss for the incremental minimum use customers in 2008, I increased this level for line losses and billing cycle differences to determine the impact on NEL.

5) I divided the resulting net loss in NEL by the NEL projection, prior to the re-anchoring and minimum use adjustments to determine the minimum use adjustment factor that would have applied in 2008. I then adjusted the NEL to reflect this reduction associated with incremental minimum use customers for 2008.

6) The remaining model error was then calculated as the NEL adjusted for NEPACT, wholesale loads, and the minimum use adjustments.

7) For 2009 and 2010, I calculated the incremental minimum usage using the same procedures as applied for 2008. I then applied the 2009 and 2010 minimum usage adjustments, in conjunction with the remaining model error, or "re-anchoring" adjustment in order to adjust the NEL forecast.

8) To determine the revenue impact of this adjustment, I first determined the change in the NEL forecast, then adjusted it for losses and billing cycle differences to derive the energy sales adjustment. I then adjusted the revenues based on the first energy block charge from FPL's current residential rate schedule, RS-1. I used the first energy block charge from schedule RS-1 because the majority of the increased loads would be in the residential class and, since the first energy block rate is lower than the second energy block rate and is also lower than the General Service, GS-1, energy rate, the resulting revenue adjustment is conservatively less.

9) Lastly, for 2010, I increased the jurisdictional energy and demand allocations to reflect the additional energy and re-ran the cost of service to determine the overall impact on revenue requirements.

Q: WHAT WERE THE RESULTS OF YOUR ANALYSIS?

A: As shown on Exhibit__(SLB-9), if FPL had incorporated a minimum use adjustment in its 2008 NEL calculations, the adjustment would have been approximately -.64%. As a result, the remaining model error would have been reduced from -1.29% to -.075%. I included this revised re-anchoring adjustment for each test year. The minimum use adjustments for 2009 and 2010 were -.62% and -.75%, respectively. Since FPL did not provide minimum use customer information for 2011, but simply divided the 2010 factor by 2, I adjusted the 2011 NEL by ½ of the 2010 adjustment, or -.375%. The impact of these adjustments was an increase of $43.664 million to 2010 revenues and $37.476 million to 2011 revenues, as shown on Exhibit__(SLB-9), Page 2 of 3.

Exhibit__(SLB-9), Page 3 of 3 shows the revenue adjustments assuming correction of the minimum use and removal of the re-anchoring adjustment. As shown on Exhibit__(SLB-9), Page 3 of 3, the increase in revenue would be $46.5 million and $40.35 million for 2010 and 2011, respectively.

Exhibit__(SLB-10), page 1 of 4 provides the cost of service summary for 2010 with adjustments to reflect the revised minimum use adjustment. Exhibit__(SLB-10), page 2 of 4 provides the cost of service summary for 2010 with adjustments to reflect the revised minimum use adjustment and removal of the re-anchoring adjustment. As shown on Exhibit__(SLB-10), the net impact of revising the minimum use adjustment is a reduction in revenue requirements of $43.287 million. The net impact of revising the minimum use adjustment and removing the re-anchoring adjustment is a reduction in revenue requirements of $46.111 million in 2010.

The revenue impact of correcting the minimum use adjustment in 2011 is $37.1 million as shown on Exhibit__(SLB-10), Page 3 of 4. The revenue impact of correcting the minimum use adjustment and removing the re-anchoring adjustment in 2011 is $39.94 million as shown on Exhibit__(SLB-10), page 4 of 4

Payroll

Q: **WHAT IS THE TOTAL LEVEL OF GROSS PAYROLL PROJECTED BY FPL FOR THE TEST YEARS?**

A: As shown in Schedule C-35, FPL has projected total compensation of $1.063 billion for 2010 and $1.076 billion for 2011. Exhibit_(SLB-11) provides a breakdown of the projected payroll costs for the test years.

Q: **WHAT IS THE AVERAGE LEVEL OF FULL-TIME EQUIVALENT EMPLOYEES INCLUDED IN FPL'S GROSS PAYROLL FOR THE TEST YEARS?**

A: FPL has included 11,111 employees in 2010 and 11,157 employees in 2011.

Q: **DOES FPL TYPICALLY HAVE UNFILLED POSITIONS?**

A: Yes. Exhibit_(SLB-12) shows the actual versus targeted employees in terms of full-time equivalents, as provided by FPL in its response to OPC's First Request for Production of Documents, Question No. 3.

Q: **DID FPL ASSUME ANY UNFILLED POSITIONS IN DETERMINING ITS LABOR EXPENSES FOR 2010 AND 2011?**

A: No. FPL used its targeted level of employees in determining its labor expenses for 2010 and 2011.

Q: **SHOULD THE PAYROLL EXPENSES BE REDUCED TO REFLECT A LEVEL OF UNFILLED POSITIONS?**

A: Yes. Based on the Company's history the payroll expenses should be reduced to reflect unfilled positions.

Q: PLEASE EXPLAIN HOW YOU DETERMINED THE PERCENT ADJUSTMENT TO BE MADE TO THE LABOR COSTS FOR UNFILLED POSITIONS.

A: I first reviewed FPL's historical level of full-time equivalent employees compared to its targeted level of employees as provided in FPL's response to OPC's First Request for Production of Documents, Question No. 3. During the five years ending 2008, FPL's actual full-time equivalents ranged from a low of 1.71% below target in 2004 to a high of 2.48% below target in 2007, with an average of 2.08% below target over the 5-year period. A more detailed review of the historical data showed discrepancies in the first two years of data provided. For example, in both 2004 and 2005, the Transmission Business Unit showed approximately 650 actual full-time equivalent employees, while the target was shown as zero. In both years, the Distribution Business Unit was over 900 employees under target. Based on these discrepancies, I chose to eliminate the historical data from 2004 and 2005. In looking at the data for 2006 through 2008, it was apparent that the Distribution Business Unit has historically had one of the highest differences between actual and targeted employees. In 2008, this difference raised the overall difference between the actual and targeted employees from 1.02% to 2.30%. As shown in FPL's response to OPC's Second Request for Production of Documents, Question 50, (B.S. 083939), FPL reduced its distribution staffing in 2008. FPL's response to OPC's Second Set of Interrogatories, Question No. 130 also shows that FPL projects its distribution staffing for 2010 and 2011 at levels below 2008 levels. Based on these reductions, I removed the distribution business unit from the 2006 to 2008 data and calculated the average percentage difference between actual and targeted employees for the remaining FPL business units. Over the 2006 to 2008 time period, FPL's average actual full-time equivalent non-distribution employees were 2.09% below targeted levels. This equates to a 1.59% difference in total employees.

Q: HOW DID YOU APPLY THIS FACTOR TO FPL'S TEST YEAR LABOR COST PROJECTIONS TO DETERMINE YOUR RECOMMENDED ADJUSTMENT?

A: I applied the adjustment to FPL's regular pay and benefits that vary by regular pay or the number of employees. The adjustment was calculated separately for FPL's labor costs that are allocated to O&M costs to assure that only those costs that were included in FPL's base rate request were included.

Q: DID YOU MAKE ANY FURTHER ADJUSTMENTS TO THE LABOR COSTS?

A: Yes. I reviewed FPL's overtime budgets for 2010 and 2011 and increased the overtime for the Nuclear Business Unit and the Transmission Business Unit to make up for the 2.09% of unfilled positions assumed in my full-time equivalent adjustment. This offset to my adjustment was calculated to recognize that these business units based their overtime projections, in part, on budgeted staff levels. Although the distribution unit has lower budgeted staffing levels than 2008, overtime projections for that unit were lower than 2008. It appears that this reduced level of overtime is partly a function of FPL's anticipated reduced new service accounts, which contributed to positive variances in 2008. Since I did not include a distribution target versus actual differential in my full-time equivalent adjustment, I did not adjust the distribution unit overtime. FPL's other business units primarily used historical levels of overtime without adjustment for increased staffing levels.

Q: HAVE YOU PREPARED AN EXHIBIT SHOWING YOUR RECOMMENDED ADJUSTMENT?

A: Yes. Exhibit__(SLB-13) sets forth recalculations of the 2010 and 2011 MFR C-35 schedules with allocations between operating and maintenance expenses (OM), capital, and "other". It was necessary to develop the recalculation of Schedule C-35 to isolate that portion of the payroll costs included in the test year revenue requirements. Exhibit__(SLB-14), page 1 of 2 shows the adjustment to reduce gross payroll and associated benefits by the historical average level of unfilled positions. The total jurisdictional adjustment to the revenue requirements associated with this adjustment is $12.507 million in 2010 and $13.068 million in 2011. Exhibit__(SLB-14), page 2 of 2 shows the calculation of the overtime increase that offsets my full-time equivalent adjustment. The jurisdictional overtime increase allocated to O&M is $3.262 million in 2010 and $3.414 million in 2011; therefore, the net jurisdictional adjustment for full-time equivalents is $9.245 million in 2010 and $9.654 million in 2011.

<u>Executive Incentive Compensation</u>

Q: DID FPL PROVIDE A BREAKDOWN OF THE INCENTIVE COSTS ATTRIBUTABLE TO EXECUTIVE COMPENSATION?

A: Yes. In FPL's response to the Attorney General's Second Set of Interrogatories, Question No. 76, FPL provided a detailed breakdown of the incentive pay and long-term incentives (collectively "incentives") for the Test Years. Exhibit_(SLB-15) summarizes the executive incentives shown in that response. The executive incentives shown in the exhibit do not include base pay, lump sum pay, or "other" pay for executives. Executive incentives account for 4.5% of total company gross pay in 2010 and 4.7% of total company gross pay in 2011.

Q: **PLEASE PROVIDE AN OVERVIEW OF FPL'S EXECUTIVE COMPENSATION PACKAGES.**

A: FPL has a comprehensive compensation approach for its executives, which includes base pay and cash and equity-based incentives, including an Annual Incentive Plan and a Long Term Incentive Plan.

Q: **WHAT IS THE FUNDAMENTAL OBJECTIVE OF ITS EXECUTIVE COMPENSATION PROGRAM?**

A: In FPL's Proxy Statement of April 3, 2009 which was provided in response to OPC's Second Request for Production of Documents, Question No. 53, FPL noted that "the fundamental objective of FPL Group's executive compensation program is to support the creation of long-term shareholder value." (B.S. 096779)

Q: **PLEASE DESCRIBE THE ANNUAL INCENTIVE PLAN.**

A: The Executive Annual Incentive Plan (the "Annual Incentive Plan") is described in FPL Group, Inc., DEF 14A-Definitive Proxy, dated April 4, 2008 (the "Proxy Statement"-B.S.096736-096856). As described in the Annual Incentive Plan, individual employees are annually selected for participation by the Compensation Committee (the "Committee"). Each year, the Committee establishes a target award opportunity for each participant, which is either a percentage of the participant's base salary or a specific dollar amount that may be earned upon the achievement of prescribed performance objectives ("Corporate Performance Objectives"). The Annual Incentive Plan sets forth a number of Corporate Performance Objectives that may be considered; however, the Committee may determine the specific objectives to be considered in a plan year and the weighting to be assigned to each chosen objective. Awards are accrued throughout a plan year, based on the target level of compensation multiplied by a projected payout level factor. In the first quarter of the following year, the actual incentive compensation is determined by setting a corporate factor and a "CEO factor", which makeup the actual payout factor. The corporate factor is determined based on the Company's achievement of the chosen objectives. The CEO factor is an individual performance factor for each participant that is determined by the Chief Executive Officer, with recognition of the performance of the individual executive's business unit. The incentive compensation is then calculated as follows:

Target Compensation X Corporate Factor X CEO Factor.

Q: PLEASE DESCRIBE THE FINANCIAL AND OPERATIONAL OBJECTIVES THAT MAY APPLY UNDER THE ANNUAL INCENTIVE PLAN.

A: These objectives are:

- Adjusted earnings
- Return on equity
- EPS growth
- Basic earnings per common share
- Diluted earnings per common share
- Adjusted EPS
- Net income
- Adjusted earnings before interest and taxes
- Earnings before interest, taxes, depreciation and amortization
- Operating cash flow
- Workforce quality
- Cost recovery
- Operations and maintenance expenses
- Total shareholder return
- Operating income
- Strategic business objectives
- Customer satisfaction
- Environmental
- Share price
- Production measures
- Bad debt expense
- Service reliability
- Quality
- Improvement in expense levels
- Health and safety
- Reliability
- Ethics
- Risk management
- Any combination of the foregoing

Q: **PLEASE PROVIDE AN EXAMPLE OF HOW THE COMPANY DEVELOPED ITS CORPORATE FACTOR IN 2008 FOR PURPOSES OF DETERMINING ANNUAL INCENTIVE COMPENSATION.** named executive officers.

A: Prior to the beginning of 2008, the Compensation Committee developed a financial performance matrix. This matrix established the target multiplier based on the Company's performance. The factors evaluated included return on equity and earnings per share growth. A copy of this matrix is shown in Exhibit__(SLB-16). At the end of 2008, the Compensation Committee reviewed the Company's performance and determined that the Company had exceeded its target levels, placing it in the highest possible position on the matrix. As noted by the Company in the April 3, 2009 proxy statement, the Company realized an adjusted return on equity of 13.8% and adjusted earnings per share growth of 10%. (B.S. 096788) FPL then evaluated its operational performance achievements versus its goals. These goals were as follows:

- Operations and maintenance costs (lower than target)
- Capital expenditures (higher than target)
- Net income (lower than target)
- Regulatory ROE (achieved performance consistent with rate agreement)
- Fossil generation availability (top decile performance)
- Nuclear industry composite performance index (missed target)
- Service reliability (within the top quartile, but did not meet goal)
- Service reliability-interruption frequency (did not meet goal)
- Service reliability-number of interruptions per customer (exceeded goal)
- Employee safety (exceeded goal)
- Significant environmental violations (met goal)
- Customer satisfaction-residential (substantially met)
- Customer satisfaction-business (exceeded target)
- Obtain approval for generation additions (met goal)

The Company then calculated the corporate performance rating based on a weighting of 50% as measured by the financial matrix and 50% from the operational performance.

Q: PLEASE DESCRIBE THE LONG-TERM INCENTIVE PLAN.

A: The Long Term Incentive Plan provides performance-based equity awards to directors, officers, and other salaried employees. Stock-based compensation may be in the form of performance awards, performance-based restricted stock, and other stock awards, such as stock options. Prior to a plan amendment in 2009, the sole performance measure for the long-term incentive plan was the annual net income of FPL Group. Early this year, FPL requested shareholder approval to employ additional objectives equivalent to those approved by shareholders in 2008 for the Annual Incentive Plan.

Q: WHAT IS THE PURPOSE OF THE LONG-TERM INCENTIVE PLAN?

A: In its response to OPC's Second Request for Production of Documents, Question 53, which is FPL's April 3, 2009 proxy statement (B.S. 096736-096856), FPL noted that the purpose of its long-term incentive plan "is to promote the identity of interests between shareholders of FPL Group and employees of FPL Group and its subsidiaries by encouraging and creating significant ownership of FPL Group common stock by officers and other salaried employees of FPL Group and its subsidiaries…" (B.S. 096755)

Q: DO YOU HAVE ANY CONCERNS WITH FPL'S INCENTIVE COMPENSATION PROJECTIONS FOR THE TEST YEARS?

A: Yes. I have the following concerns over FPL's incentive compensation costs.

(1) FPL has included 100% of its executive incentive compensation in its calculation of payroll costs in MFR Schedule C-35. Determination of the executive incentive compensation is tied to increasing shareholder value and should be funded by those that benefit from the attainment of the goals and

objectives on which the compensation is determined. Therefore, shareholders should bear a portion of the executive incentive compensation.

(2) While FPL's filing is replete with concerns regarding the economy and its impacts on FPL's customers and service territory, as well as FPL's offered evidence as to its effect on the Company and its profitability, FPL continues to assume that the Company and its executives should be shielded from any impacts of the economy and should continue to enjoy "gold-plated" compensation packages at ratepayer expense.

(3) In developing the incentive compensation for the test years, FPL has assumed the attainment of performance objectives greater than target levels.

Q: PLEASE EXPLAIN HOW THE EXECUTIVE COMPENSATION IS TIED TO SHAREHOLDER VALUE.

A: As shown above, many of the performance measures are directly tied to the financial performance of FPL. Financial factors, such as those recognizing earnings, income, and shareholder returns recognize benefits that accrue to shareholders at ratepayer expense. For example, if FPL is able to reduce its costs without passing such benefits on to ratepayers, then the net income of the Company increases and allows the Company to demonstrate a higher level of financial performance.

Q: IS THE COMPANY'S PROPOSED INCLUSION OF EXECUTIVE INCENTIVE COMPENSATION IN THE TEST YEAR REVENUE REQUIREMENT A FAIR TREATMENT OF RATEPAYERS?

A: No. While the incentive payments are not guaranteed, the Company's proposed treatment of projected executive incentive compensation assumes that the costs will be incurred. If the Company's financial performance does not meet targets, then incentive compensation payments can be reduced and shareholders will retain the revenues paid by ratepayers in support of the avoided expense. The inclusion of the incentive payments in the revenue requirement is, therefore, a "cushion" to shield the shareholders from worse than expected financial performance. On the other hand, if the Company's financial performance exceeds targets, shareholders will have enjoyed the benefits of the financial performance but ratepayers will not be entitled to a refund or sharing of those benefits.

Q: WHAT PORTION OF THE PERFORMANCE MEASURES WAS TIED TO THE FINANCIAL PERFORMANCE OF FPL IN 2008?

A: As explained above, the performance goals are established for each plan year by the Compensation Committee. In 2008, FPL weighted the financial matrix 50% in calculating the corporate performance factor for named executives. The remaining 50% of the corporate performance factor was based on the operational factors listed above, which also included financial performance measures, such as net income, operating and maintenance expense levels, and regulatory return on equity. In addition, the CEO factor, while subjective and not disclosed, takes into account the business unit objectives, which historically have included financial performance measures. Therefore, over 50% of the overall factor applied to the target compensation for each named executive was related to financial performance. The weighting of the performance targets for the remaining executives was not disclosed.

Q: PLEASE EXPLAIN HOW FPL'S FILING ASSUMES THAT THE COMPANY AND ITS EXECUTIVES SHOULD BE SHIELDED FROM IMPACTS OF THE ECONOMY.

A: FPL's filing requests an increase of approximately $1.044 billion, or 27%, in base rates. This increase reflects FPL's projected higher costs of providing service and recognizes reductions in sales and higher bad debt that FPL attributes to the economy. It also reflects the continuation of, and even increase over, executive incentive compensation that was provided in 2008 when FPL's excellent financial performance was used to establish incentive compensation levels. Therefore, while most competitive businesses are feeling the impacts of the economy and, in many cases, the impact is "flowing down" to their employees, FPL is requesting an increase that will shield it and its executives from impacts of the economy. For example, one major component of the rate increase requested by FPL is to make up for lost revenues associated with the economy. As a regulated monopoly, FPL's reaction to the economic crisis is opposite of the reaction that a competitive company would have if it lost revenues. The competitive company would have the incentive to cut prices and cut costs in order to survive in the down market. FPL, on the other hand, requests an increase in rates to cover the lost revenues, while continuing to offer executives lucrative compensation packages.

Q: HAVE OTHER COMPANIES TAKEN ACTIONS TO REDUCE EXECUTIVE COMPENSATION?

A: Yes. Watson Wyatt, one of the human resource consulting firms utilized by FPL, took a survey of large companies to understand what effect the economy is having on their executive pay programs. The results were published in a document called "Effect of the Economy on Executive Compensation Programs update: March 2009." In that document, Watson Wyatt noted that, since their December 2008 study, "more than half of respondents (55 percent) have frozen executive salaries, ten percent have reduced executive salaries, and annual incentive plans are declining." In addition, a greater number of companies were decreasing or delaying planned merit increases, reducing salaries, reducing target bonus and award opportunities, and reducing long-term incentive plan eligibility. Approximately 48% of the respondents noted that this year's bonus pool would decrease over last year's bonus pool, with an average decrease of 40%. Likewise, there was an increase in the number of companies reporting an expected decrease in 2009 long-term incentive grant dollar values.

In FPL's response to OPC's Request for Production of Documents No. 2, Question 53, FPL provided a presentation made on January 1, 2009. (B. S. 076238). In that presentation, FPL noted that based on external market findings more companies were rethinking merit budgets. This presentation included quotes from several leading corporations that specialize in employment compensation surveys. The results of the surveys indicated ranges of at least half to approximately three-fourths of responding companies are reducing salary spending and merit pay increases or are contemplating salary freezes due to the recent economic situations and/or cost pressures. Additionally, the presentation states that other peer electric companies are reducing their salary programs.

Q: WHAT ASSUMPTIONS DID FPL MAKE IN ESTIMATING ITS EXECUTIVE INCENTIVE COMPENSATION FOR THE TEST YEARS?

A: Although the Company did not provide a breakdown of its Annual Incentive Compensation and Long-Term Incentive Plan awards between executives and non-executives for 2008, a review of the total costs for 2008 and the test years shows a significant increase in equity-based compensation. See Exhibit_(SLB-17).

Further, in its response to the Attorney General's First Set of Interrogatories, Interrogatory No. 8, the Company explained that it had used a projected payout level of 1.4 times the target level for executives and 1.3 times the target level for non-executives.

Q: WHAT IS THE ASSUMPTION UNDERLYING A PAYOUT LEVEL OF 1.4 TIMES THE TARGET LEVEL?

A: Using projected payout levels in excess of one (1) times the target level assumes that the Company will exceed its performance goals and that the target level of compensation will thus be exceeded.

Q: WHAT IS THE COST OF THE EXECUTIVE INCENTIVE COMPENSATION IN THE TEST YEARS ASSOCIATED WITH THE ASSUMPTION THAT THE COMPANY WILL EXCEED ITS PERFORMANCE GOALS?

A: Exhibit_(SLB-18) shows the portion of the cost of executive compensation in the Test Years associated with the assumption that the Company will exceed its performance goals. Exhibit__(SLB-18) shows the cost of the executive incentive compensation that is allocated to operating and maintenance expenses in the test years. If the payout factor assumed in developing the test year expenses was 1.4, then the portion of the test year expenses associated with the assumption that the Company will exceed its performance goals is equivalent to .4/1.4 of the projected expense. In 2010, the portion of the executive incentives related to exceeding the targets is $12.3 million and in 2011, the portion is $13.2 million.

Q: WHAT PORTION OF FPL'S EXECUTIVE INCENTIVE COMPENSATION IS PROVIDED IN EQUITY?

A: FPL has included $48,471,915 of executive incentive compensation in 2010, of which $36,159,414, or 75%, is stock-based compensation. In 2011, total executive compensation increases to $51,677,653, with $38,844,801, or 75%, in stock-based compensation.

Q: IS FPL REQUIRED TO EXPENSE STOCK-BASED COMPENSATION?

A: Yes. The Financial Accounting Standards Board ("FASB") issued Financial Accounting Standard ("FAS") 123R after much debate over the value of stock-based compensation. There were concerns that the comparability of financial statements was being impaired by varying treatment of stock-based compensation under previous accounting guidelines. Since there is obviously value provided to the employee receiving stock-based compensation, FAS 123R requires recognition of that value at the fair market value. The timing of recognition depends on the type of stock-based compensation and vesting.

Q: **HOW DOES THE STOCK-BASED COMPENSATION EXPENSE COMPARE TO OTHER EXPENSES INCLUDED IN THE REVENUE REQUIREMENT?**

A: Unless the Company is purchasing stock in the open market, there is no cash outlay. Other expenses require a cash outlay at some point in time. Current expenses are paid in the current year. Deferred or accrued expenses have either already been paid or are expected to be paid in the future. Even depreciation represents a return of cash previously invested in facilities. Stock-based compensation expense is a "paper" expense.

Q: **IS IT REASONABLE TO REQUIRE SHAREHOLDERS TO BEAR A PORTION OF THE EXECUTIVE COMPENSATION?**

A: Yes. Since a portion of the executive compensation is dependent upon financial performance, it could be viewed as a form of "profit sharing". In other words, if the financial performance benefits the shareholders, then the executives share in that benefit through the incentive program.

Q: **HAVE OTHER REGULATORY COMMISSIONS TAKEN ACTIONS TO LIMIT THE AMOUNT OF EXECUTIVE COMPENSATION INCLUDED IN THE DEVELOPMENT OF RATES?**

A: Yes. A limited review of recent cases revealed at least 20 cases since June, 2007 in which a state regulatory commission limited the amount of executive compensation included in the development of rates. Exhibit __(SLB-19) provides a listing of cases and the commission findings. Most of the findings were based on the conclusion that the excluded incentive compensation did not benefit ratepayers.

Q: **WHAT ARE YOU RECOMMENDING REGARDING THE COMPANY'S REQUESTED EXECUTIVE COMPENSATION FOR THE TEST YEARS?**

A: I am first recommending that the Commission reduce the levels of the executive Annual Incentive Compensation and Long-Term Incentive Pay to reflect a target payout ratio of one (1) times the target compensation. This is a reasonable assumption to make for a future test year, particularly a year in which the Company has represented that its return on equity will drop to 4.67% without the requested rate increase. I am then recommending that the Commission limit the executive Annual Incentive Plan payments and Long-Term Incentive stock awards to 50% of the projected costs remaining after the adjustment for the payout ratio. This adjustment fairly allocates costs between ratepayers and shareholders based on the performance criteria that FPL has historically applied. In making this adjustment, the Commission should also consider that the remaining amount included in the test year revenue requirements exceeds the portion of FPL's total executive compensation expected to be paid in cash.

Q: **WHAT IS THE REVENUE IMPACT OF YOUR RECOMMENDED ADJUSTMENTS TO EXECUTIVE INCENTIVE COMPENSATION?**

A: As shown in Exhibit_(SLB-20), the total jurisdictional revenue impact of my recommended adjustments to executive incentive compensation is $27.6 million in 2010 and $29.5 million in 2011.

Non-Executive Incentive Compensation

Q: WHAT IS THE LEVEL OF NON-EXECUTIVE INCENTIVE COMPENSATION IN THE TEST YEARS?

A: As shown in FPL's response to the Attorney General's Second Set of Interrogatories, Question No. 76, the Company has included Long-Term Incentive Payments to non-executives of $9.3 million and $10.9 million in the revenue requirements for 2010 and 2011, respectively.

Q: DO YOU HAVE ANY CONCERNS ABOUT THE LEVEL OF NON-EXECUTIVE COMPENSATION INCLUDED IN THE TEST YEAR REVENUE REQUIREMENTS?

A: Yes. For all the reasons stated in the previous section of my testimony on executive incentive compensation, the stock-based compensation for non-executives should be adjusted in the same manner. The payout ratio used for the non-executives was 1.3 times the target compensation; therefore, the adjustments would be as shown in Exhibit_(SLB-21). The total reduction in the jurisdictional revenue requirements associated with this adjustment is $5.7 million in 2010 and $6.7 million in 2011.

Storm Damage

Q: HAS THE COMPANY PROPOSED AN ANNUAL ACCRUAL TO THE STORM DAMAGE RESERVE IN THIS CASE?

A: Yes. As set form in the testimony of FPL's witness, Mr. Pimentel, FPL is proposing that the Commission establish an annual accrual in base rates of $150 million, with a target reserve level of $650 million. Mr. Pimentel outlines key policy considerations, which he lists as follows:

- Storm restoration costs are properly recoverable through the rates and charges of the Company.
- Each "generation" of customers should contribute to the storm costs, even if no storm strikes in a particular year.
- Pre-funding restoration costs to cover an extreme period of storm activity is likely to be economically inefficient; therefore, some mechanism to recovery prudently incurred costs that exceed the reserve is required.

Q: SHOULD THE COMMISSION ALLOW FPL TO CHARGE $150 MILLION A YEAR TO RATEPAYERS TO BUILD UP THE STORM DAMAGE RESERVE AT THIS TIME?

A: No. While Mr. Pimentel notes some key policy considerations, the balancing of generational ratepayer interests is extremely important in this case. FPL's customers are currently facing tough economic times. FPL's requested storm damage accrual of $150 million a year is over 14% of FPL's requested 27% increase in base rates. While it is not reasonable or feasible for customers to pay for storm costs in the year of occurrence and thus requires customers over several generations to provide revenues to cover such costs, the Commission must also recognize that current ratepayers are already paying a substantial amount to cover past storms, as well as replenishment of the storm reserve fund to over $200 million. In 2010, FPL anticipates storm recovery revenues of $93.957 million. Generational sharing of costs does not require pre-funding and may result in deferred cost recovery or securitization such as the current securitized bonds covered by the storm recovery surcharges.

Q: DOES FPL BEAR THE RISK ASSOCIATED WITH THE LEVEL OF THE STORM DAMAGES COVERED BY THE RESERVE?

A: No. Based on past Commission policy, the risk associated with the level of storm damages covered by the reserve falls to the ratepayers. The Commission recognized this in Order No. PSC-06-0464-FOF-EI, section 57, where it stated:

> "FPL proposed that its Reserve be replenished to a level of $650 million to be financed through storm-recovery bonds authorized in this proceeding. Intervenors support funding the Reserve to a level of between $0 and$200 million. The record clearly establishes that the level of FPL's Reserve has no impact on FPL's exposure to storms. Further, under the current approach to the recovery of storm restoration costs, the risk associated with a lower reserve level (i.e., the possibility of storm restoration costs exceeding the Reserve, leading to subsequent customer charges) and the risk associated with a higher reserve level (i.e., paying charges now for storm restoration costs that do not materialize) is completely borne by FPL's customers. The customers represented in this proceeding have made clear that they would rather pay to fund the Reserve to a lower level now and risk future rate volatility than pay to fund the Reserve to a higher level before future storm restoration costs have been incurred."

In the current case, the risks are still borne by the ratepayers. When viewed in light of the burden already placed on ratepayers to cover previous storm damages and reserve replenishment, it is reasonable to accept the risk of future storm damage and deny the proposed storm damage accrual.

Q: WILL THE LACK OF A STORM DAMAGE RESERVE ACCRUAL CREATE UNREASONABLE GENERATIONAL INEQUITIES?

A: No. As explained above, current customers are already paying for past storms and should not be doubly burdened by unknown future storms. To charge current customers for both historical and projected storms would actually cause an inequity to current ratepayers.

Q: WHAT IS THE REVENUE IMPACT OF ELIMINATING THE COMPANY'S PROPOSED STORM DAMAGE ACCRUAL?

A: The storm damage reserve is funded; therefore, there is no rate base impact for removal of the Company's proposed accrual. The jurisdictional revenue impact of eliminating the Company's proposed storm damage accrual is $149.162 million ($148.667 million less taxes of $57.348 million x revenue expansion factor of 1.63342.)

Environmental Insurance Refund

Q: **DID FPL RECEIVE A SUBSTANTIAL INSURANCE REFUND IN 2008?**

A: Yes. As explained in FPL's response to SFHHA's Second Set of Interrogatories, Question no. 101, Attachment 1, page 8 of 12, FPL received $43,817,952 from AEGIS in October, 2008. FPL explained that its site clean-up costs over the last decade were markedly lower than anticipated when the policy began in 1998 and that "it became apparent that maintaining the policy would not generate the financial benefit to FPL anticipated at the time of policy inception." FPL's 2008 SEC 10K also noted the decline in insurance costs for 2008, explaining that "the decline in insurance costs was primarily due to the termination by mutual agreement of an environmental insurance policy."

Q: **DID FPL PASS THIS REFUND THROUGH TO RATEPAYERS?**

A: I have not been able to find any evidence that this refund has been passed through to ratepayers. Account 924, Property Insurance, reflects the full credit in 2008. In the response to SFHHA's Second Set of Interrogatories, Question No. 101, FPL explained that the cost increase in 2009 property insurance was due to the lower property insurance cost booked in 2008 as a result of the payment from AEGIS.

Q: **SHOULD FPL PASS THIS REFUND THROUGH TO RATEPAYERS?**

A: Yes. FPL's rates have included the costs for property insurance and, as such, any refunds should be provided to ratepayers.

Q: **WHAT IS YOUR RECOMMENDATION FOR RETURNING THIS REFUND TO RATEPAYERS?**

A: If the associated cost of insurance has been included in the Environmental Cost Recovery Clause, I am recommending that the full amount be passed through to ratepayers immediately. In the alternative, assuming that the associated cost of insurance has been recovered through base rates, I am recommending that the Commission require amortization of this refund over a 5-year period beginning in 2010.

As explained in FPL witness, Ms. Ousdahl's testimony, at page 25, FPL petitioned the Commission for recovery of costs it had incurred associated with FPL's Glades Power Park ("FGPP"), which was subsequently cancelled. The Commission granted FPL recovery of these costs and allowed such recovery to be deferred and amortized over a five-year period beginning on January 1, 2010. My recommended deferral and amortization will then coincide with the Company's amortization of its $34.1 million of costs associated with cancellation. The unamortized balance would also be included in rate base as a regulatory liability.

Q: **WHAT IS THE REVENUE IMPACT OF THIS ADJUSTMENT?**

A: The revenue impact of this adjustment is $12.4 million in 2010 and $11.6 million in 2011. Detailed calculations of the adjustments are set forth on Exhibit__(SLB-22).

<u>Nuclear End of Life Material and Supplies and Last Core</u>

Q: **PLEASE DESCRIBE THE COMPANY'S PROPOSAL FOR ACCRUAL OF NUCLEAR END-OF-LIFE MATERIALS AND SUPPLIES AND LAST CORE NUCLEAR FUEL.**

A: At the time the Company shuts down each of its nuclear plants for decommissioning, it will have materials and supplies that must be written off and fuel that will be remaining in the last fuel core. The Company has established reserves to accrue the estimated costs of these materials and supplies and nuclear fuel. The estimated cost of unburned fuel at the end of the license for each unit was provided in response to OPC's Fourth Set of Interrogatories, Question No. 197. The estimated cost of the materials and supplies at the end of the life of each plant was provided in response to OPC's Fourth Set of Interrogatories, Question No. 198. FPL determined the amortization for each unit based on the life remaining before the end of the license, then subtracted the current accrual to determine the increase proposed in this case. Based on FPL's revised accrual rates, the proposed annual accrual for unamortized nuclear fuel is $10,806,325 and the proposed annual accrual for end-of-life materials and supplies is $1,209,228.

Q: WHAT IS THE TOTAL EXPECTED COST OF UNBURNED FUEL AT THE TIME OF DECOMMISSIONING?

A: The estimated cost of unburned fuel at the end of the license is $66.3 million for Turkey Point 3 in [270 months], $62.6 million for Turkey Point 4 in [279 months], $90.5 million for St. Lucie 1 in [314 months] and $108.9 million for St. Lucie 2 in [399 months].

Q: WHAT IS THE EXPECTED COST OF MATERIALS AND SUPPLIES INVENTORY AT THE TIME OF DECOMMISSIONING?

A: The expected cost of materials and supplies for the Turkey Point plant is $28.9 million in [279 months]. The expected cost of materials and supplies for FPL's share of the St. Lucie plant is $16.3 million in [399 months].

Q: DO YOU HAVE ANY CONCERNS WITH THE CONTINUATION OF ACCRUALS FOR NUCLEAR END-OF-LIFE MATERIALS AND SUPPLIES AND LAST CORE NUCLEAR FUEL?

A: Yes. While these are legitimate costs, they are related to the decommissioning of the nuclear plants at the end of the license lives. At this time, FPL's nuclear decommissioning funds are significantly over-funded by amounts far in excess of the amounts needed to cover the end-of-life materials and supplies and nuclear fuel. Exhibit__(SLB-23), page 1 of 6, provides a breakdown of the costs of decommissioning expected to be incurred in each year of the decommissioning process as compared to the expected level of decommissioning funds, based on FPL's most recent decommissioning study and current fund levels. As shown in Exhibit__(SLB-23), based on the latest cost estimates provided by FPL, the funds remaining at the end of the decommissioning cycles will be over $5.4 billion.

Q: PLEASE EXPLAIN HOW YOU DETERMINED THE FUNDS THAT WILL BE REMAINING AT THE END OF THE DECOMMISSIONING CYCLES.

A: FPL filed its last decommissioning study on December 12, 2005 (FPSC document 11591) and has not updated it at this time. In its response to OPC's Fourth Set of Interrogatories, Question No. 200, FPL provided the level of the decommissioning funds anticipated at December 31, 2009 and December 31, 2010. As shown in that response, FPL is assuming an earnings rate of 5.5% on both the qualified and unqualified funds. In FPL's 2005 decommissioning study, it used an earnings rate of 5% per year. Using the lower earnings rate of 5% and subtracting the annual nominal dollar decommissioning cost estimates from the decommissioning study results in a remaining fund balance of over $5.4 billion at the end of the decommissioning cycles.

Q: CAN THE COMPANY USE THE REMAINING FUND BALANCES TO FUND THE END-OF-LIFE MATERIALS AND SUPPLIES AND NUCLEAR FUEL COSTS?

A: At a minimum, FPL could accrue interest on its end-of-life materials and supplies and nuclear fuel balances from the beginning of decommissioning until the completion of decommissioning, at which time all funds should be released. However, given the magnitude of the excess decommissioning funding, the Commission should require FPL to investigate its options for utilizing the funds at an earlier point in time. While the qualified fund may have restrictions that prevent earlier utilization of the funds, the non-qualified fund may allow earlier withdrawals. The Commission should also determine whether the end-of-life materials and supplies and nuclear fuel balances can be classified as decommissioning costs and, thus, provide legitimate deductions against the funds at the end of the license lives. Lastly, a portion of the future decommissioning costs are anticipated to be covered by tax deductions that will be received in the years in which costs are charged to the non-qualified decommissioning funds. FPL should determine whether the full decommissioning costs could be covered by the qualified and non-qualified funds, while the tax savings are used to fund the end-of-life materials and supplies and nuclear fuel. As shown on Exhibit__(SLB-23), Page 4 of 6, if the end-of-life materials and supplies and last core nuclear fuel are taken out of the non-qualified fund balance, the qualified fund balance would be more than sufficient to cover the remaining decommissioning costs, with a remaining excess of $4.7 billion ~~million~~ at the end of decommissioning.

Q: DIDN'T THE COMMISSION PREVIOUSLY DETERMINE THAT THE END-OF-LIFE MATERIALS AND SUPPLIES AND LAST CORE SHOULD BE ACCRUED SEPARATELY FROM DECOMMISSIONING?

A: Yes. In Order No. PSC-02-0055-PAA-EI, the Commission noted a distinction between decommissioning costs and end-of-life materials and supplies and last core inventories, noting that the end-of-life inventories do not involve the removal of the plant facility. However, the Commission also noted that the inventories were similar to decommissioning in that both represent estimates of a future obligation that will not be incurred until the nuclear unit ceases operation. The Commission also agreed to amortize the obligation of the remaining life span of each nuclear unit to allocate the costs to those customers receiving the benefit of the nuclear generation and to avoid a burdensome expense at the time of unit shut down. The circumstances faced today justify a departure from the Commission's previous decision to allow amortization of the obligation over the remaining life of the nuclear units.

Q: **PLEASE EXPLAIN HOW THE CIRCUMSTANCES FACED TODAY JUSTIFY A DEPARTURE FROM THE COMMISSION'S PREVIOUS DECISION.**

A: At the time that the Commission decided to allow amortization of the end-of-life materials and supplies and last core inventories over the remaining life of the nuclear units, the nuclear decommissioning funds were not overfunded. The excess in the decommissioning funds has now grown to over $476 million. If current ratepayers are made to continue funding the end-of-life materials and supplies and last core inventories, in addition to the current excess decommissioning funds, the resulting generational inequities will be aggravated. It is thus reasonable to suspend any further accruals for the end-of-life materials and supplies and last core inventories.

Q: **DOES THE COMPANY HAVE ANY OTHER SOURCES TO FUND A PORTION OF THE END-OF-LIFE MATERIALS AND SUPPLIES AND LAST CORE INVENTORIES?**

A: Yes. In Order No. PSC-02-0055-PAA-EI, the Commission required FPL to begin amortizing $98,666,667 of nuclear amortization, noting that the annual amortization expense "will serve to offset the total annual expenses addressed in this order (nuclear decommissioning, EOL M&S, and Last Core)." (Page 29) The annual amortization of approximately $6.955 million began on May 1, 2002; therefore, the balance at December, 2009 should be $45.345 million. Since decommissioning is obviously overfunded already, this amount could be simply transferred to the end-of-life materials and supplies and last core reserve. This will reduce the remaining costs that will be needed from the excess decommissioning funds.

Q: WHAT IS THE REVENUE IMPACT OF YOUR RECOMMENDED ADJUSTMENT?

A: The revenue impact of my recommended adjustment is $4.9 million in 2010, as shown on Exhibit__(SLB-23), page 5 of 6 and $4.3 million in 2011 as shown on Exhibit__(SLB-23), page 6 of 6. This adjustment includes suspension of any further end-of-life materials and supplies and last core accruals, elimination of the nuclear amortization, and transfer of the remaining nuclear reserve to the end-of-life reserves for materials and supplies and last core.

<u>DOE Settlement</u>

Q: DOES FPL EXPECT TO RECEIVE A SETTLEMENT PAYMENT FROM THE DEPARTMENT OF ENERGY IN 2009?

A: Yes. FPL expects to receive a settlement payment of $9 million from DOE in 2009.

Q: HOW IS FPL REFLECTING THIS SETTLEMENT PAYMENT FOR RATEMAKING PURPOSES?

A: As with the AEGIS refund, it appears that FPL is using the credit to offset 2009 expenses, rather than passing this refund through to ratepayers. In its response to OPC's Second Request for Production of Documents, Question 20, FPL provided a breakdown of its expenses by FERC account. The $9 million DOE settlement payment was shown in file "R21000 Loc 10 BA to FERC Account.xls" and reflected a $5.76 million credit to Account 524-Miscellaneous Nuclear Power Expenses, a credit of $2.16 million to Account 530-Maintenance of Reactor Plant, and a credit of $1.08 million to Account 517-Nuclear Operation Supervision and Engineering. In its response to SFHHA's Second Set of Interrogatories, Question No. 118, FPL also reflected this credit as one of the major factors affecting the variance in administrative expenses from 2008 to 2009.

Q: SHOULD FPL PASS THIS SETTLEMENT PAYMENT THROUGH TO RATEPAYERS?

A: Yes. As with the AEGIS refund, the DOE settlement payment is not a recurring payment and is in settlement of issues relating to costs incurred in earlier years that were paid by the ratepayers. FPL should thus pass this settlement payment through to ratepayers. Since DOE settlement payments are typically included as an offset to fuel costs, I have not made any adjustments to the Test Year revenue requirements. I am recommending that the settlement be used to reduce fuel costs in 2009.

<u>Revenue Impacts of Adjustments from Other OPC Witnesses</u>

Q: HAVE YOU CALCULATED THE REVENUE IMPACTS OF THE ADJUSTMENTS RECOMMENDED BY THE OTHER OPC WITNESSES?

A: Yes. I have calculated the revenue impacts of the adjustments recommended by OPC's witnesses Mr. Jacob Pous, Ms. Kimberly Dismukes, and Dr. Randy Woolridge.

Q: PLEASE DESCRIBE THE ADJUSTMENTS PROVIDED BY OPC WITNESS MR. JACOB POUS.

A: Mr. Pous has recommended a reduction in FPL's depreciation expenses for the Test Years. Although Mr. Pous identifies a $2.7 billion excess in the accumulated depreciation accounts, he is recommending a 4-year amortization of $1.25 billion of that amount, with $314.223 million applied to the other accounts for which FPL requested accelerated amortization of certain capital recovery items and $931.137 million amortized to reduce depreciation expenses over the 4-year period.

Q: **WHAT IS THE REVENUE IMPACT OF THE ADJUSTMENTS PROPOSED BY MR. POUS?**

A: Exhibit__(SLB-24), page 1 of 2 sets forth the 2010 adjustments, which reduce the Test Year revenue requirements by $531.277 million. The calculation of the reduction in revenue requirements includes the allocation of the functional depreciation expense reductions to the retail jurisdiction, the associated decrease in accumulated depreciation, and the associated changes to accumulated deferred income taxes and the capital structure. The reduction includes Mr. Pous' recommended amortization of the $1.25 billion portion of the excess depreciation reserve, with a portion going to eliminate FPL's proposed accelerated amortization and the remainder going to reduce depreciation expense. In addition, the adjustment includes the associated changes in accumulated depreciation, accumulated deferred income taxes, and the capital structure.

Exhibit__(SLB-24), page 2 of 2 sets forth the 2011 adjustments, which reduce the 2011 Test Year revenue requirements by $506.956 million.

Q: **WHAT IS THE REVENUE IMPACT OF THE ADJUSTMENTS RECOMMENDED BY MS. DISMUKES?**

A: In order to maintain confidentiality of the data, Ms. Dismukes provided a single jurisdictional adjustment incorporating all of the various adjustments outlined in her testimony. The jurisdictional revenue impact of those adjustments is a reduction in revenue requirements of $13.891 million in 2010 and $18.042 million in 2011.

Q: HAVE YOU CALCULATED THE REVENUE IMPACT OF THE COST OF CAPITAL ADJUSTMENTS RECOMMENDED BY DR. WOOLRIDGE?

A: Yes. As shown on Exhibit__(SLB-25), Page 1 of 2, the revenue impact of the adjustments proposed by Dr. Woolridge is $508.496 million in the 2010 Test Year. As shown on Exhibit__(SLB-25), Page 2 of 2, the revenue impact of the adjustments proposed by Dr. Woolridge is $563.901 million in 2011.

Revenue Impact of Consolidated Adjustments Proposed by OPC's Witnesses

Q: HAVE YOU DETERMINED THE REVENUE IMPACTS OF THE COMBINED ADJUSTMENTS RECOMMENDED BY THE OPC WITNESSES?

A: Yes. Exhibit__(SLB-26) sets forth the results of the 2010 consolidated cost of service study reflecting all of the adjustments proposed by the OPC witnesses. Those adjustments include:

1) The change in capital structure, cost rates, and return on equity recommended by Dr. Woolridge;
2) The consolidated adjustments proposed by Ms. Dismukes;
3) The reduction in depreciation expense, the transfer of a portion of the depreciation reserve excess to cover FPL's requested accelerated amortization of capital recovery items, the amortization of the remaining amount of depreciation reserve excess recommended by Mr. Pous over a 4-year period, and the associated changes to the accumulated depreciation and accumulated deferred income taxes;

4) My recommended adjustments including reallocation of transmission revenues and loads, reduction in total bad debt expense, with total bad debt expense included in base rates, increase in late payment fee revenues, increase in the load forecast and associated revenues, reduction in payroll expenses associated with unfilled positions with an offset for additional overtime, reduction in executive incentive compensation, reduction in non-executive incentive compensation, elimination of the accrual for end-of-life materials and supplies and last core nuclear fuel, elimination of the nuclear amortization and transfer of the balance to the end-of-life materials and supplies and last core nuclear fuel reserves, and elimination of the Company's proposed storm damage accrual.

As shown on Exhibit__(SLB-26), page 1 of 2, the total jurisdictional revenue impact of the proposed adjustments is $1.332 billion and the resulting revenue requirement is a base rate revenue *decrease* of $363.7 million for the 2010 Test Year. Exhibit__(SLB-26), page 2 of 2, provides the results of the 2011 consolidated cost of service study reflecting all the adjustments included in the 2010 consolidated cost of service study plus an adjustment to add back the investment and costs associated with the West County Energy Center Unit 3, which were removed by the Company for recovery through the GBRA. The total jurisdictional revenue impact of the proposed adjustments is $1.315 billion and the resulting revenue requirement is a base rate revenue *decrease* of $85.263 million for the 2011 Test Year.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.

SUPPLEMENTAL TESTIMONY TO INCORPORATE CORRECTIONS

OF

Sheree L. Brown

On Behalf of the Office of Public Counsel

Before the

Florida Public Service Commission

Docket Nos. 080677-EI and 090130-EI

Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS ADDRESS.

A. My name is Sheree L. Brown. I am employed by Utility Advisors' Network, Inc. ("UAN"). My business address is 530 Mandalay Rd., Orlando, Florida 32809.

Q. DID YOU SUBMIT DIRECT TESTIMONY IN THIS PROCEEDING ON JULY 16, 2009?

A. Yes. On July 16, 2009, I submitted direct testimony on behalf of the citizens of the State of Florida represented by the Office of Public Counsel ("OPC").

Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?

A. The purpose of this supplemental testimony is to correct and modify the load forecast and bad debt adjustments contained in my direct testimony, and to correct an error in the value shown for accumulated depreciation in one of my schedules.

Q. PLEASE SUMMARIZE THE ADJUSTMENTS YOU ARE MAKING IN THIS SUPPLEMENTAL TESTIMONY.

A. I am revising my load forecast adjustment to correct an error in the calculation of the re-anchoring percentage in 2008 and an error in the loss factors used to calculate the change in sales due to the revised load forecast.

I am also revising my bad debt adjustment to modify my calculation of the impact of remote control switches ("RCS") based on information provided by FPL witness, Marlene Santos, who clarified the purpose of the RCS adjustment to bad debt. Lastly, I am providing a revised consolidated revenue impact of all the OPC witnesses' adjustments incorporating the changes noted herein.

Q. PLEASE EXPLAIN YOUR ADJUSTMENTS TO THE LOAD FORECAST.

A. In my Exhibit__(SLB-9), page 1 of 3, the adjustment for energy efficiency and wholesale sales in 2008 was taken in error from the 2009 adjustments. This error caused an understatement of the model error, which was used for the re-anchoring adjustment. In addition, there was an error in the application of the loss factors used to derive the adjustment in sales from the change in the load forecast. My corrections of these errors have been reflected in the recalculation of the adjusted revenues and revenue impacts on the following exhibits, which are attached.

Exhibit__(SLB-9)-REVISED, Page 1 of 3
Exhibit__(SLB-9)-REVISED, Page 2 of 3
Exhibit__(SLB-9)-REVISED, Page 3 of 3
Exhibit__(SLB-10)-REVISED, Page 1 of 4
Exhibit__(SLB-10)-REVISED, Page 2 of 4
Exhibit__(SLB-10)-REVISED, Page 3 of 4
Exhibit__(SLB-10)-REVISED, Page 4 of 4

Q. HAVE YOU ADJUSTED THE CONSOLIDATED OPC CASE TO REFLECT THIS REVISION?

A. Yes. Although the original consolidated OPC adjustments incorporated the load forecast adjustment without re-anchoring, I have incorporated the re-anchoring adjustment in the revised consolidated OPC adjustment calculations. The revised adjustments have been incorporated into Exhibit__(SLB-26)-Revision 2, pages 1 and 2 of 2.

Q. WHAT IS THE REVENUE IMPACT OF THE REVISED LOAD FORECAST ADJUSTMENT WITH RE-ANCHORING?

A. As shown on Exhibit__(SLB-10)-REVISED, Pages 1 and 3 of 4, the revised revenue impact of this adjustment is a decrease to FPL's revenue requirements of $36.969 million in 2010 and $30.727 million in 2011.

Q. PLEASE EXPLAIN YOUR ADJUSTMENT TO THE BAD DEBT CALCULATIONS.

A. In preparing my direct testimony, OPC did not have any information from FPL supporting its adjustment to the write-offs associated with "RCS". In her rebuttal testimony, FPL Witness Marlene Santos explained that the adjustment is associated with remote control switches which will enable remote disconnects. She noted that the deployment schedule was based on having the procedures and equipment in place to operate the system. I have modified my RCS adjustment to reflect FPL's deployment schedule and estimated savings percentage applied to the test year write-offs, rather than the 2007 write-offs used by FPL in its RCS adjustment. The revised bad debt adjustments for 2010 and 2011 are shown in Exhibit__(SLB-5)-REVISED and Exhibit__(SLB-6)-REVISION 2, pages 1 and 2 of 2.

Q. WHAT IS THE REVENUE IMPACT OF THE REVISED ADJUSTMENT TO BAD DEBT?

A. As explained in my direct testimony, FPL is requesting that the bad debt associated with clause revenues be removed from base rates. OPC is opposed to moving additional cost into the clauses; therefore, I have calculated the revenue impact of the revised adjustment assuming that the uncollectible accounts expenses will all be collected through base rates. As shown on Exhibit__(SLB-6)-REVISION 2, page 1 of 2, the uncollectible accounts expense should be reduced by $6,573,534 in 2010 and $6,164,229 in 2011. Assuming that the uncollectible accounts expense is all collected through base rates, the adjustment reverses FPL's removal of uncollectible accounts expense, resulting in a net increase to uncollectible accounts expenses recovered through base rates of $10,319,466 in 2010 and $7,710,771. The total revenue impact of this adjustment, assuming that clause-related bad debt is recovered through base rates, is an increase of $9.643 million in 2010 and $6.978 million in 2011. The total revenue impact reflects the associated change in the revenue expansion factor.

Q. HAVE YOU CALCULATED THE REVISED UNCOLLECTIBLE ACCOUNTS EXPENSE, ASSUMING THAT THE COMMISSION ALLOWS FPL TO TRANSFER A PORTION OF THE UNCOLLECTIBLE ACCOUNTS EXPENSE TO CLAUSE RECOVERY?

A. Yes. Exhibit__(SLB-6)-Revision 2, pages 1 and 2 also provides the revised uncollectible accounts expense, assuming transfer of a portion of the uncollectible accounts expense to clause recovery. As shown on Exhibit__(SLB-6)-Revision 2, page 1 of 2, the revised uncollectible accounts expense in base rates would be $7.229 million in 2010 and $5.689 million in 2011, reflecting reductions of $2.203 million in 2010 and $2.166 million in 2011. The total base rate revenue impact of this adjustment, including the associated change in the revenue expansion factor, is a decrease in revenue requirements of $2.913 million in 2010 and $2.921 million in 2011.

Q. DID YOU MAKE ANY OTHER CORRECTIONS?

A. Yes. In my original calculation of the 2010 consolidated revenue impacts contained in Exhibit__(SLB-26), Page 2 of 2, the add-back of the West County Energy Center 3 accumulated depreciation was entered as $1.635 million. The correct amount is $6.54 million.

Q. HAVE YOU INCORPORATED THESE ADJUSTMENTS INTO THE OPC CONSOLIDATED REVENUE IMPACT EXHIBITS?

A. Yes. Exhibit__(SLB-26)-Revision 2, pages 1 and 2 of 2 are attached. These exhibits incorporate the following adjustments to OPC's original consolidated position filed in my direct testimony on July 16, 2009:

- the revised load forecast adjustment is included with the corrections noted herein and with the re-anchoring adjustment, as calculated after consideration of the minimum use accounts adjustment;

- the bad debt adjustment as revised to correct the calculation of the impacts of RCS; and
- the correction to the add-back of West County Energy Center accumulated depreciation.
-

Q. WHAT IS THE REVISED TOTAL REVENUE IMPACT OF THE ADJUSTMENTS PROPOSED BY THE OPC WITNESSES?

A. As shown on Exhibit__(SLB-26)-Revision 2, page 1 of 2, the reduction in the 2010 revenue deficiency is $1.298 billion, resulting in a 2010 total jurisdictional revenue excess of $254.51 million. When offset by an increase in miscellaneous service fees of $100.352 million, the net base rate reduction required in 2010 is $354.862 million, or a reduction of $1.323 billion from the increase proposed by FPL.

As shown on Exhibit__(SLB-26)-Revision 2, page 2 of 2, the total jurisdictional revenue impact of the proposed adjustments is $1.282 billion, resulting in a 2011 total jurisdictional revenue deficiency of $24.835 million. When offset by an increase of $102.402 million in miscellaneous service fee revenues, the net base rate reduction required in 2011 is $77.567 million, or a reduction of $1.308 billion from the increase proposed by FPL.

Q. DOES THAT CONCLUDE YOUR SUPPLEMENTAL TESTIMONY?

A. Yes.

BY MR. McGLOTHLIN:

Q. Have you prepared a summary for the Commissioners?

A. Yes, I have.

Q. Please, please proceed.

A. Good morning, Commissioners. My testimony demonstrates why the Commission should reduce FP&L's base rates by 355 million a year, reject the proposed subsequent year adjustment and deny FP&L's request for a generation base rate adjustment.

OPC has identified 1.298 billion in adjustments to the revenue requirements proposed by FP&L in this proceeding. These adjustments consist of over 500 million in depreciation adjustments proposed by OPC Witness Pous, over 500 million in cost of capital adjustments proposed by OPC Witness Woolridge, and the elimination of FP&L's proposed storm damage accrual of 150 million a year, along with several other adjustments described in my testimony and that of Ms. Dismukes.

OPC is opposed to the subsequent year rate adjustment proposed by FPL in this proceeding. The assumptions on which FPL has developed its 2010 test year are already speculative due to the unprecedented economic downturn and uncertainty over the timing of economic recovery. Extending these projections two years into the future simply increases the uncertainties and inaccuracies of the projections.

OPC is also opposed to the proposed generation base rate adjustment mechanism. Even in a more stable economic environment the GBRA would allow rates to be increased by the full incremental cost of a new power plant, even when existing rates are sufficient to absorb all or a portion of the costs associated with the new unit and will provide a fair return to the company. Instead of applying any excess earnings from existing rates to offset the cost of the plant, FP&L would retain the excess earnings while charging customers the full amount of new plant cost.

Over 650 million of the adjustments proposed by OPC consist of either application of historical overcollections to reduce revenue requirements or issues with the timing of cost recovery. Application of historical overcollections include the amortization of the excess depreciation reserve, which reduces test year depreciation expense by 311 million, and suspension of the end-of-life materials and supplies in last core nuclear fuel, which can be covered by excess decommissioning funds and the remaining nuclear amortization reserve, further reducing test year expenses by 4.9 million.

Timing issues include the remainder of the depreciation adjustments and the elimination of the storm damage accrual. The Commission has already recognized that the risk of the Storm Damage Reserve being inadequate to cover storm damages is borne by the ratepayer and does not fall on FP&L.

FP&L has included 43.1 million of test year executive incentive compensation in the base rate revenue requirement, of which 33.1 million is stock-based compensation. This stock-based compensation is a noncash expense which basically turns employees into shareholders and thus aligns their interests with increasing shareholder value. FPL's incentives for the executives clearly encourage employees to increase shareholder value, and it is a fair and reasonable methodology to assign a portion of the cost to the shareholders in recognition of the benefits provided.

I am recommending a $27.5 million reduction in jurisdictional test year executive incentive compensation to remove incentive payments in excess of targeted compensation levels and provide a 50/50 sharing between shareholders and ratepayers. The $27.5 million reduction is less than the 33.1 million of noncash compensation. Thus, the revenue requirements are still greater than FP&L's actual cash outlay for executive incentive compensation.

I make a similar recommendation to reduce non-executive incentive compensation by 5.661 million based on the same reasons. This amount is totally stock-based noncash compensation.

In addition to these adjustments, I am recommending a reduction of 9.245 million in payroll expenses to reflect an historical average of unfilled positions with an offsetting increase to reflect additional overtime; a $25 million increase in late payment fees, reflecting a reasonable deduction -- reduction for behavior modification; a 37.162 million increase in base rate revenues associated with corrections to FP&L's out-of-model adjustments to the load forecast; an increase of 10.32 million in uncollectible accounts expense, consisting of a $6.57 million reduction in total expense and elimination of FP&L's proposed transfer of cost recovery to clauses; and an 8.69 million annual amortization of the 43.8 million insurance refund received by FP&L in 2008.

The consolidation of OPC's adjustment shows a revenue excess of 254.5 million. Increases in miscellaneous service fees will provide an additional 100.4 million in revenues. Therefore, the net reduction in base rates required is 354.9 million. This concludes the summary of my testimony.

CHAIRMAN CARTER: Thank you very kindly. Outstanding timing.

MR. McGLOTHLIN: Ms. Brown is available for cross-examination.

CHAIRMAN CARTER: Ms. Bradley, any questions?

MS. BRADLEY: Not at this time, no.

CHAIRMAN CARTER: Okay.

Good morning, Ms. Kaufman. Any questions?

MS. KAUFMAN: Good morning, Mr. Chairman. I have no questions. Thank you.

MR. LAVIA: No questions.

CHAIRMAN CARTER: Mr. Stewart, any questions?

MR. STEWART: No questions.

CHAIRMAN CARTER: Thank you.

Mr. Wiseman, any questions?

MR. WISEMAN: No questions.

CHAIRMAN CARTER: Okay. Any questions from AIF?

MS. PERDUE: Yes. AIF does have questions.

CHAIRMAN CARTER: Okay. And then I guess that makes you the cleanup batter, Mr. Butler.

MR. BUTLER: That's fine.

CHAIRMAN CARTER: You're recognized.

MS. PERDUE: Thank you, Chairman.

CROSS EXAMINATION

BY MS. PERDUE:

Q. Good morning, Ms. Brown. My name is Tammy Perdue. I'm representing Associated Industries of Florida.

In your testimony, in your summary this morning as well as in your direct filed testimony, you addressed the GBRA. And is it correct that you primarily object to its use in this case on the basis that the economy could recover and essentially or generally speaking that FPL could collect higher revenue than anticipated?

A. That's one of my concerns. But even, even if we were in a normal operating environment, that would be the concern that I would have.

Q. Then are you also suggesting that this Commission, in the event that revenues were collected higher than anticipated, that this Commission could not address FPL's higher revenue and correct that impact if FPL was overcharging or overearning?

A. The Commission can address overearnings at any point in time. However, that puts the burden back on the Commission or the ratepayers to come back and evaluate everything and then the burden of proof falls on them as opposed to having the normal rate methodology and oversight that we would have with the normal rate proceeding in order to incorporate the plants.

Q. Wouldn't you agree with me that your opposition to the GBRA which is at least in part, based on what you just answered, based on a recovering economy, that that opposition actually conflicts with your objection to the use of a subsequent test year because your reasoning for objecting to the subsequent test year is that that's, the economy is too uncertain for setting rates for 2011?

A. Absolutely not. I believe that they're, that they're one and the same, in fact, because we have the possibility that economic recovery will occur differently than the assumptions that have been made in the forecast. And so we have the same issue there, that the, the amount of the overall revenue requirements stated for 2011 could change as a result of economic recovery, just like it could if there was a GBRA.

Q. But in one aspect you're saying that the problem is that the recovery is too uncertain, and then in a different aspect you're saying that the problem is that the recovery is too certain; isn't that correct?

A. No, I've never said that it was too certain. It's too uncertain in any situation.

Q. Okay. In your testimony, if you have it -- do you have it before you?

A. Yes, I do.

Q. Okay. On Page 6, Lines 14 and 15, you challenge Mr. Barrett's report that FPL underwent a rigorous process in creating its financial forecast. Do you dispute that a rigorous process occurred?

A. No, I don't dispute that a rigorous process occurred. My point is simply that the assumptions that had to be made were made based on an extremely uncertain economic environment.

Q. What specific aspects, assumptions or details of that rigorous process that FPL underwent did you specifically examine yourself?

A. I looked at the different calculations that were made, for example, in the load forecast. There were, there were assumptions made based on real price, based on CPI. The budget was based in some aspects on CPI. There were just a lot of factors that went into the overall budgeting process that by necessity had to include assumptions on the economy.

Q. Are any of the aspects of the portion of that rigorous financial process that FPL underwent in your opinion that you believe FPL considered illegally?

A. I'm sorry. I don't understand your question. Do I think they did something illegal?

MR. McGLOTHLIN: Are you asking the witness to form a legal conclusion?

MS. PERDUE: I'm asking the witness if she, of what she specifically examined of the rigorous process that FPL underwent, if she believes any of their, the aspects of that process were illegal in her opinion.

MR. McGLOTHLIN: Object to the question as calling for a legal conclusion.

CHAIRMAN CARTER: Sustained. I don't think she's an attorney.

You're not an attorney, are you, Ms. Brown?

THE WITNESS: No, I'm not.

CHAIRMAN CARTER: Okay. Rephrase.

BY MS. PERDUE:

Q. Were any of the aspects that you examined contrary to GAAP procedures?

A. Not that I saw.

Q. Were any of the aspects that you examined in violation of any prior Commission orders, rules or other administrative guidance that the Commission has previously issued?

A. Not that I saw, no.

Q. Moving next in your testimony, there's several pages. I think primarily you begin on Pages 42 and 45. You explain your suggested adjustments to payroll. Do you question the number of positions that FPL projects through 2011?

A. I don't question the number of positions that they are targeting. I question that they will be -- they will not be filled.

Q. And what is your basis for that question?

A. Historically FP&L has not been able to meet their target level of positions. They've always had a certain level of unfilled positions.

Q. But you believe the projections are reasonable; is that correct?

A. No. I believe that they have a certain number of positions that they would like to have filled and that's what they've put in as their target. But I also believe that they will not be able to meet that target based on history.

Q. On Page 50, Lines 9 and 10 of your testimony, you've, it's the end of the list, which you've listed three particular concerns that -- with the incentive compensation program that FPL has proposed.

A. Yes.

Q. The third concern that you list, which is at 9 and 10, indicates that one of your concerns is FPL's incentive compensation projections assume that the company's performance will exceed management's goals and expectations. Is that accurate?

A. You're going to have to show me where you're at because I'm not --

Q. On Page 50 of your testimony.

A. Okay.

Q. Lines 9 and 10.

A. That's not what I read on 9 and 10. I'm sorry.

Q. Does it start, "(3), In developing the incentive"?

A. Yes.

Q. Okay. Well, then how -- you say that FPL has assumed the attainment of performance objectives greater than target levels. What -- does that mean that you are concerned that this assumption is that the company's performance will exceed management goals?

A. No. I'm concerned that they are budgeting based on 1.4 times the target level of incentive compensation that they set based on their benchmarking.

Q. So is your concern -- well, let me ask you this. Is a budget a goal?

A. That's one way you could look at it.

Q. Okay. So is your concern that their actual performance will exceed their budget?

A. No. My concern is that from a ratepayer perspective they are budgeting that they are going to be paying incentive compensation in excess of what they have determined to be the target level based on their benchmarking.

Q. But your statement here is that F -- you have a concern that FPL has assumed attainment of performance objectives greater than target levels. Doesn't that mean that your concern is that they will exceed their goals?

A. My concern is that they budgeted their incentive compensation based on the assumption that they will do that.

Q. So they are -- so part of your concern at least is that they will exceed their goals.

A. No. I wouldn't say that my concern is that they will, they will exceed their goals. I'm sure that that's what they would like to do. But they are budgeting based on the fact that they believe that they will exceed those goals rather than the target level of compensation that they've said they have benchmarked.

Q. Okay. In a company like FPL that's publicly traded, do you believe that it is important for management to have continuing investor support?

A. Yes.

Q. To achieve and maintain investor support in a publicly traded company, do you believe that management has an obligation to protect its investors from poor financial performance or performance that is less than expected?

A. Could you repeat the question, please?

Q. To achieve and maintain investor support in a publicly traded company, do you believe that management has an obligation to protect its investors from poor financial performance or from performance that is less than what management expects?

A. I believe that that is one of their goals and objectives, yes.

Q. Do you believe that that's a fiduciary obligation of management to the shareholders?

A. Yes, I do.

Q. And do you believe that fiduciary obligations cannot be violated?

MR. McGLOTHLIN: Could I have that repeated, please? I didn't hear all of that.

BY MS. PERDUE:

Q. Do you believe that fiduciary obligations cannot be violated?

A. Well, I believe they can be violated. I believe that it's their goal not to violate them.

Q. Do you believe that fiduciary obligations should not be violated?

A. Yes.

Q. As an employer, does FPL have a duty to protect its own corporate financial condition and resources so that it continues to provide jobs, benefits and salaries to the other over 10,000 nonexecutive employees?

A. Yes.

Q. Just as background so that I know, I believe you stated that you are a managing principal in your firm?

A. Yes.

Q. Do -- in your role or in your work do you personally review and examine companies that are not regulated entities in Florida?

A. I review a lot of nonregulated utilities. Not all of them are in Florida.

Q. Do you review nonregulated utility companies that are in Florida?

A. I have worked for some nonregulated utilities in Florida in the past. I am not currently retained by any. I've been retained by other cities who are consumers.

Q. In your experience, do you review other types of companies other than utilities?

MR. McGLOTHLIN: Objection on the grounds of no relevancy.

CHAIRMAN CARTER: Let's see where it goes.

THE WITNESS: I have reviewed financial information from nonutility companies in the performance of my work as a consultant, yes.

BY MS. PERDUE:

Q. How recently have you done that type of review?

A. Within the last three or four years.

Q. Have you done any within the past year?

A. No.

Q. On Page 52 of your testimony, Line, starting on Line 22, that sentence that starts "In addition," and then that sentence ends on Line 24, were you discussing -- you talk about a greater number of companies were decreasing or delaying planned merit increases, reducing salaries, reducing target bonus and award opportunities, and reducing long-term incentive plan eligibility. Is that statement as a result of your personal work?

A. No. As I stated, this came from the Watson Wyatt survey.

Q. Okay. If the Commission accepted, excuse me, if the Commission accepted your recommended adjustments to executive compensation but approved all other aspects as FPL has requested, what would the resulting impact be to the average monthly bill to a residential customer using the average 1,000 kilowatts per month, assuming FPL's estimated reduction in fuel charges for 2010?

A. I have not made that calculation.

Q. If the PSC accepted your recommendations to nonexecutive compensation in payroll but approved all other aspects as FPL has requested, what would the resulting impact be to the average monthly bill to a residential customer using the average 1,000 kilowatts per month, assuming FPL's estimated reduction in fuel charges for 2010?

A. I have not made that calculation either.

Q. Okay. In your testimony you also discuss storm recovery risk. And is it true that you testify that ratepayers bear the storm recovery risk?

A. Yes.

Q. Does FPL initially bear that risk and then seek recovery many months after the expenses are incurred?

A. It depends on the level of the Storm Damage Reserve that they currently have in place.

Q. If no additional buildup in the Storm Damage Reserve is allowed and only the PSC's recovery mechanism is permitted, will ratepayers be subject to a future assessment when a significant storm hits?

A. If and when a future storm hits, then, yes, ratepayers would be subject to further assessment at that time.

Q. If no buildup in the storm damage recovery reserve account is permitted, is FPL's current balance adequate to replace and/or repair all of the assets that account is intended to cover if and when a major storm hits?

A. No, it's not intended to.

Q. But the answer is, no, that fund would not be adequate currently?

A. That's correct. It's not.

Q. Beginning on Page 64 and going to Page 65 of your testimony, you describe prior Commission treatment of end-of-life materials and supplies. Do you recall that testimony?

A. Yes, I do.

Q. Has the Commission issued any rule, order or other administrative guidance that would instruct or advise FPL that a different methodology of end-of-life materials and supply treatment is preferred?

A. Not yet.

Q. Okay. If that is true, then aren't you actually criticizing FPL's request for following current Commission guidelines and requirements?

A. No, I'm not criticizing FP&L's request at all. I'm simply looking at the fact that we have excess decommissioning funds that can be used to meet this need without harming FP&L and simply be able to, as a result, provide an option that will allow the Commission to hold rates lower than they would otherwise be.

Q. But in your opinion and testimony encouraging the Commission to go with a different methodology, aren't you actually encouraging the Commission to now arbitrarily change its prior established policies for the ultimate purpose of denying this rate request?

A. Absolutely not. I am not asking them to do anything arbitrary. I'm asking them to look at the fact that the same, the same customers that have paid the excess decommissioning funds are the ones being asked to fund the end-of-life and nuclear last core dollars, and these same customers -- that, that money can then be used to cover the end-of-life and nuclear last core without it harming FP&L.

Q. But you are suggesting, suggesting, excuse me, suggesting a midstream departure or change in the methodology that the Commission has previously required.

A. I wouldn't call this a change in a midstream methodology that they required. At the time that they made the previous -- that they had the previous orders, FP&L was not overfunded in its decommissioning.

Q. Has the Commission issued any guidance that is in accordance with your suggested methodology?

A. Not yet.

Q. Would any such change being applied now have any impact on the Florida Administrative Procedures Act governing agency rulemaking?

MR. McGLOTHLIN: Objection. Calls for a legal conclusion.

CHAIRMAN CARTER: Rephrase.

BY MS. PERDUE:

Q. Would a change in methodology that has not previously been addressed by the Commission be a change in what has, from what has been, previously been required by the Commission?

A. I don't know that I would say it's a change in what has been previously required by the Commission. The Commission has asked FP&L to provide five-year studies of decommissioning funding as well as end-of-life and nuclear last core requirements. This is simply a matter of saying how should that be recovered through rates.

Q. But it is a different way than what the

Commission has previously approved? It's yes or no.

A. I'm not sure that I can give just a yes or no answer, but it, it is different, yes. I'm asking the Commission to change.

MS. PERDUE: Okay. I don't have any other questions, Mr. Chairman. Thank you.

CHAIRMAN CARTER: Thank you.

Mr. Butler.

MR. BUTLER: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. BUTLER:

Q. Good morning, Ms. Brown.

A. Good morning.

Q. How many employees are there in Utility Advisors' Network?

A. Five.

Q. Are you responsible for managing those employees?

A. One of them.

Q. Do you make HR compensation decisions for Utility Advisors' Network?

A. Yes.

Q. For you personally or for the one employee that you supervise?

A. Somewhat for all of us, for all five.

Q. Do you have any degrees or certifications related to human resources management?

A. No.

Q. Have you ever been responsible for the staffing function at an electric utility?

A. No, I have not.

Q. How about at a Fortune 500 company?

A. No.

Q. How about at any company?

A. No.

Q. Have you ever been responsible for the workforce planning function at an electric utility?

A. No.

Q. And how about at a Fortune 500 company?

A. No.

Q. At any company?

A. Yes. And I need to backtrack on my last response too. I was responsible for staffing and, and decisions on workforce requirements when I was an owner of a previous consulting company.

Q. And how many employees were there at that company?

A. It varied. We had probably 15 to 20 at different times.

Q. Okay. Am I correct that you're not a nuclear engineer?

A. Yes, you are correct.

Q. And you've not worked at a nuclear power plant?

A. No, I have not.

Q. You've not worked at a utility that operates nuclear power plants?

A. No, I have not.

Q. Have you ever worked for the U.S. Nuclear Regulatory Commission?

A. No, I have not.

Q. Have you ever testified in any proceedings before the Nuclear Regulatory Commission?

A. No.

Q. Have you ever testified on any tax-related issues concerning nuclear decommissioning funds?

A. I don't remember. I would have to go back and look at, at my previous testimony.

Q. Okay. I'd like to ask you some questions in your testimony. Let's start with your testimony on bad debt, starting on Page 17. Are you familiar with multilinear regression, regression modeling, such as FPL --

A. Yes.

Q. I'm sorry. Let me just complete the question.

Are you familiar with the, with multilinear regression modeling such as FPL has used to forecast bad debt expense in this proceeding?

A. Yes.

Q. Okay. And would you agree that all independent variables that are inputs to a multilinear regression model should be of the same vintage?

A. Yes.

Q. Okay. On Page 19 of your testimony, Lines 9 through 11, you have a recommendation that later estimates than FPL used for real prices of electricity and sales should have been used in calculating the bad debt expense that FPL included in its test year; correct?

A. Yes.

Q. Okay. Would you agree, consistent with your prior answer, that if one were to adjust to later estimates for those variables, that other variables that would be used in the multilinear regression modeling should also be adjusted to the same vintage?

A. Yes. And I believe that's what FP&L would have done on its December 1st, 2008, adjustment, which is what I've incorporated.

Q. Have you reviewed Ms. Santos' rebuttal testimony?

A. Yes, I have.

Q. Do you agree that Ms. Santos' revised projection of bad debt expense has relied upon independent variables of the same vintage in her calculation?

A. I cannot testify to that because I haven't seen her backup to what she has put into her rebuttal testimony.

Q. Let me ask you to turn to Page 24 of your testimony. You talk about late payment charges. And specifically, sorry to move you around, but if you'd turn to Page 28 in this section, you talk about a proposal you have to incorporate a component or an element reflecting late payment charge revenues into the revenue expansion factor; is that right?

A. That's correct.

Q. Okay. Are you familiar with how the revenue expansion factors for other Florida investor-owned utilities are calculated?

A. I have seen them in the past and worked -- when I worked on different cases, yes.

Q. Are you aware of any Florida utilities, Florida investor-owned electric utilities that include late payment charge as an element in its, in their calculations of revenue expansion factors?

A. Not yet.

Q. Did the Commission include a late payment charge element in the revenue expansion factor that it approved for TECO in its recent rate case?

A. I am not sure.

Q. You didn't investigate that?

A. I did not.

Q. Okay. I'd ask you to turn back to Page 26 of your testimony. This is your question or your responses to questions concerning FPL's 30 percent behavior modification.

A. Yes.

Q. Are you familiar with the concept of price elasticity?

A. Yes, I am.

Q. Do you think it would apply to late payment charges in the sense that the higher the charge, the less likely people will be to pay late?

A. Yes, I do.

Q. Are you aware that FPL's 30 percent behavior modification adjustment to the late payment charge revenues represents less than half the adjustment that would result from applying FPL's overall price elasticity of .2?

A. I disagree with that.

Q. You disagree with my -- well, tell me what you disagree with.

A. I disagree with the application that was provided by Ms. Santos where she looked at price elasticity based on the percent increase in just the late payment as opposed to the increase in the total bill.

Q. So your testimony is that the total bill going up is going to be influencing the behavior of customers and whether they pay late or not?

A. No. I'm saying that the price elasticity should be based on the total bill and not on just one portion of the bill that relates to the late payment fee.

Q. But keep in mind, Ms. Brown, for this purpose we're talking about not the customers' consumption of electricity but their decision whether to pay late or not. Wouldn't you agree that for that purpose the customers would pay a lot more attention to how much they were going to pay as a late payment fee rather than how much they were going to pay overall for electricity?

A. No. I'd disagree.

Q. Do you have any evidence, Ms. Brown, that customers base decisions on whether they are going to pay on time or not on the level, total level of the bill that they're going to pay as opposed to the amount of the late payment charge that would apply?

A. No. I have not seen any evidence of what the customers base their decision on whether to pay late or not.

Q. You've performed no analysis of that subject?

A. Not of the price elasticity and whether they're actually paying because of a certain level of late payments, no.

Q. You propose instead of FPL's 30 percent adjustment an adjustment that works out to be about a 10 percent adjustment; would you agree? And I'm referring to the testimony on Page 27, starting on Line 10, where you talk about basically reducing the late payment percentage from 22.3 down to 20 percent.

A. Well, I disagree that that was a 10 percent reduction, and I even disagree that FP&L's behavior modification was 30 percent, because that does not take into account where late payment fees would have otherwise been for 2010 based on the trend that it was happening.

Q. Have you performed any quantitative analysis to identify the extent of the trend that you are referring to?

A. Yes.

Q. And where is that in your testimony?

A. It's not in my testimony. I explained it. I believe I did explain that the trend was upwards and that -- let me find it.

Q. You've explained the trend is upward. I'm not asking about --

CHAIRMAN CARTER: Hang on. Hang on. Give her a chance, she's -- give her a chance. Hang on.

THE WITNESS: As I explained on Page 27, Lines 13 through 17, the increase was going up at an average of 150,000 customers per month, and by sticking with just the 2008 value, you've assumed that that trend is discontinuing, and on top of that you're taking another 30 percent.

BY MR. BUTLER:

Q. I'm asking you though whether you have performed any quantitative, quantitative analysis to reach the conclusion that the factors you take into account represent a reasonable estimate of customers' likely behavior change in the face of the increased late payment charges that FPL has proposed.

A. I'm not sure what you mean by "quantitative analysis." I have looked at the, the expected trend, and in doing so I find that following that trend would have resulted in a much higher 2010 expectation, meaning that my reduction was 43.7 percent, whereas FP&L's was 55.7.

Q. But your, your trend reflects behavior that essentially was a trend that was happening anyway; right? I mean, you've not done any analysis of specifically what additional impact on late payment behavior would result from the increases in the charges that FPL is proposing; correct?

A. No. Nor have I seen any evidence of such from FP&L.

Q. Well, Ms. Brown, whether you agree with it or not, you would -- agree with the results -- you would, you would agree that FPL has in fact performed an analysis that is based on a conservative 50 percent of its normal price elasticity for electricity and has used that basis for making the adjustment that appears in Ms. Santos' testimony, wouldn't you?

A. I would have to check that. I'm not sure where you're getting the 50 percent.

Q. 30 cent -- 30 percent being less than the 64 percent that Ms. Santos quotes in her testimony.

A. If you agree with that calculation. But I disagree with the calculation, as I stated earlier.

Q. May I ask you to turn, Ms. Brown, to Page 42 of your testimony. This is the portion of your testimony that talks about payroll expense, and I want to ask you some questions about that.

All other things being equal, would you agree that the requirement to pay time and a half or greater hourly rates for overtime hours increases hourly labor costs?

MR. McGLOTHLIN: Excuse me, Mr. Butler. I don't want to interrupt, but I'm having trouble hearing your question. I don't know if it's a function of the audio or you're too far from the mike or what, but I did not follow that.

MR. BUTLER: Let me try again. I've been cautioned not to get too close to the microphone. Maybe I'm now getting too far from it, but maybe I can find a happy medium.

CHAIRMAN CARTER: On any given day it could be up, it could be down. So let's --

MR. BUTLER: Okay.

BY MR. BUTLER:

Q. All other things being equal, would you agree that the requirement to pay time and a half or greater hourly rates for overtime hours increases hourly labor costs?

A. As compared to having an employee, another employee that would have all the benefits, not necessarily.

Q. You reviewed FPL's historic staffing levels and determined that FPL generally falls short of its optimal budget staffing levels; correct?

A. Yes.

Q. Okay. I'd like you to turn to Page -- I'm sorry, to Exhibit SLB-12 in your testimony.

A. Okay.

Q. And this shows first a set of columns entitled Target and then a set of columns entitled Actual; correct?

A. Yes.

Q. Doesn't your Exhibit SLB-12 show that FPL actually has consistently had higher actual number of employees than targeted?

A. Yes. I'm sorry. The two titles are reversed. That should -- Target should have been Actual and Actual should have been Target.

Q. You filed revisions to your testimony correcting various errors in it and described those earlier in your testimony today, didn't you?

A. Yes, I did.

Q. Why didn't you make this correction at that time?

A. The correction, the corrections that I noted on the executive compensation, is that what you're referring to?

Q. Well, just generally. You made corrections to various portions of your testimony and this wasn't one of them. I'm just asking you why you didn't correct this at the same time you corrected the others.

A. Because the other changes made differences in the outcome of OPC's positions. These changes did not make any difference in the outcome of OPC's positions and were simply just modifications to the language of the original direct testimony.

Q. So basically you just reviewed your testimony for anything that might have been inaccurate that would have changed OPC's position, but we might find other errors throughout your testimony because you didn't look for things that wouldn't have an impact on the outcome?

A. No, that is not the case. I looked at all of the rebuttal testimony filed by FP&L and I responded accordingly in making corrections that I filed with the supplemental testimony. I also looked at this particular issue and felt like what had been said by Ms. Slattery related to the matrix was correct in that that matrix was applied to the named business executives, and therefore I just wanted to make sure that that was clarified today.

Q. I'm sorry. I'm not sure I understood that last answer. So you looked at this and you decided not to correct it, is that right, before we just, before I just pointed out the apparent inconsistency in this cross-examination?

A. I'm sorry. I'm not following you at all.

Q. Did you look at this table, realize there was an error in it, and not correct it before you took the stand this morning?

A. This table being?

Q. SLB-12.

A. No. Until you asked me if the Target, if the Actual was actually greater than Target, I did not realize that the two titles had been reversed.

Q. Well, if you had checked your testimony fairly carefully, wouldn't it have been fairly obvious? Because in each of the columns I think you see higher levels in the Actuals than the Target, which is exactly opposite of the point that you make in your testimony.

A. Yes. I'm sorry that I missed those two titles.

Q. How can we have confidence that there aren't other errors in your testimony of a similar nature, Ms. Brown?

A. It's -- there are generally errors in everyone's filings. FP&L has made errors that they've corrected as well.

Q. But this one you didn't correct until I brought it to your attention; correct?

A. Absolutely. Yes.

Q. Okay. I'd like you to turn to Page 44 of your testimony. On Lines 12 through 16 you talk about an adjustment to overtime budgets for the nuclear and transmission business units. It's kind of an offset or a partial offset to the downward adjustment you make for unfilled positions; is that correct?

A. That's correct.

Q. And am I correct that you basically increased the overtime budget by the same percentage that you decreased the overall staffing levels?

A. Essentially using one and a half times the average pay, yes.

Q. Okay. I'd like to ask you a few questions about that. They're going to be in the form of a hypothetical. I will admit in advance that the hypothetical names of the employees is corny, but these were prepared for me and I'm going to stick with it.

Consider a hypothetical, hypothetical company with three nonexempt employees, Employee F, Employee P, and Employee L. Now in order to complete 6,300 work hours that FPL -- F, P and L, the three employees, were responsible for in 2009, assume that each employee worked a full 2,000-hour schedule and then also 100 hours of overtime each. Do you understand that assumption?

A. Yes.

Q. So, in other words, basically each of them is working 2,100 hours. Now assume that in 2010 Employee L is poached by a competitor. Assuming the same number of work hours are needed in 2010, in other words, the 6,300, how many overtime hours would employees F and P have to work in 2010? To speed this along, let me just ask you, would you agree that it would be 2,300 hours? In other words, the 6,300 total minus two employees times 2,000 hours each as their normal time work?

A. Assuming that that hasn't already been budgeted, yes.

Q. And just to be clear, we're not talking about comparisons of budgets. This is just comparing sort of its year-to-year comparison, what they're now having to do in 2010 versus what they had to do in 2009.

A. Well, assuming that they could actually do that and it wasn't just deferred.

Q. Right. Now can you calculate for me the year-over-year decrease in staffing levels from 2009 to

2010 in that hypothetical?

A. You're saying that you have three employees in 2009 and you lose one of them in 2010?

Q. Right. Would you agree that's basically a 33 percent reduction in the staffing level in 2010?

A. Yes.

Q. Okay. Now can you also please calculate for me the year-over-year percentage increase in overtime hours from 2009 to 2010, and recall that there were 300 overtime hours in 20 -- 2009 and there are now 2,300 overtime hours in 2010. Can you calculate what percentage increase that would be?

A. Yes. That would be a 766.6667 percent increase.

Q. Thank you. Do you subscribe to any utility industry benchmarking services that cover the many different roles for which FPL sets and monitors pay?

A. No.

Q. Did you independently benchmark FPL's thousands of distinct roles that are presented in its case here today?

A. No, I did not. I relied on FP&L's numbers.

Q. So I assume from that answer you didn't independently benchmark FPL's total pay program either; correct?

A. That's correct.

Q. I'd like to turn to a different subject, Ms. Brown. Would you turn to Page 60 of your testimony, please?

A. Okay.

Q. And this is concerning the topic of the environmental insurance refund. Do you know when FPL bought the insurance policy that was terminated in 2008?

A. I believe it was 1998.

Q. Okay. Do you know whether FPL set base rates in 1998?

A. Not to my knowledge.

Q. Do you know of anything that changed about the rates that customers paid in 1998 as a result of FPL's buying the policy?

A. No.

Q. Do you have any evidence that FPL has ever charged the Environmental Cost Recovery Clause for the cost of this insurance policy?

A. Whenever the costs are included in your overall cost of providing service, whether it's a base rate setting or not, and you are falling within your rate, authorized rate of return --

Q. I'm going to object. This is clearly not answering my question, which was specifically do you know whether FPL has ever charged the Environmental Cost Recovery Clause for the insurance policy.

A. To my knowledge it did not go there. It went through base rates.

Q. Are you aware that FPL has a reserve for environmental and other damages claims?

A. Yes.

Q. Would you agree, you know, or accept subject to check that that's Account 253?

A. I would agree, subject to check, yes.

Q. Okay. Are you aware of any decrease to the Account 253 reserve in either 2010 or 2011 as a result of FPL's terminating this environmental insurance policy in 2008?

A. No. They didn't take it to the reserve. They took it directly as an O&M, O&M offset.

Q. Okay. Are you aware of any increase in accruals to the Account 253 reserve in either 2010 or 2011 as a result of FPL's terminating the environmental insurance policy in 2008?

A. No. I wouldn't expect that.

Q. Okay. I'd like to ask you some questions about a subject that Ms. Perdue had covered with you earlier, the nuclear end-of-life materials and supply and last core accruals. This is on Page 61 of your testimony and following.

First of all, just to kind of be sure we're talking about the same thing, the nuclear end-of-life materials and supplies in the last core refer to materials and supplies and fuel that is in the last core that will have to be written off when a nuclear plant is shut down at the time of decommissioning; is that right?

A. Yes.

Q. Okay. I believe on Page 63 of your testimony that you agree that these are legitimate costs of FPL's nuclear business; is that correct?

A. Yes. That's correct.

Q. Okay. But then you go on to say that they're related to F -- or to the decommissioning of FPL's nuclear plants; correct?

A. Yes.

MR. BUTLER: Okay. I'd like to hand out at this point an exhibit that will be entitled IRS Decommissioning Regulations.

CHAIRMAN CARTER: Okay. You need a number for that, Mr. Butler? Yes? No?

MR. BUTLER: I have 442 is the last one in my book, so I think it would be 443.

CHAIRMAN CARTER: Does that mean you need a number for it?

MR. BUTLER: Oh, yes, it does. I'm sorry.

CHAIRMAN CARTER: Commissioners, for the record that will be Number 443. And title?

MR. BUTLER: IRS, IRS Decommissioning Regulation.

CHAIRMAN CARTER: If you're having -- were you having trouble hearing me, Mr. Butler? Because I can have Chris to adjust the volume on my mike, if you did not hear me.

MR. BUTLER: I was having a little bit of trouble hearing you, Mr. Chairman.

CHAIRMAN CARTER: Chris, you know, get a Drummond (phonetic) song. How about that?

MR. BUTLER: Much better. Thank you.

CHAIRMAN CARTER: Thank you.

Did everyone get a copy?

Okay. Now give me the title again. IRS Decommissioning Regulation, is that the title you gave us?

MR. BUTLER: That's right.

(Exhibit 443 marked for identification.)

CHAIRMAN CARTER: Okay. You may proceed.

MR. BUTLER: Thank you.

BY MR. BUTLER:

Q. Ms. Brown, have you ever seen this Internal

Revenue Service regulation before?

A. No.

Q. I would ask you to turn, please, to Page 10 of 32 in the package that I've handed out. Now if you'll look at Item 6 on this page, do you see a definition for the term "nuclear decommissioning costs" or "decommissioning costs"?

A. Yes.

Q. Would you agree that there is no reference in that definition to writing off end-of-life materials and supplies or last fuel core?

A. Yes, I would agree with that.

Q. Now if you would look back to Page 20 in the package, you'll see a regulation 1.46A-5T, and it describes qualification requirements for a nuclear decommissioning fund that qualifies for the IRS tax treatment for nuclear decommissioning funds. Do you see that description?

A. Yes, I do.

Q. And if you'll look down at the bottom of that page and then on over to the top of Page 21, you'll see a subsection that refers to limitation on use of fund. Do you see that?

A. Yes, I do.

Q. Okay. Would you agree that the purpose that the decommissioning fund is to be used exclusively for is decommissioning costs per the definition that we had previously discussed?

A. For the qualified fund?

Q. Yes.

A. Yes.

Q. Okay. Thank you.

Are you aware that the Nuclear Regulatory Commission also defines the uses for which required decommissioning funds may be used?

A. Yes.

MR. BUTLER: Okay. I'm going to hand out another exhibit, Mr. Chairman, and would ask for an exhibit number for it, which I guess would be 444.

CHAIRMAN CARTER: Commissioners, for the record, 444.

Title, Mr. Butler?

MR. BUTLER: And this will be NRC Decommissioning Fund Requirements.

CHAIRMAN CARTER: NRC Decommissioning Fund Requirements. Thank you.

(Exhibit 444 marked for identification.)

BY MR. BUTLER:

Q. Are you familiar with this regulation, Ms. Brown?

A. Yes.

Q. I'd ask you to turn -- my apologies. The pagination here didn't work out quite as well. But about halfway through the package there is a section entitled 50.2, Section 50.2, Definitions, and it says Page 1 at the top. Do you see that?

A. Yes.

Q. I'd ask you to turn over to Page 2 of that portion, and there is a definition near the bottom of decommission. Do you see that?

A. Yes.

Q. Would you agree that there is no reference in the definition of decommission to writing off end-of-life material and supplies for a nuclear plant or the last fuel core?

A. Yes, I would agree.

Q. Now I will ask you to turn to the front of the exhibit, to the section entitled 50.82, and then turn to Page 2 of it as well, the second page in the exhibit.

MR. McGLOTHLIN: Your reference again, please.

BY MR. BUTLER:

Q. I'm sorry. It's in Section 50.82, Termination of License, and then it's Page 2, where there is a section that begins 8, subsection 8(I), "Decommissioning trust funds may be used by licensees if." Do you see that?

A. Yes.

Q. Okay. Would you agree that the NRC permits decommissioning trust funds to be used only for legitimate decommissioning activities?

A. I believe that the general intention is that the decommissioning funds be used only for what has been defined as decommissioning, but that the NRC has not precluded the companies from requesting withdrawal of funds for other purposes.

Q. What is the basis for your general belief that the NRC permits uses inconsistent with its rule?

A. The basis --

MR. McGLOTHLIN: Objection to the form of the question. I don't believe that she said it would be inconsistent with the rule.

MR. BUTLER: I don't believe that's her testimony, but I will rephrase.

CHAIRMAN CARTER: Okay. Rephrase.

BY MR. BUTLER:

Q. Ms. Brown, what is the basis for your conclusion, notwithstanding the wording that we have read here from subsection 8(I), that the Commission allows decommissioning funds to be used for purposes other than legitimate decommissioning activities?

A. The basis of my, my statement is that under 50.75 the NRC discusses that funding for decommissioning is also subject to the regulation of the state commissions as well, and that the requirements of, of this decommissioning funding are in addition to and not a substitution for other requirements. In addition to that, a basis for my belief at this point is also in the deposition of Ms. Ousdahl, I believe it was, she also agreed that this is something that could be requested of the NRC.

Q. Ms. Brown, is it your understanding that the NRC is deferring to the state saying that the states can include, you know, reach decisions to allow things to be used or to allow, I'm sorry, allow funds to be used from NRC-regulated decommissioning funds for other than legitimate decommissioning activities? In other words, that the state utilities commissions may expand beyond what the NRC rules provide?

A. It is my understanding that the NRC would consider the fact that we are in an excess funding situation and may be willing to release some of those funds based on the state commission's recommendation to do so.

Q. Ms. Brown, are you aware of a petition that was made to the Nuclear Regulatory Commission for rulemaking in October 2008 in which there was a request to allow decommissioning funds to be used for broader purposes than the defined nuclear decommissioning activities?

MR. McGLOTHLIN: Can you be more specific than "broader purposes"?

BY MR. BUTLER:

Q. The rulemaking specifically referred to major component disposal. And this is, it was a petition by Thomas E. Magette (phonetic) on behalf of EnergySolutions, LLC. Are you familiar with that?

A. No, I'm not.

Q. So you wouldn't be aware that that petition was denied?

A. I am, I'm only aware through Ms. Ousdahl's deposition. And the fact that it was denied, I would have to look further into that, because I wouldn't, I wouldn't expect necessarily to have that type of an outcome in a generic rulemaking.

Q. Are you aware of any petitions for rulemaking that the NRC has granted in which it has expanded beyond the language that we were referring to earlier as to the types of expenses for which decommissioning funds can be used?

A. No.

Q. Have you reviewed FPL's decommissioning trust agreements?

A. Previously, but not in this case, no.

Q. Do you know whether those trust agreements permit funds within the trust to be used for other than defined decommissioning activities?

A. No, I do not know.

Q. I'd like you to turn to Page 65 of your testimony.

A. Okay.

Q. You refer on Lines 15 and 16 to an excess of decommissioning funds that has grown to a level of $476 million. Do you see that?

A. Yes.

Q. Okay. Are you aware that at this time FPL is no longer making contributions to the decommissioning trust?

A. Yes.

Q. Okay. So any increase or decrease in that amount at this point is going to be a matter of how the investments that the trust, the funds in the trust are invested in will perform, isn't it?

A. Yes. Relative to what the decommissioning costs will be.

Q. Would you agree that markets can go up or down?

A. Yes.

Q. If they went down, would you agree that that would reduce and perhaps could eliminate this excess that is currently shown in the fund?

A. It depends on how far down they went. You're basing it on a 5 percent earnings rate assumption right now.

Q. You can't rule that out sitting here today, can you?

A. No. And I can't rule out that it would go the opposite direction either.

Q. Also on Page 65 you refer to a nuclear amortization that started at $98 million in 2002, I guess, and has been amortized over time, where the balance is now 45.345 million; is that right?

A. Yes.

Q. And that shows, the figure I just quoted shows up on Page 66, Line 4 of your testimony?

A. Correct.

Q. And it's your recommendation that FPL use this $45 million of nuclear amortization to offset accruals to the end-of-life materials and supply and last fuel core; correct?

A. Yes. In conjunction with the rest of my recommendation to suspend the accrual.

Q. But in fact you're recommending that the accrual be discontinued once this $45 million amortization balance is applied; correct?

A. Correct.

Q. Okay. I'd like you to turn to page, or to Exhibit SLB-23, please, in your testimony, particularly Page 1 of 6.

A. Okay.

Q. And this shows on Line 3 the remaining balance to be recovered of the M&S inventory at end of life; right?

A. Yes.

Q. Would you agree, subject to check, that the two numbers there for St. Lucie and Turkey Point total to just under $32 million?

A. Yes.

Q. And, similarly, Line 9 shows the remaining amount to be recovered for the last core; correct?

A. Yes.

Q. Would you agree, subject to check, that those numbers total to about 289 million?

A. Yes.

Q. So together that would be about 321 million, wouldn't it?

A. That's correct.

Q. Okay. Would you agree that the $45 million of nuclear amortization is only about 14 percent of that total amount?

A. Yes.

Q. Let me ask you to turn to Page 66 of your testimony concerning the DOE settlement. Have you had a chance to review Ms. Ousdahl's Exhibit KO-16? That's the one that shows the adjustments the company is proposing to make to its test year filings and the dollar impact of those adjustments.

A. Yes. I understand she did make an adjustment for DOE settlement.

Q. Okay. And would you accept, subject to check, that per Items 3 and 4 on Exhibit KO-16 that that adjustment was about $10 million in 2010 and $14 million in 2011?

A. Yes.

Q. Okay. Do those adjustments address the issue that you raised here in your testimony concerning the DOE settlement?

A. I believe that they do, yes.

Q. Okay. Let me ask you now about capital structure adjustments that you are making basically to reflect recommendations of Dr. Woolridge, and this is on

Page 69 of your testimony.

Now you've created a, an Exhibit SLB-25, the revised capital structure; correct?

A. Yes.

Q. I'm sorry. To ask you these questions, I'm going to need you to look at Mr., or Dr. Woolridge's Exhibit JRW-5. Do you have a copy of that available to you?

A. No, I do not.

Q. Okay. We'll get you a copy of it.

MR. McGLOTHLIN: Chairman Carter, my copy is in the room at the end of the hall. I either need to get a copy from FPL or take a timeout to get it.

CHAIRMAN CARTER: Ms. Brown, do you think you need a potty break or something like that?

THE WITNESS: Sure. Why not?

CHAIRMAN CARTER: We've been at it for a while. So let's give the witness a break. What do you say, Mr. Reilly (sic), five minutes, seven minutes? What do you think it'll take you? Let's take ten, everybody.

MR. BUTLER: Thank you.

(Recess taken.)

(Transcript continues in sequence with Volume 20.)

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 8th day of September, 2009.

Linda Boles
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