BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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

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

VOLUME 22
Pages 2883 through 3091

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PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN MATTHEW M. CARTER, II COMMISSIONER LISA POLAK EDGAR COMMISSIONER KATRINA J. McMURRIAN COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
DATE:	Wednesday, September 2, 2009
TIME:	Commenced at 5:03 p.m. Concluded at 7:30 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	RAY D. CONVERY Court Reporter (850) 222-5491
PARTICIPATING:	(As heretofore noted.)

ORIGINAL

I N D E X

WITNESSES

NAME:	PAGE NO.
C. RICHARD CLARKE	
Cont'd Cross Examination by Ms. Williams	2886
Redirect Examination by Mr. Butler	2891
J.A. STALL	
Direct Examination by Mr. Ross	2901
Prefiled Rebuttal Testimony inserted	2903
Cross Examination by Ms. Spina	2910
Cross Examination by Ms. Bradley	2915
Cross Examination by Ms. Kaufman	2922
Redirect Examination by Mr. Ross	2927
JEFFRY POLLOCK	
Direct Examination by Ms. Kaufman	2932
Prefiled Direct Testimony inserted	2936
Cross Examination by Mr. Wiseman	3021
Cross Examination by Mr. Butler	3027
Cross Examination by Ms. Bennett	3064
Redirect Examination by Ms. Kaufman	3065

EXHIBITS

NUMBER:	ID.	ADMTD.
115 and 116		2897
257 through 268		3078
346 through 352		2897
404 Attrition and Hiring of Nuclear Employees	2907	2929
450 and 451		2898
452 Median Lives	2890	2898
453-A Errata sheet, Pollock testimony	2932	3078
453-B Errata sheet, Pollock testimony	2932	3078
454 West County 1 and 2 Need Study Excerpts	3040	3081
455 25 Versus 35 Year Depreciation Lives	3046	3084
456 Per Book and Adjusted Equity Ratio	3052	3084
From Staff's Composite Exhibit List:		
Exhibit 35		
Item 10, Nos. 228, 229, 230 and 231		
Item 37, Nos. 15, 16, 17, 19, 33, 35, 36, 37, 38 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51C		
Item 38, Nos. 55, 60, 61, 62, 64 and 66		
Item 39, Nos. 67, 69, 70, 71, 72 and 74		
Item 41, Nos. 83, 86, 87, 88, 89, 91, 92, 94, 96, 97, 99, 100, 102, 103, 104, 106, 111, 112, 114 and 115		
Item 42, Nos. 16, 60-A, 60-C and 75		
Item 63, Nos. 15, 16, 19 and 20		
Item 64, Nos. 23 and 24		
Item 69, Nos. 12, 16, 17, 18, 19, 20, 22, 26 and 41	2900	2900
Exhibit 37, Items 63 through 70 and Items 126 through 133	3086	3086

PROCEEDINGS

(Transcript follows in sequence from Volume 21.)

CONTINUED CROSS EXAMINATION OF C. RICHARD CLARKE

BY MS. WILLIAMS:

Q Okay, turning to your rebuttal again, on page 61, just let me know when you're there.

A Yes, I'm there.

Q Looking at lines 1 through 9 --

A Yes, I'm there.

Q Now, on lines 1 through 9 you discuss the cyclical nature of cost of removal and salvage for Account 355, Poles and Fixtures, correct?

A Yes, that's true.

Q Do you know why cost of removal and salvage is cyclical for this account?

A No, I didn't. We asked the company but could not find out.

Q Turning to page 6 of your rebuttal testimony --

A I'm sorry. What page again?

Q Page 6.

A Of my direct testimony?

Q Rebuttal testimony.

A Rebuttal testimony. Yes, I'm there.

Q Lines 21 through 23.

A Yes.

Q Now, here you talk about the range of lives that Gannett Fleming sees in the industry?

A Yes.

Q When FPL provided you with the retirement dates that it did and you reviewed them, you didn't suggest any changes to what had been provided to you, did you?

A Yes.

Q You didn't suggest any changes?

A I'm sorry?

Q You did not suggest any changes? I didn't understand your answer.

A I'm sorry, I'm having trouble hearing you.

Q I'm going to repeat the question for you.

A Okay.

Q The question was, when FPL provided you with the retirement dates for the combustion turbines and you reviewed them, you didn't suggest any changes to the dates that had been provided to you, correct?

A No. I reviewed what they gave me and I compared it to other plants that we've used in the industry and I compared them to my recent clients and what they were using, and Florida Power & Light

explained to me why they chose those service periods and those probable retirement dates. I was satisfied with the results and the answers that they gave me and I accepted them.

Q But when you compared them, you compared them to the life spans used by Gannett Fleming, correct?

A That was one of the things I did, yes.

Q Okay. Now, Mr. Clarke, are you aware if this Commission uses capital recovery schedules to address prudent near-term retirement investments that will not be recovered by the time of retirement?

A Yes, I am.

Q Do you agree with the Commission's use of that?

A Yes, I am.

Q Will you agree that the use of capital recovery schedules is in keeping with the remaining life method because it matches recovery to the remaining service period?

A Yes, I do.

Q Are you aware if the Commission has used capital recovery schedules because they're in keeping with the remaining life method and because they match recovery to the remaining service period?

A Yes, I am.

Q Now, doesn't the remaining life rate formula correct an account's reserve imbalance over the life of the given account?

A Well, not if something retires early, such as the units at Cape Canaveral or Riviera.

Q Well, are you aware if, when a reserve imbalance is significant, a reserve transfer is recommended by the Commission to achieve immediate corrections?

A Could you repeat that, please?

Q Are you aware if, when reserve imbalances are significant, reserve transfers between accounts are often recommended by the Commission to achieve immediate corrections?

A No, I'm not aware of that, no.

Q We're almost there.

Now, finally, I'm going to hand you a document -- I'm passing out a document right now entitled "Median Lives" and this was late-filed Deposition Exhibit No. 4 that you filed.

A Thank you.

Q I forgot to put a number space on the top right-hand corner. I'm sorry, we'll have to improvise.

CHAIRMAN CARTER: You don't need a number for this. You're just using it for cross-examination, or is

it not -- has it not been entered?

MS. WILLIAMS: I'm not on. I'm going to want to put a number on it.

CHAIRMAN CARTER: Okay, just hang on one second.

MS. WILLIAMS: I think we're at 452.

CHAIRMAN CARTER: Let me get my notes here.

Okay. Short title?

MS. WILLIAMS: Median Lives.

CHAIRMAN CARTER: Say again? I didn't hear you. Oh, Median Lives?

MS. WILLIAMS: Yes, sir.

CHAIRMAN CARTER: Have you been watching *The Matrix* again?

MS. WILLIAMS: Me?

CHAIRMAN CARTER: Go ahead.

(Exhibit No. 452 marked for identification.)

BY MS. WILLIAMS:

Q Mr. Clarke, are you familiar with this document?

A Yes. I prepared it.

Q Has anything changed since you filed this exhibit that would change its content?

A I'm sorry. What was the last question?

Q Has anything changed since you filed this?

A No, nothing's changed.

Q So your answer to -- the information that you provided wouldn't change?

A Yes.

MS. WILLIAMS:: And I believe we've already marked it as 452, and that's all the questions I have.

CHAIRMAN CARTER: Okay. Redirect -- wait a minute. Anything from the bench?

Redirect?

MR. BUTLER: Briefly.

REDIRECT EXAMINATION

BY MR. BUTLER:

Q Mr. Clarke, you've been asked by at least a couple of the attorneys about the process that you undertook with FPL to gain information about FPL's plants and assets generally for conducting your depreciation study. I'd like for you please to just briefly describe the process that you did undertake, sort of starting with your initial contact and what information you gathered from the company to perform your depreciation study.

A Very well. I started by having interviews with generation personnel, people that worked in the generation areas of nuclear, oil, gas, coal, combined cycles, and I had a list of questions that we went

through and I asked them about the plants. Most of the questions that I asked them about they had included in their development of their integrated resource plan, so I asked for a copy of the integrated resource plan and went through that, developed some probable retirement dates.

I turned those probable retirement dates into service lives. I compared those service lives to studies that I was presently working on and compared it to a range of studies that Gannett Fleming had done in the past. I then went back and talked to them about why the range was -- or why they were at the lower end of the range. As you can see, the median was 33 years, and their lives for combined cycles, for instance, was 25 to 30 years.

Florida Power & Light explained to me reasons why they felt that their service lives at this time were the proper lives. I also was aware that Florida Power & Light was like a forerunner in combined cycle area because they had more years of experience than anybody else, so I paid attention to what they said about how they were going to run the plant and their design life and what they felt was going to be the proper service life for each of the plants.

I then went out with the company personnel and

viewed some of their plants. I did a cross-section. I viewed nuclear plants. I viewed oil, gas plants, went to a few combined cycle plants. In the end run I was satisfied with the probable retirement lives that they were proposing in their integrated resource plan and I accepted those.

Q Was there any information you felt you needed to perform your depreciation study that you did not get from FPL?

A No.

Q You were asked about FPL's Putnam Plant, and I think you mentioned that there was some substantial investment in the plant that allowed it to or is allowing it to continue to its current projected retirement dates. Would you describe briefly your understanding of the nature of the equipment that was replaced to allow that to happen?

A Well, my understanding is they replaced both HRSGs and they replaced, I'm not sure, one or two of the turbines. Those parts of a combined cycle plant are the larger part of the combined cycle plant. They were almost the entire cost of the plant, so those were major investments.

Q When a utility such as FPL reaches a point where it's deciding whether to make that sort of

investment in major replacements, would you expect the utility to undertake an analysis at that point of looking forward whether it makes sense to invest in those types of refurbishment and upgrades, given what benefits it would get from the continued life of the plant?

MS. KAUFMAN: Mr. Chairman, I would -- over here -- I would object. I think this is beyond any questions that were asked of this witness on cross.

CHAIRMAN CARTER: To the objection, Mr. Butler?

MR. BUTLER: First of all, given what South Florida Hospital Association asked earlier of this witness, I'm kind of surprised by the objection, but to the objection I would say that Mr. -- excuse me -- Mr. Clarke was asked specifically about the Putnam Plant. You know, it's a sort of first-generation combined cycle plant that has -- or will end up having a considerable lifespan before it retires, but there are these very substantial investments that made that possible.

I'm simply asking him to complete the picture of what that plant represents and doesn't represent with respect to future expectations on combined cycle plants.

MS. GRIFFITHS: I would like to also just echo my objection with Ms. Kaufman. I think that does go

beyond the scope of what I asked the witness, and there is another witness, Mr. Hardy, who is an actual company witness who I believe we've been told, at least in the depositions, was the one qualified to answer those sorts of questions, and he himself did not actually have that specific information.

CHAIRMAN CARTER: Okay.

MR. BUTLER: If we would like to have that question deferred and to be answered by Mr. Hardy, that's fine with me.

CHAIRMAN CARTER: Okay, let's defer the question and move on.

BY MR. BUTLER:

Q Mr. Clarke, would you turn to Exhibit CRC-3 to your rebuttal testimony?

A Yes, I'm there.

Q Now, you were asked some questions about this exhibit by Mr. McGlothlin, and does this exhibit reflect -- excuse me. Well, first of all, let me ask you this: Why is it that you chose to present data on the lifespans of U.S. coal generating units that have actually retired as opposed to information on expected lifespans for coal generating units that are still in service?

A Well, we know that the life that these

plants lasted -- that these plants went into the service in the 1920s, 1930s, and we know how long they lasted. Most of depreciation is based on history. When we do mass property lives, when we do a net salvage analysis, it's all based on history.

These plants are a good representative of what's happened in the past and these have retired up until 2006 and 2007, I believe, some of these plants. So it is a good representative of what's going to happen in the future.

Q One final redirect to you, Mr. Clarke. You were asked briefly about intergenerational inequity. I'm going to ask you to consider this hypothetical: That, for rate-setting purposes, there is a large depreciation credit of approximately $300 million per year for four years. At the end of that time the credit ends and rates have to go up substantially to compensate the utility for the additional plant in service that results from the large depreciation credits. Do you think that such an arrangement would create intergenerational inequity?

A Yes.

Q Thank you.

MR. BUTLER: That's all the redirect that I have.

CHAIRMAN CARTER: Exhibits? I think we start on 346 -- on staff's Composite Exhibit No. 346 through 352, is that correct?

MR. BUTLER: Yes, and 115 and 116, and then 346 --

CHAIRMAN CARTER: Let's do these first and then we'll come back to those, okay?

MR. BUTLER: That's fine.

CHAIRMAN CARTER: Any objections, 346 to 352?

(Exhibit Nos. 346 through 352 admitted into the record.)

CHAIRMAN CARTER: I'm doing it in reverse order, Mr. Butler. It's just kind of, you know, my wife says, if you do things differently, like if you go to work on a different route, sometimes it stimulates your brain. I don't know what she was trying to say about my brain, but --

MR. BUTLER: Well, my brain is suitably stimulated.

CHAIRMAN CARTER: Okay. Exhibits 115 and 116.

MR. BUTLER: I would move those.

CHAIRMAN CARTER: Any objections?

Without objections, show it done.

(Exhibit Nos. 115 and 116 admitted into the record.)

CHAIRMAN CARTER: Okay, let's go to the back pages now, or as Paul Harvey would say, page 2o.

451, Ms. Griffith?

MR. GRIFFITHS: SFHHA would offer Exhibit 450 and 451.

CHAIRMAN CARTER: 450 and 451?

MR. GRIFFITHS: That's correct.

CHAIRMAN CARTER: Any objections?

MR. BUTLER: No.

CHAIRMAN CARTER: Without objection, show it done.

(Exhibit Nos. 450 and 451 admitted into the record.)

CHAIRMAN CARTER: Staff, you're recognized for 452 and the conglomerate exhibits that you talked about earlier.

MS. WILLIAMS: Yes. We offer No. 452.

CHAIRMAN CARTER: Are there any objections?

Without objection, show it done.

(Exhibit No. 452 admitted into the record.)

MS. WILLIAMS: And the following.

CHAIRMAN CARTER: Okay.

MS. WILLIAMS: In Docket 880677, FPL's Responses to Staff's 12th Set of Interrogatories, Nos. 228, 229, 230 and 231, and that's item 10 off staff's

composite exhibit list, No. 35. All of these are from staff's composite exhibit list No. 35.

The following exhibits are from Docket 090130. FPL's Responses to Staff's Third Set of Interrogatories, Nos. 15 through 17, 19, 33, 35 through 39, 41 through 50 and 51C. That's item 37.

FPL's Responses to Staff's Fifth Set of Interrogatories, Nos. 55, 60 through 62, 64 and 66, and that's item 38.

Next, FPL's Responses to Staff's Sixth Set of Interrogatories, Nos. 67, 69, 70, 71, 72 and 74. Those are item 39 from staff's exhibit.

FPL's Response to Staff's Eighth Set interrogatories Nos. 83, 86 through 89, 91, 92, 94, 96, 97, 99, 100, 102 through 104, 106, 111, 112, 114 and 115. Those are item number 41.

FPL's Responses to OPC's First Set of Interrogatories, Nos. 16, 60-A, 60-C and 75. Those are item 42.

FPL's Responses to Staff's Third Request for Production of Documents, Nos. 15, 16, 19 and 20. That's item 63 from staff's list.

FPL's Responses to Staff's Fourth Request for Production of Documents, Nos. 23 and 24, which is item 64.

And finally, FPL's Responses to OPC's First Request for Production of Documents, Nos. 12, 16 through 20, 22, 26 and 41, and those are item 69 from staff's composite exhibit.

CHAIRMAN CARTER: Okay. Based upon the stipulation, enter it without objection. Show it done.

(Exhibit 35 on the Composite Exhibit List, Item 10, Nos. 228, 229, 230 and 231; Item 37, Nos. 15, 16, 17, 19, 33, 35, 36, 37, 38 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51C; Item 38, Nos. 55, 60, 61, 62, 64 and 66; Item 39, Nos. 67, 69, 70, 71, 72 and 74; Item 41, Nos. 83, 86, 87, 88, 89, 91, 92, 94, 96, 97, 99, 100, 102, 103, 104, 106, 111, 112, 114 and 115; Item 42, Nos. 16, 60-A, 60-C and 75; Item 63, Nos. 15, 16, 19 and 20; Item 64, Nos. 23 and 24; Item 69, Nos. 12, 16, 17, 18, 19, 20, 22, 26 and 41, marked for identification and admitted into the record.)

CHAIRMAN CARTER: Okay. Call your next witness.

MR. BUTLER: Thank you. That would be Mr. Stall, and may Mr. Clarke be excused?

CHAIRMAN CARTER: Absolutely. Have a great day. Be safe.

THE WITNESS: Thank you very much.

MR. ROSS: Mr. Chairman, Mr. Stall was

previously sworn when he gave his direct testimony.

CHAIRMAN CARTER: Okay.

DIRECT EXAMINATION

BY MR. ROSS:

Q Mr. Stall, would you just remind the parties of your -- by whom you are employed and in what capacity?

A Okay. My name is Art Stall. I'm employed by Florida Power & Light as president of the Nuclear Division.

Q Have you prepared and caused to be filed four pages of prefiled rebuttal testimony in this proceeding?

A I have.

Q Do you have any changes or revisions to your prefiled rebuttal testimony?

A No, I do not.

Q If I asked you the same questions contained in your rebuttal testimony here today, would your answers be the same?

A Yes, they would.

MR. ROSS: Mr. Chairman, I would ask that the prefiled rebuttal testimony of Mr. Stall be inserted into the record as though read.

CHAIRMAN CARTER: The prefiled rebuttal testimony of the witness will be inserted into the

record as though read.

BEFORE THE FLORIDA PUB LIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

REBUTTAL TESTIMONY OF J.A. STALL

DOCKET NO. 080677-EI

AUGUST 6, 2009

Q. Please state your name and business address.

A. My name is J.A. Stall. My business address is Florida Power & Light Company, 700 Universe Blvd., Juno Beach, Florida 33408.

Q. Did you previously submit direct testimony in this proceeding?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address claims made in the direct testimony of South Florida Hospital and Healthcare Association witness Kollen relating to nuclear staffing issues that I support in my direct testimony. Specifically, my testimony demonstrates that Mr. Kollen's assertions that FPL's proposed nuclear staffing increases should be disallowed are not valid.

Q. What is your response to Mr. Kollen's assertion that FPL's proposed nuclear staffing increase of 270 should be disallowed?

A. This assertion should be rejected. First, contrary to Mr. Kollen's assertions, the 270 head count increase referenced in the testimony comparison was between the 2006 test year utilized in the last base rate case to 2010 test year utilized in the current base rate case. In contrast, Mr. Kollen artificially inflated his alleged 23% staffing increase number by comparing the actual 2006 nuclear staffing

level – which did not consider authorized but unfilled positions -- against the 2010 forecast – which assumed that all authorized positions will be filled or that the budgeted work would be completed through overtime and/or contract labor. This mixes and matches inconsistent concepts. Further, FPL witness Slattery explains the difficulties faced by FPL in staffing all authorized positions and this is particularly true in the nuclear arena. Having said that, all of our work must still be completed, whether the Company uses contract labor or increases the amount of overtime. Thus, the focus on headcount by Mr. Kollen, even with the improper frame of reference, is misplaced.

In addition, the 270 head count increase represents a total head count that includes 129 positions supporting non-O&M activities such as uprate, capacity clause, and affiliate support. The Nuclear Division does not forecast full time equivalents by expense type, (i.e., uprate and capacity clause). The O&M costs forecasted in the 2010 test year do not include costs associated with these non-base O&M positions

Second, due to the specialized nature of requirements for nuclear experience, it is imperative that an experienced nuclear operator train its employees. For example, St. Lucie currently has a number of employees in the maintenance and operations training pipelines. None of these employees can be utilized in daily plant operations without individual supervision. As mentioned in my direct testimony, it can take as long as 8-9 years to develop an operator candidate into a senior reactor operator. Additionally, other positions can take 1-3 years to

train. As one might expect with such a lengthy program, there is a fair amount of attrition along the way. Incremental staffing is needed to assure that we have sufficient experienced nuclear operations personnel.

Third, and as I alluded to earlier, the head count represents the number of employees needed to support the level of effort necessary to ensure safe and reliable operations of our nuclear plants. In the event we are not successful in hiring employees to fill the positions, FPL would be required to hire contractors to perform the work. Unfilled positions that may be included in headcount, therefore, is the wrong area of focus for purpose of assessing the Company's O&M projections.

Q. How do you respond to Mr. Kollen's claim that FPL has been reducing nuclear staffing during the recession and the Company has been forced to engage in cost reductions compared to its budget?

A. This assertion is false. FPL is still hiring today to fill critical positions to ensure the safe and reliable operation of our nuclear plants. FPL will need to hire to forecasted amounts to ensure adequate staffing to prudently plan for attrition and retirements, both of which are inevitable in managing a large workforce.

Q. How do you respond to Mr. Kollen's assertion that FPL's proposed increase in staffing levels is inconsistent with capital investments made and included in base rates to improve the performance and material condition of nuclear facilities that should reduce staffing levels and O&M, not increase year to year?

A. This claim is without merit. First, long term capital investments provide improvements in long term plant reliability and are not made to offset the need for staff. These investments result in fuel savings to FPL's customers because nuclear is the lowest cost provider of generation in the FPL system. Second, many of the capital investments mentioned in my direct testimony were in response to NRC regulatory requirements (e.g., Alloy 600) and NRC commitments for license renewal. These investments ensure that our nuclear units will operate into their extended license terms and provide fuel savings for our customers in the extended operating periods. Mr. Kollen's assertion is nothing more than an ill-conceived hypothesis that has no foundation in reality.

Q. Does this conclude your rebuttal testimony?

A. Yes.

BY MR. ROSS:

Q Mr. Stall, during your direct testimony, were you asked to cause to prepare an exhibit regarding attrition and hiring of nuclear employees?

A I was.

MR. ROSS: And, Mr. Chairman, we have passed out to the parties and to the Commissioners a document marked Hearing Exhibit 404 which is intended to be responsive to that request.

CHAIRMAN CARTER: Okay, hang on a second. We got that earlier this afternoon. Is this it?

You may proceed. I'll find it in a minute.

(Exhibit No. 404 marked for identification.)

BY MR. ROSS:

Q Mr. Stall, have you prepared a summary of your rebuttal testimony?

A I have.

Q Would you please provide your summary to the Commission?

A Yes. Good afternoon, Mr. Chairman and fellow Commissioners.

My rebuttal testimony addresses claims made by the South Florida Hospital and Healthcare Witness Kollen related to nuclear staffing issues. My testimony discusses the need for 270 incremental staff positions

contrary to the positions taken by Mr. Kollen.

Unfortunately, Mr. Kollen artificially inflated his alleged 23 percent staffing increase number by mixing and matching inconsistent concepts. He compared the actual 2006 nuclear staffing level which did not consider authorized but unfilled positions against the 2010 forecast which assumed that all authorized positions will be filled or that the budgeted work would be completed through overtime and/or contractors.

All of the Nuclear Division's work must still by completed whether the company uses contract labor or increases the amount of overtime to ensure the safe and reliable operation of our nuclear plants. Therefore, focusing on unfilled positions that may be included in head count is incorrect for the purposes of assessing the company's O&M projections going forward.

In addition, the 270 head count increase represents a total head count that includes 129 positions supporting non-O&M activities such as power-up rates, capacity clause and affiliate support, and the O&M costs forecasted in the 2010 test year do not include costs associated with these non-base O&M activities or positions.

Due to the specialized nature of requirements

for nuclear experience, it is imperative that a nuclear operator train its employees. None of our new employees attending the maintenance and operations training may be utilized in daily plant operations without individual supervision, and it can take as long as eight to nine years to develop an operator candidate into a senior reactor operator. With such lengthy training and qualification programs, there is a fair amount of attrition along the way. Because of these factors, incremental staffing is needed to assure that we have sufficient experienced nuclear operations personnel.

Claims that FPL is reducing nuclear staffing are not correct. FPL is hiring today to fill critical positions to ensure the safe and reliable operation of our nuclear plants. FPL will need to hire to forecasted levels to ensure adequate staffing, to prudently plan for attrition and retirements, both which are inevitable in managing the large workforce.

Finally, long-term capital investments provide improvements in long-term plant reliability and do not offset the need for plant staff. These investments result in fuel savings to FPL's customers because nuclear is the lowest cost provider of generation on our system.

Further, many of the capital investments

mentioned in my direct testimony responded to NRC, Nuclear Regulatory Commission, requirements, such as alloy 600 and license renewal commitments.

These investments ensure that our nuclear units will operate into their extended license terms and provide the long-term fuel savings for our customers.

Thank you. That concludes my summary.

MR. ROSS: Tender the witness for cross-examination.

CHAIRMAN CARTER: Okay. What's our lineup?

Mr. Wiseman?

Mr. McGlothlin, are you on first this time?

MR. McGLOTHLIN: We have no questions for this witness.

CHAIRMAN CARTER: Is it Ms. Purdue or Ms. --

MS. SPINA: Ms. Spina.

CHAIRMAN CARTER: Ms. Spina. I'm so sorry. After another week, I'll have everybody's name down pat.

MS. SPINA: Well, hopefully we won't be here next week. I'm not planning on being here next week. I don't know about you.

CROSS EXAMINATION

BY MS. SPINA:

Q Good afternoon, Mr. Stall. Welcome back.

A Thank you.

Q FPL is undertaking various control room digital upgrades, correct?

A That's correct.

CHAIRMAN CARTER: Could you please get a little closer? Just -- yeah, there you go.

BY MS. SPINA:

Q Among other things, these upgrades will replace some of the older technology and equipment with newer technology and equipment, correct?

A That is correct.

Q And as a general rule, having newer technology and equipment will reduce the costs associated with maintaining those assets, correct?

A Over the life cycle of the particular component, that is generally true.

Q You note that you made many of the capital investments mentioned in your direct testimony in response to regulatory or other requirements. The fact that you were required to make certain investments doesn't preclude you from obtaining the benefits associated with those investments, does it?

A That's correct.

MS. SPINA: I have a document here.

CHAIRMAN CARTER: Do you need a number?

MS. SPINA: No. This is an excerpt --

CHAIRMAN CARTER: It's already -- okay. Good.

MS. SPINA: This is an excerpt of what is currently designated Exhibit LK-13. It was an exhibit to Mr. Kollen's testimony.

CHAIRMAN CARTER: Okay, hang on a second. Let's everybody get a copy of it and we can launch out from there.

Thank you. You may proceed.

MS. SPINA: Thank you, Mr. Chairman.

BY MS. SPINA:

Q Mr. Stall, this excerpt is FPL's Supplemental Attachment 1 to its Response to SFHHA's Tenth Set of Interrogatories, question number 291, correct?

A Correct.

Q Did you prepare this response?

A I'm sure somebody on my staff prepared it on my behalf.

Q Okay. And would you agree with me that this is a manpower trend report showing the actual number of employees in FPL's nuclear division on a monthly basis from January, 2007, through April, 2009?

A Let me just briefly, if I could, flip through it.

Yes.

Q And if you would turn with me to the fifth

page of this excerpt, I think in the, what is the lower right-hand corner of the horizontal landscape approach that's labeled page 23 of 24 -- are you there?

A I am there.

Q Okay. Let's look at the second column from the right which is titled 009/2008. Do you see that?

A I do.

Q Okay. In the very last line of that column which is titled R31000, Nuclear Division Business Unit, shows a total of 1,898.5 employees, does it not?

A That is correct.

Q Now let's look at the last column on that page which is titled 010/2008. Are you there?

A I'm there.

Q Okay. Now, looking again at the very last line of that column, that line shows a total of 1,897.5 employees in the Nuclear Division Business Unit, correct?

A Correct.

Q So that's showing one less employee in October of 2008 than FPL had in September of 2008, correct?

A Yes.

Q Okay. Now let's turn to the next page, if you would. Let's look at the third column from the left, which is titled 011/2008.

Now the last line of that column is showing a total of 1,894.5 employees in the Nuclear Division Business Unit, correct?

A Yes.

Q And that's three employees less than FPL had in its Nuclear Division Business Unit in October, 2008, correct?

A That's correct.

Q And the next column, titled 12/2008, or I guess it's 012/2008, is showing a total of 1,888.5 employees in the Nuclear Division Business Unit, correct?

A Yes.

Q And that's a reduction of six employees from the previous month, is it not?

A That's correct.

Q Okay. And if you look at the last line of each of the remaining three columns on the page, would you agree with me that the number of total Nuclear Division Business Unit employees shows on this chart goes down each month compared to the previous month?

A Yes, I would agree with that.

Q Okay. And turning to the next page, the last line of the last column on that page titled 004/2009 shows a total of 1,862.5 employees in the Nuclear

Division Business Unit, does it not?

A That's correct.

Q Okay. And would you accept, subject to check, that the total number of Nuclear Division Business Unit employees shown for April, 2009, is 36 employees less than the total number of Nuclear Division Business Unit employees shown for September, 2008?

A Subject to verification of the math, yes, I would accept that.

Q Okay, thank you very much, Mr. Stall.

MS. SPINA: I have nothing else.

CHAIRMAN CARTER: Ms. Bradley -- Mr. McGlothlin, you said you had no cross.

Ms. Bradley, you're recognized.

MS. BRADLEY: Thank you.

CROSS EXAMINATION

BY MS. BRADLEY:

Q Mr. Stall, this exhibit, I think we were all calling it 404 when it was handed out?

A Yes, I have that.

Q Okay. Now, your company was complaining about losing employees to other companies, correct?

A That's correct.

Q And this exhibit seems to show that you lost 72 employees to other nuclear plants, correct?

A That's the number of the total population of 202 that we lost due to voluntary attrition. 72 is the number that we can definitively say have gone to these particular nuclear operators. There's also, as you will see, 44 that left to go with other contracting organizations, for example, companies like Westinghouse or General Electric, other nuclear industry companies; and then, of the 68 that did not provide information, even though we do not know with certainty, I believe that a substantial proportion of those or a number of those also left for other nuclear jobs that they just for some reason did not want to tell us where they were going.

Q Well, I was going to ask you about that if you'll hold on just a minute.

A Okay.

Q During that same time period you hired 93 employees from other nuclear operating plants, correct?

A That's correct.

Q And looking at it, you lost 13 to Progress but you hired 12 from Progress, so you only had a loss of one, net, correct?

A That's correct.

Q And you lost 13 to the Arizona Public Service Company, but you got one, so that was only a loss of 12,

correct?

A That's correct.

Q And you lost nine to Intergy but you got 15, so you gained six overall, correct?

A That's correct.

Q And then -- let's see. Well, I'll look go through them all. You lost eight to Constellation, but you gained three, so you only lost five, correct?

A I think that's correct, but there's another aspect of this that's -- as I indicated in my direct testimony -- which is more important than the numbers, and that is, you have to look at the particular skill set of the individuals that left and that we retained.

For example, you talked about Arizona Public Service Company. We lost senior managers in our nuclear program to Arizona Public Service Company, but in return, even though we hired from them, we did not hire any of their senior managers, so just as important, if not more important, than the raw numbers are the skill sets that leave, and I would say that the more senior the position and the more experienced the position, the more difficult it is to replace that and the higher the expenses and costs for bringing somebody in to replace that individual would be. So that's just part of the story when you talk raw numbers.

Q Would it be fair to say that the next time you start taking from other companies you probably need to hire a higher skill set, then?

A Well, we do. We go after the -- when we were out recruiting, just like everybody else, we go after the most qualified individuals that we can find, but these other companies, I think it's important to note, have retention hooks in their people just like we do, and sometimes the cost of that becomes just absolutely so prohibitive that we go to plan B.

So we make a lot of effort to minimize the expenditures that we have associated with recruiting and hiring those people from out in the industry, and that's the reason why we're investing so heavily in these programs at the community college level, to be able for grow our own, because I think, if you look at this data over a period of time, any rational person would come to the conclusion that it's really not a sustainable model, going forward, and we need to have a different approach.

And this an industry issue that we're working on as an industry. The cycling of people through the industry is not healthy and it's not cost-effective, so we're investing, at FPL, in these community college programs to bring young people in at the lower levels who are committed to being in south Florida and they're

going to want to stay with us over the long run, and that is, I think, the most important thing that we're doing today for the long-term sustainability of the programs when it comes to the people.

Q Okay. If you don't mind, I'd like to go back to my questions.

This shows that you lost eight to Tennessee Valley Authority, but you gained seven from them, so that would be a net of one, correct?

A Let me see. Correct.

Q And you lost six to TXU Luminant, and I don't believe you got any, so that was a net of minus six, correct?

A Correct.

Q You lost four to Dominican Resources but you got five, so that was plus one from them, correct?

A Correct.

Q You lost three to Public Service Electric and Gas Company, but you got two, so you only lost one, a net of one, correct?

A Correct.

Q You lost two to Exelon, but you got ten, so you gained eight on that exchange, correct?

A That's correct.

Q And it looks likes a wash on Duke. You lost

two but you got two, correct?

A That's correct.

Q On Southern Company, you lost two but you got five, so that was a plus three, correct?

A That's correct.

Q And you lost one to First Energy but you got four, so that was a plus three, correct?

A Correct.

Q And finally, you lost one to PPL but you got three, so that was a plus two, correct?

A That's correct.

Q And it was a total plus 11 for that exchange?

A Well, I would disagree between the intimation in the question. It's not a tit-for-tat game. It's not a mathematical balancing of an equation. Again, it's -- frankly, it's meaningless to compare numbers to numbers. You have to look at the skill set and the individuals that were left to get the accurate picture of what's going on there.

Q You already mentioned that. Thank you.

Now, you lost 44 employees that went to work for contracting organizations serving the nuclear industry, correct?

A Correct.

Q But you hired 119, so that would be a plus 75,

correct?

A That's correct.

Q And you had 18 former employees who left to pursue careers outside the nuclear industry, correct?

A That's correct.

Q But you hired 309 in that category, so that would be plus 291 in that category, correct?

A Correct.

Q It would be fair to say that when you're hiring from other nuclear plants, it's not like hiring from outside the nuclear industry. They would at least have some experience with nuclear and be able to be trained quicker even if they're moving into a higher position, correct?

A Well, with the exception of operations personnel. Operations personnel, for example, licensed nuclear operators, their license does not translate from one facility to another, so if we hire a licensed operator from another nuclear plant, we have to start all over again in terms of putting them through the class, gaining familiarity with the physical plant and then having them sit for a Nuclear Regulatory Commission license, which is why it is so important that we have a robust pipeline and that we have incentives to attract and retain operators at these plants.

Q Would it be fair to say, though, that they have a leg up over somebody that never had any experience in a nuclear plant?

A They certainly would have a jump start.

MS. BRADLEY: Okay, no further questions. Thank you.

CHAIRMAN CARTER: Ms. Kaufman?

MS. KAUFMAN: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MS. KAUFMAN:

Q Good afternoon, Mr. Stall, or good evening.

A Good afternoon.

Q Ms. Bradley took you through all that math, and I'm certainly not going to do that again. As I understand the genesis of this exhibit -- and I apologize as to who asked for it, it might have been Commissioner Argenziano, but I really don't recall, but it arose, would you agree, from questions about employees being poached from FPL?

A That's correct.

Q And if you look at the numbers as a whole on your exhibit, would you agree that it is really FPL who's doing more poaching from other companies than the other way around?

A We are certainly very active in the poaching,

and the numbers over this particular period of time would support that. We just went through the math, but I think that what doesn't show, again, in these numbers is the amount of attempted poaches that we have on our people day-to-day, and the reason that we have been more successful than others is that I think our HR Department has done generally a better job, perhaps, than some of these other organizations in putting the protections in for our people. Absent the actions that we've taken, we would have been talking about a lot more attrition here than what we have today.

Q So if I understand what you just told me, this doesn't reflect FPL employees who are poached but did not take an offer from another company, correct?

A That's correct, and that's a very important piece of this.

Q Right. Now, this also doesn't reflect the other companies whose employees were approached and did not take another offer, does it?

A We have no way of having any data on the other companies in that regard.

Q And just one more question: You talk in the beginning of the exhibit at the top there about voluntary attrition, and though I understand that some of these employees in the first block left to go to

other nuclear plants, you don't have any way to know, do you, if they moved because they had family there, they wanted to go to a different state, they, you know, had some other issue with FPL? This doesn't tell us anything about that, does it?

A No, this doesn't suggest anything in that regard.

Q And this data, was this collected from the exit interviews that we've discussed earlier in the case?

A That's correct.

Q And there's quite a number of employees that you don't know why they left, 68, correct?

A That's correct.

MS. KAUFMAN: Thank you.

ACTING CHAIRMAN EDGAR: Mr. Wright?

MR. WRIGHT: No questions, Madam Chairman. Thank you.

ACTING CHAIRMAN EDGAR: Okay, thank you.

And I think we've hit all the Intervenors for questions with this witness. Questions from staff?

MS. BROWN: No questions.

ACTING CHAIRMAN EDGAR: Questions from Commissioners?

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chairman.

Good afternoon, Mr. Stall.

THE WITNESS: Good afternoon.

COMMISSIONER SKOP: Welcome back.

THE WITNESS: Thank you.

COMMISSIONER SKOP: I promise this will be easy, so just two quick questions.

With respect to the question that was asked on redirect, is the transition to digital instrumentation in the control room resulting in part from the measurement uncertainty recapture power up-rate performed on the existing reactor fleet?

THE WITNESS: No, that's the two percent calorimetric error that allows us to capitalize on that uncertainty, and that has really nothing to do with the digital upgrade. The digital upgrade project is primarily related to obsolescence. It's becoming increasingly difficult to retain or to obtain replacement parts for these old analog control and protection systems in the reactor systems themselves. And additionally, a lot of the young people that are coming up today with electronics background and training are just not trained in the analog. It's all digital.

So we, along with the rest of the industry, are having to move to digital control and protection

systems.

COMMISSIONER SKOP: Okay. And then one other question. On page 4 of your rebuttal testimony on line 6, you speak to the NRC regulatory requirements. Is the replacement of the reactor vessel head and the other primary loop components due to, I guess, corrosion and stress cracking of the Inconel alloy used in the components or can you elaborate a little bit on the alloy 600?

THE WITNESS: You're correct, it is due to a phenomenon called primary water stress corrosion which happens in a very pure water environment, like inside the piping on a nuclear reactor, and we happen to have, at our St. Lucie plant, just by the nature of the design, a large amount of this alloy 600 material, and we also had it at Turkey Point with the reactor heads, and there's been some significant industry experience with cracking that's been discovered, and that has led to the promulgation of NRC requirements to inspect and/or what we call mitigate those welds and in some cases replace components like the reactor heads if that makes sense economically. So that's how that came about.

COMMISSIONER SKOP: All right. Thank you very much.

THE WITNESS: You're very welcome.

ACTING CHAIRMAN EDGAR: And I think that brings us to redirect.

MR. ROSS: Just a few questions on redirect.

REDIRECT EXAMINATION

BY MR. ROSS:

Q Mr. Stall, the questions about the digital upgrades, is it true that a portion of the digital upgrades are specifically control room equipment?

A Yes, that's correct.

Q Will the digital upgrades in the control room allow the company to reduce control room operator staffing?

A No, not at all.

Q You were asked some questions about hiring and attrition. Does the company track attrition rates at its different power plants?

A Yes, we do.

Q Do you know how the attrition rates -- what the rates have been, for example, at the Turkey Point plant for the last three years and whether that rate has changed?

A Well, I think the record would show very clearly in our archives that we have had a significant problem with attrition at Turkey Point for the last, I don't know, five years, anyway, and we were having a lot

of poaching going on at that plant in particular. We, several years ago, began to put some of these retention programs in place at Turkey Point, and over the last couple of years specifically the attrition rate at Turkey Point has dropped by half. So we're seeing very good success, and I believe -- and I don't have the numbers here today, but 2009 is -- year-to-date is our best in several years in terms of retention down there. So these programs are beginning to pay off for us.

Q You were asked some questions by counsel for the Hospital Association about the head count compared from a date in 2007 to April, 2009, and I think you said that there is 36 less individuals working in the Nuclear Division between one point in time and the other. Do you remember that line of questioning?

A I do remember that.

Q Is that reduction in head count the result of any deliberate action by FPL to reduce staffing in the nuclear division?

A No, not at all, and, as a matter of fact, I believe as we sit here today we're somewhere north of 1,950 in terms of our staffing, so we're actively recruiting even as we speak today in attempting to fill these vacancies.

Q Finally, you were asked some questions by the

representative of the Attorney General on Exhibit 404. That's the attrition and the hiring, and you were taken through some numbers.

What is the difference between, over this period of time, the number of employees lost and the number of employees hired?

A Well, without sitting here doing the math, we hired 521, we lost 202, so we're, you know, 320 or so to the good.

MR. ROSS: No further questions.

ACTING CHAIRMAN EDGAR: Thank you. Exhibits?

MR. ROSS: FPL moves admission of 404.

ACTING CHAIRMAN EDGAR: Any objection?

Hearing none, Exhibit 404 will be entered into the record at this time.

(Exhibit No. 404 admitted into the record.)

ACTING CHAIRMAN EDGAR: Any other matters for this witness?

The witness is excused. Thank you very much.

THE WITNESS: Thank you.

ACTING CHAIRMAN EDGAR: Mr. Chairman, I believe from our discussion that brings to us Witness Pollock, but I'll look to you to tell us where we're headed.

CHAIRMAN CARTER: Call your next witness.

MS. KAUFMAN: The Florida Industrial Power Users Group would call Mr. Pollock, and while he's taking the stand, I'm going to distribute his errata.

CHAIRMAN CARTER: Say again?

MS. KAUFMAN: I'm sorry. I said the Florida Industrial Power Users Group would call Mr. Pollock, and while he's coming to the stand, I'm going to distribute the errata to his testimony, if that's all right.

CHAIRMAN CARTER: Okay. Has Mr. Pollock been sworn?

MS. KAUFMAN: Yes, sir, he has.

CHAIRMAN CARTER: Make sure your microphone is on, Mr. Pollock.

THE WITNESS: It's on.

CHAIRMAN CARTER: Okay. Good.

Hang on a second. Staff, this was used for cross-examination. We did not mark this manpower report, did we? That was only for cross-examination purposes, correct? Mr. Wiseman?

MR. WISEMAN: Yes, that was just used in cross-examination.

CHAIRMAN CARTER: Just for cross-examination. Okay, thank you. So we're at 452. Okay.

All right. You don't need a number because you used it for cross-examination, right, Ms. Kaufman?

MS. KAUFMAN: Yes, Mr. Chairman, I would like a number, and I apologize for not having an exhibit cover sheet on this, but if we could just mark this as No. 453, both pieces of paper. It's the errata to Mr. Pollock's testimony.

CHAIRMAN CARTER: Oh, so you want to make it a composite?

MS. KAUFMAN: Yes, if that's okay with you.

CHAIRMAN CARTER: 453, Commissioners. 453.

MS. BENNETT: Mr. Chairman?

CHAIRMAN CARTER: Yes, ma'am.

MS. BENNETT: I am a little confused. There are two errata sheets?

MS. KAUFMAN: Yes, ma'am.

MR. BUTLER: But they're not same and they don't overlap, is that right? We look to both of them, each of them has some of the errata in it?

MS. KAUFMAN: Yes, there were two sets of revisions, and I'm sorry for the confusion.

CHAIRMAN CARTER: Everybody clear now?

MR. WISEMAN: Could we get a clarification of which exhibit is 453, which of the two erratas?

CHAIRMAN CARTER: Okay, here you go, boys and girls. The thicker of the two will be 453-A, the thinner of the two will be 453-B, okay? You got it,

guys? We're all on the same page. So we've got a 453-A, Commissioners, and a 453-B. The thicker one is 453-A.

(Exhibit Nos. 453-A and 453-B marked for identification.)

MS. KAUFMAN: Thank you, Mr. Chairman.

MR. BUTLER: I hate to be difficult, but just to be sure we're talking about the same thing, 453-A ends with this revised Exhibit JP-4, is that right?

MS. KAUFMAN: That's right.

MR. BUTLER: Okay. Thank you.

CHAIRMAN CARTER: Okay. Ms. Kaufman, you may proceed.

MS. KAUFMAN: Thank you, Mr. Chairman.

Whereupon,

JEFFRY POLLOCK

was called as a witness on behalf of Florida Industrial Power Users Group and, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. KAUFMAN:

Q Mr. Pollock, good afternoon.

A Good afternoon.

Q Would you state your name and your business address for the record, please?

A Jeffry Pollock; the business address is 12655 Olive Boulevard, St. Louis, Missouri.

Q And by whom are you employed and on whose behalf are you appearing in this proceeding?

A I am employed with the firm J. Pollock, Incorporated, and I'm representing the Florida Industrial Power Users Group in this proceeding.

Q Now, Mr. Pollock, did you cause to be filed in this proceeding 70 pages of testimony?

A Yes.

Q And with the two errata that we have just distributed and labeled as 453-A and 453-B, is your testimony as filed true and correct?

A Yes.

Q And if I asked you the same questions today, would your answers be the same?

A Yes, to the best of my knowledge.

Q Now, Mr. Pollock, you also had Exhibits 1 through 11 to your testimony, is that correct?

A Yes.

Q And in the errata you have a change to one of those exhibits, correct?

A Yes.

Q And that would be JP-4?

A Right, in Exhibit 453-A.

MS. KAUFMAN: And I was looking for the prenumbered exhibits for Mr. Pollock.

CHAIRMAN CARTER: Okay. Staff, can you help us out with the prenumbers on the comprehensive exhibit list for those exhibits for Mr. Pollock? Let's just take a moment. We'll find it.

MS. KAUFMAN: I found it, Mr. Chairman.

CHAIRMAN CARTER: Beginning on page 33 --

MS. KAUFMAN: Yes, sir.

CHAIRMAN CARTER: Beginning on page 33.

MS. KAUFMAN: It would be Exhibits 257 through 268.

CHAIRMAN CARTER: 268, absolutely. Thank you, Ms. Kaufman.

MS. KAUFMAN: Getting out of order has kind of messed up the order of my list here as well.

BY MS. KAUFMAN:

Q Mr. Pollock, I might have asked you this already, but if I asked you the questions contained in your direct testimony today, would your answers be the same?

A Yes.

MS. KAUFMAN: Mr. Chairman, I would ask that Mr. Pollock's testimony be in inserted in the record as though read.

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

1. INTRODUCTION, QUALIFICATIONS, AND PURPOSE

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Jeffry Pollock; 12655 Olive Blvd., Suite 335, St. Louis, MO 63141.

Q WHAT IS YOUR OCCUPATION AND BY WHOM ARE YOU EMPLOYED?

A I am an energy advisor and President of J. Pollock, Incorporated.

Q PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A I have a Bachelor of Science Degree in Electrical Engineering and a Masters in Business Administration from Washington University. Since graduation in 1975, I have been engaged in a variety of consulting assignments, including energy procurement and regulatory matters in both the United States and several Canadian provinces. I have participated in regulatory matters before this Commission since 1976. More details are provided in Appendix A to this testimony.

Q ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A I am testifying on behalf of the Florida Industrial Power Users Group (FIPUG). Participating FIPUG companies take power from Florida Power & Light Company (FPL). These customers require a reliable low-cost supply of electricity to power their operations. Therefore, participating FIPUG companies have a direct and significant interest in the outcome of this proceeding.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A I will address the following issues:

- Depreciation-related matters (*e.g.*, the estimated life spans of FPL's coal and combined cycle units and the ratemaking adjustments to recognize that FPL has accumulated a $1.2 billion surplus depreciation reserve);
- The appropriate common equity ratio for determining FPL's cost of capital;
- The reasons that FPL's request for a rate increase in 2011 (Subsequent Year) is inappropriate;
- FPL's class cost-of-service study;
- Class revenue allocation; and
- Rate design.

Q ARE YOU FILING ANY EXHIBITS IN CONNECTION WITH YOUR TESTIMONY?

A Yes. I am filing **Exhibits JP-1** through **JP-11**. These exhibits were prepared by me or under my direction and supervision.

Q IN SOME OF THESE EXHIBITS, YOU HAVE USED FPL'S CLAIMED REVENUE REQUIREMENTS. DOES THIS CONSTITUTE AN ENDORSEMENT OF THE COMPANY'S PROPOSALS?

A No. My use of FPL's claimed revenue requirements is strictly for illustrative purposes and should not be interpreted as an endorsement of the proposed base revenue increases.

Summary

Q PLEASE SUMMARIZE YOUR RECOMMENDATIONS.

A First, with respect to revenue requirements, I am recommending:

- Reductions in depreciation expense based on longer life spans for FPL's coal (at least 55 years) and combined cycle (at least 35 years) units and a continuation of the $125 million depreciation adjustment authorized in FPL's 2005 rate case. The latter recommendation recognizes the very large ($1.2 billion) surplus in

the depreciation reserve and the need to restore generational equity; that is, current ratepayers should be charged only for the assets that are consumed to provide electric service.

- For the same reason, FPL should charge the remaining costs of the plants that are being retired early to the depreciation reserve, rather than amortizing them as an additional expense, and it should suspend contributions to the fossil plant dismantling fund until after the next depreciation study.
- FPL's capital structure should be adjusted to reduce the amount of common equity to 50.2% on an adjusted basis, which is comparable to the equity ratios of other comparably-rated electric utilities.
- The Commission should reject FPL's attempt to implement a subsequent year base rate increase in 2011 because it is speculative, inappropriate and unnecessary.

Second, with respect to FPL's class cost-of-service study, the methodology used to allocate production plant costs should reflect cost-causation. FPL is a strongly summer peaking utility and experiences its tightest margins during the summer months. This suggests that greater emphasis should be placed on summer month demands than is provided in the Twelve Coincident Peak and 1/13th Average Demand (12CP-1/13th AD) method used by FPL. However, 12CP-1/13th AD has been adopted by this Commission in past cases and it should not be replaced with another method that places greater emphasis on energy usage. Should the Commission decide to replace 12CP-1/13th AD, it should adopt the Average and Excess method rather than a peak and average method because the former recognizes the dual functionality of generating plants (*i.e.,* serving both base and cycling loads) without double-counting peak demand.

FPL's proposed class revenue allocation should be rejected because it would result in some classes receiving base rate increases over 150% of the system average increase. This violates the Commission's policy regarding the

use of cost-of-service study to set rates, subject to appropriate gradualism constraints.

Finally, FPL's proposed rate design should be revised to:

- More closely align the demand and energy charges to reflect the corresponding demand and non-fuel energy-related costs;
- Set the HLFT rates to blend at a 70% load factor with the corresponding GSD and GSLD rates;
- Correct the CILC rate design by spreading the payments to all customer classes (rather than being partially absorbed by the CILC customers); and
- Increase the CDR Rider credit to reflect the higher equipment costs and greater value of providing non-firm service than when the credit was first initiated.

2. DEPRECIATION

Background

Q WHAT IS DEPRECIATION?

A Depreciation reflects the consumption or use of assets used to provide utility service. Thus, it provides for capital recovery of a utility's current or original investment. Generally, this capital recovery occurs over the average service life of the investment or assets. The most commonly used definition of depreciation is found in the Code of Federal Regulations (CFR):

> Depreciation, as applied to depreciable electric plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities. (*18 CFR Part 101*)

Q WHAT ARE THE KEY PARAMETERS THAT DETERMINE THE AMOUNT OF DEPRECIATION RECOGNIZED FOR RATE-MAKING PURPOSES?

A Depreciation accounting provides for the recovery of the original cost of an asset over its life span adjusted for net salvage. As a result, it is critical that appropriate average life span be used to develop the depreciation rates so that present and future ratepayers are treated equitably. In addition to capital recovery, depreciation rates also contain a provision for net salvage. Net salvage is the value of the scrap or reused materials less the removal cost of the asset being depreciated. A utility will reflect in its rates the net salvage over the useful life of the asset.

Q HOW ARE DEPRECIATION RATES CALCULATED?

A Depreciation rates are essentially calculated using the following formula:

$$Remaining\ Life\ Rate = \frac{100\% - Reserve\% - Avg.Future\ Net\ Salvage\%}{Avg.Remaining\ Life\ in\ Years}$$

The above formula is prescribed in Rule 25-6.0436. Under this method of developing depreciation rates, the un-depreciated portion of the plant in service, adjusted for net salvage, is recovered over the average remaining life of the asset or group of assets. Therefore, at the end of the useful life, the asset is fully depreciated.

FPL's Depreciation Study

Q HAVE YOU REVIEWED THE DEPRECIATION STUDY FILED BY FPL IN THIS PROCEEDING?

A Yes.

Q WHAT DOES THE DEPRECIATION STUDY SHOW?

A The study recommends higher depreciation rates, which would generate an additional $22.6 million of depreciation expense. The increase is primarily due to shorter assumed life spans for production investments. FPL is also proposing to accelerate the recovery of certain capital investments, which would further increase depreciation expense by an additional $78.6 million (*Exhibit CRC-1* at 51).

Q WHAT ELSE DOES FPL'S DEPRECIATION STUDY SHOW?

A The study also shows that, based on the assumed remaining lives of its

investments and the projected book value as of December 31, 2009, FPL's book depreciation reserve is $1.245 billion higher than the "theoretical reserve." (*Id.* at 53). The theoretical reserve is the amount necessary to allow recovery of the existing investments over their projected remaining life spans. In other words, FPL has accrued a $1.245 billion reserve surplus.

Q IS THERE ANYTHING NOTEWORTHY ABOUT THE $1.245 BILLION DEPRECIATION RESERVE SURPLUS?

A Yes. The $1.245 billion surplus reserve occurs after a $500 million depreciation expense adjustment. The adjustment was the result of the Stipulation in FPL's 2005 rate case (Docket No. 050045-EI) authorizing FPL to reduce depreciation reserve by $125 million per year. FPL recorded a $125 million credit in depreciation expense in 2006, 2007 and 2008 and will record another $125 million credit in 2009. Therefore, by the end of 2009, FPL will have recorded $500 million associated with these credits in the depreciation reserve (*Direct Testimony and Exhibits of C. Richard Clarke* at 23).

Q WHAT IS THE SIGNIFICANCE OF THE SURPLUS?

A The purpose of depreciation is to recover capital investment, including removal costs. Such recovery should, to the extent possible, come from the customers that use the utility service. With the large depreciation surplus, the current generation of ratepayers has paid a disproportionate share of the assets consumed to provide utility services. Thus, it is clear that FPL's depreciation rates are neither fair nor equitable.

Q WHAT DEPRECIATION ISSUES WILL YOU ADDRESS?

A I will address:

- The life spans of coal and combined cycle units. Life spans are integral in determining the appropriate depreciation rates;
- FPL's proposed accelerated capital recovery of $314 million of early plant retirements; and
- Other measures to reduce the large surplus.

Life Spans

Q HAVE YOU REVIEWED THE LIFE SPANS THAT FPL USED TO DETERMINE ITS PROPOSED DEPRECIATION RATES?

A Yes. FPL's proposed life spans for coal and combined cycle (CC) units are shown in Exhibit CRC-1 and summarized below.

Plant Type	FPL's Proposed Average Life Spans
Coal	41
Combined Cycle	27

Q ARE FPL'S PROPOSED LIFE SPANS APPROPRIATE?

A No. FPL has significantly understated the life spans for these plant types.

Q ON WHAT DO YOU BASE YOUR OPINION THAT FPL'S PROPOSED LIFE SPANS ARE SIGNIFICANTLY UNDERSTATED?

A My opinion is based on actual plant lives, life spans used by other utilities for similar assets, and decisions by other regulatory commissions.

Q WHAT LIFE SPAN DOES FPL ASSUME FOR ITS COAL UNITS?

A FPL jointly owns Plant Scherer Unit No. 4 and St. John's River Power Park (SJRPP) station. According to Exhibit CRC-1, FPL assumes these facilities will be retired in 2029 and 2028, respectively. This translates into life spans of 40 years and 41 years, respectively.

Q HAS FPL PROVIDED ANY JUSTIFICATION FOR THE PROPOSED LIFE SPANS?

A No. The Company has not indicated when it will retire these units (*FPL's 2009 Ten Year Site Plan*, Schedule 1).

Q ARE 40-41 YEAR LIFE SPANS REASONABLE FOR COAL UNITS?

A No. FPL's proposed life spans are considerably shorter than the average lives of coal-fired plants as determined in proceedings. For example:

- 60 years for Indiana-Michigan Power company's Tanner Creek Units 1 through 4 and for its Rockport Unit 1 (Indiana Utility Regulatory Commission, Cause No. 43231, *Interim Order,* 6/13/2007);
- 55 years for coal plants operated by Southwestern Public Service Company (New Mexico Public Regulatory Commission, Case No. 07-00319-UT, *Order*, August 27, 2008);
- 59 to 68 years for coal units owned by AmerenUE (Missouri Public Service Commission, Cause No. ER-2007-0002, *Order,* May 22, 2007);
- 61 years for coal units owned by Rocky Mountain Power (Wyoming Public Service Commission, Docket No. 20000-257-EA-6, *Record No. 10794*, June 12, 2008);
- 60 years for Public Service Company of Oklahoma (Oklahoma Corporation Commission, Cause No. PUD 200600285, *Order No. 545168*, October 9, 2007); and
- 55 years for Georgia Power Company's Plant Scherer Units 1-3 (Georgia Public Service Commission, Docket No. 25060-U).

Thus, FPL's proposed life spans are considerably shorter than the life spans of actual coal-fired plants. Further, the two biggest operators of coal units in the nation, American Electric Power Company and The Southern Company, have determined that life spans of 60 years or more are achievable (Indiana Utility Regulatory Commission, Cause No. 43231, *Interim Order,* 6/13/2007, Florida Public Service Commission, Docket No. 050381-EI, *Order No. PSC-07-0012-PAA-EI*, January 2, 2007).

Q IS FPL'S PLANT SCHERER UNIT 4 LOCATED AT THE SAME SITE AS GEORGIA POWER'S PLANT SCHERER UNITS 1-3?

A Yes. I would also note the 55-year life span referenced above includes the Plant Scherer 3-4 common facilities, which FPL partially owns.

Q DO OTHER FLORIDA UTILITIES USE LONGER LIFE SPANS THAN FPL FOR THEIR COAL UNITS?

A Yes. Progress Energy Florida (PEF) proposes a 52-year average life span for its Crystal River Coal units in its pending rate case (Docket No. 090079-EI). In addition, Gulf Power Company extended the lives of the Plant Crist and Plant Smith units to 65 years (Docket No. 050381-EI, *Order No. PSC-07-0012-PAA-EI*, January 2, 2007).

Q WHAT CONCLUSIONS CAN BE DRAWN FROM INDUSTRY EXPERIENCE AND THE SPECIFIC EXAMPLES YOU'VE DESCRIBED?

A It appears that FPL has significantly understated the life span of its coal units, which results in increased depreciation costs which FPL wants ratepayers to

bear. FPL's coal units represent a nearly $1 billion investment. Given this significant investment, it stands to reason that these capital intensive investments should be operated as long as possible to obtain the greatest level of economic benefit. Thus, it should normally be cost effective to maintain such equipment in operating condition over the long term.

For all of the above reasons, the Commission should use a life span of *at least* 55 years for FPL's coal units.

Q WHAT IS THE IMPACT OF INCREASING THE LIFE SPANS OF FPL'S COAL UNITS TO 55 YEARS?

A The impact of increasing the life spans would be to decrease the depreciation accruals for the coal plants by approximately $10.5 million annually as shown in **Exhibit JP-1**.

Q HOW DID YOU CALCULATE THE CHANGE IN ANNUAL ACCRUALS?

A I recalculated the depreciation rate by first calculating the ratio of my recommended life spans to FPL's proposed life span by unit by FERC account. This ratio was then multiplied by the corresponding whole life (by unit by FERC account) to determine the adjusted whole life. The revised remaining life is the sum of (1) the difference between the adjusted whole life and FPL's proposed whole life and (2) FPL's proposed remaining life. The revised depreciation rate is the ratio of the remaining recoverable cost (including FPL's proposed net salvage rate) to the revised remaining life.

Q WHAT LIFE SPANS DOES FPL PROPOSE FOR ITS COMBINED CYCLE UNITS?

A The average life span for FPL's combined cycle (CC) units is 27 years. This ranges from 25 years for Turkey Point, Martin 8, and Manatee to 43 years for Putnam. The new West County Energy Center (WCEC) CC units are projected to have 25-year life spans (FPL's *2009 Ten-Year Site Plan* at p. 106).

Q HAS FPL JUSTIFIED THE LIFE SPANS OF ITS COMBINED CYCLE UNITS?

A No. There are no expected retirement dates for these units (FPL's *2009 Ten-Year Site Plan* at Schedule 1). FPL has not explained why it cannot operate these units for much longer than 27 years (25 years for its newest, most efficient WCEC units). The CC units represent a combined $6.2 billion investment. Since these are the most efficient units on FPL's system, it should be economic to maintain them in good operating condition for much longer than 27 years.

Q WHAT IS THE BASIS FOR YOUR OPINION THAT COMBINED CYCLE UNITS ARE CAPABLE OF OPERATING MUCH LONGER THAN 27 YEARS?

A My opinion is based on industry projections and practices, including the following:

- 40 years for Rocky Mountain Power's CC units (Utah Public Service Commission, Docket No. 07-035-13 and Public Utility Commission of Oregon UM 1329, *Order No. 08-327*, June 17, 2008);
- Over 60 years for Public Service Company of Oklahoma (Oklahoma Corporation Commission Cause No. 200600285, *Order No. 545168*, October 9, 2007);
- 35 years for Nevada Power Company Silverhawk and Lenzie CC units (Nevada Public Utilities Commission, Docket No. 06-11023, May 24, 2007);
- 35 years for Georgia Power Company McIntosh CC units (Georgia Public Service Commission, Docket No. 25060-U).

Further, FPL's Putnam CC units have been in service for over 30 years (FPL's *2009 Ten-Year Site Plan* at Schedule 1). In addition, in a study of capacity needs, the Michigan Public Service Commission (MPSC) used a 40-year life span for new CC units (MPSC Docket No. U-14231).

Q DO ANY OTHER FLORIDA UTILITIES USE LONGER LIFESPANS FOR THEIR COMBINED CYCLE UNITS?

A Yes. Progress Energy Florida (PEF) proposes a 30-year life span for its Hines Units in its pending rate case (Docket No. 090079-EI). Further, Gulf Power recently extended the life of Plant Smith Unit 3 to 34 years (Docket No. 050381-EI, *Order No. PSC-07-0012-PAA-EI*, January 2, 2007). While conservative in light of the non-Florida examples cited above, these Florida examples further demonstrate the unreasonableness of FPL's proposed life spans.

Q WHAT LIFE SPANS DO YOU RECOMMEND FOR COMBINED CYCLE UNITS?

A Based on industry practices and recognizing FPL's over $6 billion investment, the Commission should increase the life span to *at least* 35 years.

Q WHAT IS THE IMPACT OF INCREASING THE LIFE SPANS OF FPL'S COMBINED CYCLE UNITS TO 35 YEARS?

A The increase of the life spans would decrease the depreciation accruals for the combined cycle plants by approximately $84.5 million annually as shown on **Exhibit (JP-1)**. In addition, the increased life span would also decrease annual accruals of WCEC-3 by about $12.8 million. These adjustments were quantified using the same methodology as described previously.

Accelerated Capital Recovery

Q IS FPL PROPOSING TO ACCELERATE RECOVERY OF CERTAIN CAPITAL INVESTMENTS?

A Yes. FPL proposes the early retirement of several steam plants and meters that will become obsolete because of the deployment of its Automated Metering Infrastructure (AMI). Because of the early retirement, FPL asserts that it has not recovered $44.9 million of steam production plant and $101 million of meter investment (including estimated removal costs). It proposes to recover these costs over four years. FPL is also proposing a four-year recovery of $168 million of investment resulting from various nuclear plant uprates, including estimated removal costs (*Exhibit CRC-1* at 57).

Q WHAT IS THE MAGNITUDE OF THE PROPOSED ACCELERATED CAPITAL RECOVERY?

A The total investment subject to accelerated recovery is $314.2 million. Assuming a four-year amortization period, FPL is proposing to increase depreciation expense by $78.6 million.

Q IS FPL'S PROPOSED ACCELERATED CAPTIAL RECOVERY NECESSARY OR APPROPRIATE?

A No. As previously stated, FPL has a $1.2 billion surplus in its depreciation reserve. Given this very large surplus, it is unnecessary to charge ratepayers for capital costs (including the costs of removal) for investments that FPL has chosen to retire early.

Q SHOULD FPL'S DEPRECIATION PROPOSAL BE ADOPTED?

A No. As previously stated, the purpose of depreciation is to recover capital investment, including removal costs. Equity and fairness demand that such recovery should, to the extent possible, come from the customers that use the utility service. With the large depreciation surplus, the current generation of ratepayers has paid a disproportionate share of the assets consumed to provide utility services. Thus, it is clear that FPL's depreciation rates are neither fair nor equitable. An additional payment, in the form of accelerated capital recovery, would only worsen the situation.

Q HOW SHOULD THE CAPITAL COSTS OF INVESTMENTS FPL RETIRES EARLY BE TREATED FOR RATEMAKING PURPOSES?

A The depreciation reserve is more than sufficient to allow recovery of the entire $314.2 million. Therefore, I recommend that the entire $314.2 million be used to offset the huge surplus in FPL's book depreciation reserve. Offsetting the entire $314.2 million would be a step toward moving the actual book reserve closer to the theoretical reserve. This would help restore generational equity.

Q SHOULD THE COMMISSION TAKE ANY FURTHER STEPS TO RESTORE GENERATIONAL EQUITY?

A Yes. The Commission should order FPL:

- To continue booking the $125 million depreciation expense adjustment; and
- To cease contributions to the fossil dismantlement fund.

This treatment should continue until FPL files its next depreciation study. Coupled with my recommendation to offset the $314.2 million of capital retirements and assuming FPL's next depreciation study is filed in 2012 (three years from the filing date of this case), the book reserve would be reduced by an additional $749 million. This would still leave nearly $0.5 billion in excess book depreciation reserve.

Q IS THERE ANY PRECEDENT FOR REQUIRING FPL TO TAKE MEASURES NECESSARY TO ELIMINATE THE HUGE (OVER $1.2 BILLION) SURPLUS IN ITS DEPRECIATION RESERVE?

A Yes. My recommendations to correct a reserve surplus are the same in concept as prior Commission actions allowing FPL to correct reserve deficiencies. For example:

- FPL was to book $126 million (in accord with preliminary implementation approved in Order PSC-95-0672-FOF-EI), an additional $30 million commencing in 1996, and additional expense in 1996 and 1997 equal to 100% of base rate revenues produced by retail sales between its "low band" and "most likely sales forecast" for 1996, and at least 50% of the base rate revenues produced by retail sales above FPL's most likely sales forecast for 1996 to correct a $175.3 million deficiency in the nuclear depreciation reserve and to correct the reserve deficiency existing in FPL's other production facilities, which was calculated to be $60.3 million as of January 1, 1994 (Docket No. 950359-EI, *Order No. PSC-96-0307-PHO-EI*); and
- FPL was ordered to amortize the gain realized from the sale of a combustion turbine from Port St. Joe to be used to offset the reserve deficiency at the Suwanee Peaking Plant. (Docket No. 971570-EI, *Order No. PSC-98-1723-FOF-EI*).

Since FPL now has a huge reserve surplus, similar adjustments are appropriate and necessary to restore generational equity and to help mitigate the impact of

the proposed base rate increases.

Q PLEASE SUMMARIZE YOUR RECOMMENDATIONS ON DEPRECIATION EXPENSE.

A My recommendations are as follows:

Adjustments	Amount ($Millions)
Increase Coal Plant Life Spans to at Least 55 Years	$ 10.5
Increase Combined Cycle Plant Life Spans to at Least 35 Years:	
Existing Plants	$ 84.5
West County Unit No. 3	$ 12.8
Charge Early Retirements to the Depreciation Reserve	$314.2
Continue the Depreciation Expense Adjustment	$125.0
Cease Contributions to the Dismantlement Fund	$ 15.3

3. CAPITAL STRUCTURE

Q WHAT CAPITAL STRUCTURE IS FPL PROPOSING IN THIS PROCEEDING?

A FPL's proposed regulatory capital structure is shown in the first column of the chart below:

Component	MFR Schedule D-4	FPL Adjusted (AP-7)	Excluding Imputed PPAS
Long-Term Debt	31.52%	43.1%	39.20%
Short-Term Debt	0.95%	1.1%	1.18%
Common Equity	47.93%	55.8%	59.62%
Customer Deposits	3.31%		
Deferred Taxes	15.96%		
Investment Tax Credits	0.33%		

The second column is the adjusted capital structure that FPL claims to be achieving, according to FPL witness Mr. Pimental. The adjusted capital structure excludes customer deposits, deferred income taxes, investment tax credits and imputes to debt the obligations under various firm Purchased Power Agreements (PPAs). The third column shows FPL's adjusted capital structure excluding the imputed PPAs.

Q WHAT IS THE PROPOSED ADJUSTMENT FOR PURCHASED POWER OBLIGATIONS?

A FPL's adjusted capital structure includes $949,260,000 of imputed debt for purchased power obligations. As can be seen in the third column of the above chart, without this imputed debt, FPL's equity ratio would approach 60%. This

would make FPL among the least leveraged regulated electric utilities in the nation. For the reasons explained below, the Commission should set rates based on an adjusted capital structure (1) excluding imputed debt and (2) consisting of not more than 50% common equity.

Imputed Debt for Purchased Power Obligations

Q WHY DOES FPL IMPUTE $949.3 MILLION OF DEBT RELATED TO PPAS?

A FPL asserts that the financial community commonly takes into account obligations associated with PPAs. Since FPL has certain long-term PPAs, it is obligated to make certain fixed payments, which, it asserts, the rating agencies regard as equivalent to long-term debt (*Direct Testimony and Exhibits of Armando Pimental* at 34). According to FPL, long-term PPAs are those agreements that have a term of at least one year (*FPL's Response to SFHHA's Interrogatory No. 281*).

Q DO YOU AGREE WITH THIS ADJUSTMENT?

A No. It is unnecessary to impute debt for PPA obligations. The Commission's approval of PPAs is governed by Rule 25-17.0832 Florida Administrative Code (for standard offer and negotiated contracts). Once approved, FPL is allowed full and direct recovery of firm energy and purchased power capacity costs under the Fuel and Capacity Cost Recovery (CCR) clauses. Though such contracts are reviewed in the annual fuel adjustment proceeding, there is minimal recovery risk associated with PPAs.

Second, Moody's does not treat PPAs in the same way as Standard & Poor's (S&P).

Finally, the Commission has very recently addressed precisely this issue. In Tampa Electric's (TECO's) most recent rate case, TECO made the same argument that FPL puts forth here and it was rejected by the Commission.

Q DO ALL RATING AGENCIES IMPUTE THE FIXED OBLIGATIONS UNDER PPAS IN EVALUATING A UTILITY'S FINANCIAL STRENGTH?

A No. FPL's imputed debt adjustment reflects the methodology outlined by S&P. It is noteworthy that another ratings agency, Moody's, does not make a similar adjustment.

Q HOW DOES S&P RECOGNIZE THE DEBT EQUIVALENT OF PPAS?

A S&P quantifies the debt equivalent as the product of (1) a risk factor and (2) the net present value of the remaining capacity payments under each PPA. The risk factor is based primarily on the method of recovery of capacity payments.

Q WHAT RISK FACTOR HAS FPL USED IN ITS IMPUTED DEBT ADJUSTMENT?

A FPL has used a 25% risk factor (*Testimony and Exhibits of Armando Pimental* at 35-36). This choice is based on general criteria explained by S&P:

> If a regulator has established a power cost adjustment mechanism that recovers all prudent PPA costs, a risk factor of 25% is employed, because the recovery hurdle is lower than it is for a utility that must litigate time and again its right to recovery costs. (Standard & Poor's, *Corporate Credit Ratings 2008* at 75).

Q DOES THIS ACCURATELY REFLECT THE RISKS ASSOCIATED WITH THE RECOVERY OF PURCHASED POWER CAPACITY COSTS IN FLORIDA?

A No. Purchased power capacity costs are subject to dollar-for-dollar recovery through the CCR. This includes a true-up procedure that establishes a forward-looking charge, which is then reconciled based on actually incurred costs, with interest. The recovery mechanism is nearly identical to FPL's Fuel Charge.

Q DOES S&P RECOGNIZE THE RELATIONSHIP BETWEEN RISK AND THE TYPE OF COST RECOVERY MECHANISM?

A Yes. S&P states that:

> The calculated PV [present value] is adjusted to reflect the benefits of regulatory or legislative cost recovery mechanisms. The adjustment reduces the debt-equivalent amount by multiplying the PV by a specific risk factor that pertains to each contract. The stronger the recovery mechanisms, the smaller the risk factor. These risk factors typically range between 0% and 50%, but can be as high as 100%. (*Id.*)

Thus, S&P does not provide an objective standard for determining the appropriate risk factor. Dollar-for-dollar recovery of purchased power capacity costs is a very strong mechanism with no practical risk. The PPAs in question have been previously approved for recovery. In fact, the above discussion from S&P in conjunction with the policies and previous findings in Florida strongly suggest that the obligations under Commission-approved PPAs are risk free, so long as the utility properly manages the contracts.

Q DOES MOODY'S CONSIDER PPAS AS INHERENTLY MORE RISKY FOR ELECTRIC UTILITIES?

A No. Moody's specifically recognizes that the risk of PPAs is specifically related to

the applicable cost recovery mechanism as well as market dynamics:

> Pass-through capability: Some utilities have the ability to pass through the cost of purchasing power under PPAs to their customers. As a result, the utility takes no risk that the cost of power is greater than the retail price it will receive. Accordingly Moody's regards these PPA obligations as operating costs with no long-term debt-like attributes. PPAs with no pass-through ability have a greater risk profile for utilities. In some markets, the ability to pass through costs of a PPA is enshrined in the regulatory framework, and in others can be dictated by market dynamics. As a market becomes more competitive, the ability to pass through costs may decrease and, as circumstances change, Moody's treatment of PPA obligations will alter accordingly. (Moody's, *Rating Methodology: Global Regulated Electric Utilities*, March 2005 at 9.)

Thus, it is clear that Moody's does not regard PPAs as inherently risky and thus it imputes no debt for these contracts where recovery is guaranteed.

Q DOES FPL HAVE THE ABILITY TO PASS THROUGH THE COSTS OF ITS PPAS?

A Yes. As explained earlier, FPL has the ability to directly pass through purchased power capacity costs. In the case of certain purchases mandated by state statute, such as those from renewable energy sources, up-front approval is required for non-standard offer contracts, while standard offer contracts are considered reasonable.

Q DO FPL PPAS CONTAIN ANY CLAUSES FURTHER MITIGATING RISK?

A Yes. FPL recently included a clause in a PPA stating that if the Commission does not allow recovery of contract costs from ratepayers, FPL does not have an obligation to pay under the agreement.

> Notwithstanding anything to the contrary in this Amended Agreement, if FPL, at any time during the Term of this Amended

> Agreement, fails to obtain or is denied the authorization of the FPSC, or the authorization of any other legislative, administrative, judicial or regulatory body which now has, or in the future may have, jurisdiction over FPL's rates and charges, to recover from its customers all of the payments required to be made to the Authority under the terms of this Amended Agreement or any subsequent amendment hereto, FPL may, at its sole option, adjust the payments made under this Amended Agreement to the amount(s) which FPL is authorized to recover from its customers. (Negotiated Contract with The Solid Waste Authority of Palm Beach County, paragraph 16.4, which was submitted for approval on March 25, 2009 in Docket No. 090150-EQ)

This makes FPL's "risk" virtually non-existent.

Q DOES MOODY'S CONSIDER PPAS AS BEING LESS RISKY IN CERTAIN CIRCUMSTANCES?

A Yes. Unlike S&P, Moody's recognizes that PPAs can be less risky for a utility:

> Risk management: An overarching principle is that PPAs have been used by utilities as a risk management tool and Moody's recognizes that this is the fundamental reason for their existence. Thus, Moody's will not automatically penalize utilities for entering into contracts for the purpose of reducing risk associated with power price and availability. Rather, we will look at the aggregate commercial position, evaluating the risk to a utility's purchase and supply obligations. In addition, PPAs are similar to other long-term supply contracts used by other industries and their treatment should not therefore be fundamentally different from that of other contracts of a similar nature. (*Id.)*

Q ARE YOU SAYING THAT MOODY'S WILL NOT IMPUTE DEBT ASSOCIATED WITH PPAS?

A No. Moody's states:

> *Methods of accounting for PPAs in our analysis*
>
> According to the weighting and importance of the PPA to each utility and the level of disclosure, Moody's may analytically assess the total obligations for the utility using one of the methods discussed below.

> Operating Cost: If a utility enters into a PPA for the purpose of providing an assured supply and there is reasonable assurance that regulators will allow the costs to be recovered in regulated rates, Moody's may view the PPA as being most akin to an operating cost. In this circumstance, there most likely will be no imputed adjustment to the obligations of the utility.

Based on the above statements by Moody's, it seems unlikely that debt will be imputed to FPL based on the cost recovery mechanisms applicable to purchased power capacity costs.

Q IS THE DEBT THAT FPL PROPOSES TO IMPUTE FOR PPA OBLIGATIONS ACTUAL DEBT ON THE COMPANY'S BOOKS AND RECORDS?

A No. FPL does not reflect its PPA obligations as debt in the normal course of accounting.

Q HAS THE COMMISSION PREVIOUSLY RULED ON THIS ISSUE IN A RECENT CASE?

A Yes. The Commission rejected TECO's proposal to impute additional equity in determining its capital structure to recognize the so-called risks associated with PPAs. The Commission stated that:

> The pro forma adjustment to equity proposed by TECO is not an actual equity investment in the utility. If this adjustment is approved for purposes of setting rates in this proceeding, the Company would essentially be allowed to earn a risk-adjusted equity return without having actually made the equity investment. The revenue requirement impact of recognizing this pro forma adjustment to equity in the capital structure is approximately $5 million per year. (*Order No. PSC-09-0283-FOF-EI* at 35)

The Commission went on to find:

> Companies with PPAs are not required by the rating agencies to make the pro forma adjustment in question. As the following passage explains, the Standard & Poors' (S&P) practice with

respect to PPAs described in witness Gillette's testimony is strictly for the rating agency's own analytical purposes:

> We adjust utilities' financial metrics, incorporating PPA fixed obligations, so that we can compare companies that finance and build generation capacity and those that purchase capacity to satisfy customer needs. The analytical goal of our financial adjustments for PPAs is to reflect fixed obligations in a way that depicts the credit exposure that is added by PPAs. That said, PPAs also benefit utilities that enter into contracts with suppliers because PPAs will typically shift various risks to the suppliers, such as construction risk and most of the operating risk. PPAs can also provide utilities with asset diversity that might not have been achievable through self-build. The principal risk borne by a utility that relies on PPAs is the recovery of the financial obligation in rates. (*Id.* at 35)

Further, in rejecting TECO's adjustment, the Commission held:

> With this proposed adjustment, we find that the Company is attempting to take a portion of S&P's consolidated credit assessment methodology and use it for a purpose it was never intended. (*Id.* at 36).

Q SHOULD DEBT ASSOCIATED WITH PPAS BE IMPUTED IN ASSESSING THE PROPER CAPITAL STRUCTURE FOR FPL?

A No. For all of the reasons stated above, imputed debt should not be included in assessing the reasonableness of FPL's capital structure.

Common Equity Ratio

Q DOES FPL PROPOSE TO ADJUST ITS EQUITY RATIO TO RECOGNIZE IMPUTED DEBT?

A No. Unlike TECO, FPL does not propose a specific adjustment. Instead, FPL seeks to use the imputation argument to support its excessively high common equity ratio. As discussed below, without this adjustment, FPL is one of the least

leveraged regulated electric utilities in the nation. Thus, the Commission should reduce the amount of common equity in determining FPL's cost of capital.

Q HOW DOES FPL'S COMMON EQUITY RATIO COMPARE WITH OTHER ELECTRIC UTILITIES?

A **Exhibit JP-2** is a comparison of common equity ratios for the 2006 to 2009 (1st Quarter) time frame published by SNL Financial. For this period, average common equity ratios for all electric utilities range from 46.1% to 47.6% (line 85). On a comparable basis, FPL's proposed 2010 common equity ratio is 59.6%, far above the average. Thus, FPL proposes a common equity ratio that is over 1,200 basis points higher than the electric utility average.

Q WHAT IS THE CONSEQUENCE OF USING MORE EQUITY AND LESS DEBT TO FINANCE THE UTILITY'S RATE BASE?

A Common equity is more expensive than debt. In this instance, FPL is asking for a common equity return that is nearly 700 basis points higher than its embedded cost of long-term debt. A utility having too much equity in its capital structure has a higher cost of capital than a utility with a more balanced common equity ratio. All else being equal, the higher the overall common equity ratio, the higher the rates all FPL ratepayers will bear.

Q IS A NEARLY 60% COMMON EQUITY RATIO NECESSARY TO MAINTAIN FPL'S CURRENT BOND RATING?

A No. FPL is currently rated "A1" by Moody's and "A" by both Fitches and S&P. The chart below provides a comparison of the common equity ratios for other A-

rated electric utilities. I included all electric utilities that had "A" or equivalent bond ratings from at least two of the three bond rating agencies.

Year	All Electric Utilities	A-Rated Electric Utilities
2006	47.6%	50.9%
2007	47.3%	51.0%
2008	46.4%	49.5%
2009 (Q1)	46.1%	49.5%
Average	46.9%	50.2%

Thus, FPL's 59.6% proposed (unadjusted) common equity would be 940 basis points higher than comparably rated electric utilities.

Q WHAT IS YOUR RECOMMENDATION FOR A COMMON EQUITY RATIO FOR FPL?

A FPL's common equity ratio should be reduced to 50.2% on an adjusted basis for setting its cost of capital in this proceeding. This translates into a 40.36% regulatory common equity ratio. Reducing the regulatory common equity ratio to 40.36% lowers FPL's requested 2010 base revenue increase by about $192.9 million, as shown in **Exhibit JP-3**.

4. 2011 TEST YEAR- SUBSEQUENT YEAR ADJUSTMENT

Q IS FPL SEEKING A "SECOND" SEPARATE RATE INCREASE AS PART OF ITS FILING?

A Yes. Specifically, FPL is seeking what it has characterized as a "subsequent year adjustment." If approved, this adjustment would increase rates above the level proposed in the primary increase by an additional $247.4 million effective January 2011. This additional increase would also be above and beyond the increase that would occur if the Commission continues the Generation Base Rate Adjustment (GBRA) clause upon the in-service of the WCEC-3 facility in June of 2011.

Q SHOULD THE COMMISSION GRANT A SUBSEQUENT YEAR RATE INCREASE?

A No. As a preliminary matter, please note that I do not address the Commission's authority to grant a subsequent year rate increase. This is a legal question, which will be briefed.

From a factual perspective, the request for an additional increase in 2011 is an objectionable pancaking of two separate rate cases in a single proceeding.

More importantly, the second rate request is objectionable because the 2011 revenue requirements FPL attempts to rely upon are based on projections that were made in mid to late 2008. As such, they do not reflect FPLs actual budget for 2011.

Finally, considering the various cost recovery clauses, the ability to implement a limited proceeding, and my recommended adjustments to FPL's revenue requirements, a subsequent year increase is simply unnecessary.

Q HOW WOULD YOU CHARACTERIZE THE "SUBSEQUENT YEAR ADJUSTMENT" PROPOSAL AND THE REQUESTED ADJUSTMENT?

A The phrase "subsequent year" adjustment is really a misnomer and a thinly-disguised attempt to package a second proposed base rate increase filed at the same time as the first base rate increase as something other than what it is—a full scale 2011 base rate case and attendant rate increase. This takes the concept of pancaking rate increases – filing increases one after another in close order–to the ultimate extreme, in my view.

Q WHY DO YOU CONCLUDE THAT THE "SUBSEQUENT YEAR ADJUSTMENT" IS AN ATTEMPT TO PROSECUTE TWO RATE CASES AT ONCE?

A The "subsequent year adjustment" is a filing that looks, feels and smells like a full rate case. First, the "subsequent year" adjustment is not a proposal to adjust rates based on a specific occurrence or event, such as what might be addressed in a limited proceeding. Rather, it is a second rate filing in which FPL seeks to have increased rates put into effect to cover all manner of cost increases ranging from an increase in the overall cost of capital from 8% to 8.18% (2010 MFR Schedule A-1 and 2011 MFR Schedule A-1), increases in operation and maintenance (O&M), depreciation, and tax expenses, adjustments to billing determinants, capital additions and even inflation-related adjustments, all based

on speculative costs projected for 2011. These are not specific subsequent year adjustments, but rather the full panoply of adjustments that are seen as part of a full rate increase filing.

Q DOES FPL ACKNOWLEDGE THAT THE "SUBSEQUENT YEAR" ADJUSTMENT IS SIMPLY A SECOND RATE CASE?

A Yes. FPL witness Ousdahl states that if the "subsequent year" adjustment is not approved "FPL will have to consider initiating another proceeding to seek further rate relief in 2011. Subsequent year adjustments are used for precisely this reason, to avoid the cost and distraction for all parties of back-to-back rate proceedings." (*Direct Testimony of Kim Ousdahl* at 12). Similarly, FPL witness Olivera points out that "[t]he Subsequent Year Adjustment allows the Company, the Commission and all parties to address in a single proceeding both the 2010 and 2011 needs, avoiding the time and expense of a separate rate proceeding for 2011." (*Direct Testimony of Armando J. Olivera* at 34.) The testimony of FPL makes it clear that the subsequent year adjustment is nothing more than a second rate case filed at same time as the first case.

Q IS IT A REASONABLE REGULATORY POLICY TO ALLOW ELECTRIC UTILITIES TO PROSECUTE TWO BACK-TO-BACK RATE INCREASES IN THE SAME PROCEEDING, AS FPL PROPOSES?

A No. Such back-to-back rate increases fail to properly balance the utility's needs with the needs of its customers. Assuming its 2011 assumptions are accurate (which FIPUG disputes), FPL is really asking the Commission to guarantee that it will achieve the authorized return. Providing such a guarantee is contrary to

accepted regulatory practice, which is to an *opportunity* to earn the authorized return.

Further, as discussed later, the 2011 test year is based on a mid-year 2008 budget, prior to the current economic upheaval. FPL will not formally approve its 2011 budget until 2010, which is after this rate case will be decided. Thus, setting rates for 2011 is highly speculative. Rates should not be set based on speculation about the future.

And finally, the proposed 2011 increase may be unnecessary depending on the Commission's findings on FPL's 2010 revenue requirements. The need for further relief can only be evaluated in the context of the rates that this Commission determines to be appropriate for the 2010 test year.

Q IS IT A COMMON PRACTICE TO ALLOW UTILITIES TO FILE PANCAKED RATE CASES?

A No. This practice is not widely used at the present time. In the past, this Commission allowed two-step increases to recognize major asset additions. However, this was prior to the advent of a large number of separate rate adjustment clauses, such as fuel, purchased power capacity, environmental, energy efficiency and even base rate adjustment clauses.

Q WHAT IS YOUR UNDERSTANDING OF THE PROCESS FPL USED IN DEVELOPING THE 2011 TEST YEAR?

A FPL witness Barrett describes the process in his direct testimony. As he explains, the underlying budget assumptions used for 2011 were all prepared prior to May 21, 2008. That is because the assumptions that FPL used were

included in the Planning Process Guidelines FPL issued on May 21, 2008 (*Direct Testimony of Robert E. Barrett Jr.,* at 7). The planning process resulted in an O&M budget for 2009 as well as budgets for 2010 and 2011, a capital budget for 2009, and forecasted capital expenditures for 2010 through 2013 (*Id.* at 8). The results were reviewed in June 2008 and finally approved in late 2008 (*Id.* at 9.). The O&M budget is prepared annually for the next year and two additional years, with the next year done at a monthly level while the two "out" years are done on an annual basis. (*Id.* at 13.)

Q WHAT IS SIGNIFICANT ABOUT THE USE OF NUMBERS CALCULATED IN MID-2008 TO SET RATES FOR 2011?

A The use of projections calculated some two and half years prior to the date rates are to take effect by necessity will result in rates that are based on highly speculative information. The farther out in time projections are, the less likely they are to be accurate.

In Florida, no doubt due in part to the numerous recovery clauses, many years have often elapsed between rate cases. If the Commission were to base 2011 rates on speculative data from 2008 – which will change as 2011 gets closer – these inaccurate rates may be in effect for a long time and ratepayers may be paying more than necessary.

If FPL can support a case for rate relief in 2011, it can file a rate case or limited proceeding in 2010 when projections and budgets will be more accurate.

Q DOES THE FORECASTED TEST YEAR FOR 2011 REPRESENT FPL'S APPROVED BUDGET FOR THAT YEAR?

A No. It represents a forecast of sales, revenues and expenses (both O&M and capital) in 2011 based on information available in 2008. This forecast changes annually. Mr. Barrett acknowledges that FPL annually prepares, reviews and approves a formal budget (*Id.*). Thus, the 2011 budget will not be approved until 2010. Whether this formal 2011 budget will be even remotely similar to the 2011 forecast prepared in 2008 is yet to be seen. The scope and extent of changes will not be known until sometime in 2010. What this suggests is that FPL is asking the Commission and its ratepayers to accept FPL's prediction of the revenues it will generate and costs it will incur in 2011, based upon a mid to late 2008 forecast. This is a risk to which ratepayers should not be exposed.

Q IS THERE A BASIS TO ASSUME THAT THE 2011 O&M AND CAPITAL FORECAST PREPARED IN MID TO LATE 2008 WILL CHANGE BETWEEN NOW AND 2011?

A Yes. In fact, there have already been some changes that have occurred in terms of the timing of estimated capital expenditures. For example, in Response to SFHHA's Interrogatory No. 254, FPL acknowledges that the number of new distribution substations originally planned for the period 2009-2011 has declined from 16 (as identified in the *Direct Testimony of FPL witness Keener*) to 12. Further, the answer states that "final plans for each budget year and forecasts for subsequent years are reviewed and approved as part of FPL's annual normal

planning and budget process, which takes place during the latter part of each year. As such, the final 2010 budget and forecasts for 2011/2012 will be approved in late 2009."

The above response clearly indicates that both the 2010 and the 2011 capital forecasts are far from final and are subject to change. In each instance, 2010 and 2011, the final capital budget for each year will not be approved until in the case of the 2010 capital budget, this year, and in the case of 2011 until 2010.

Q IS THERE ANY OTHER INFORMATION THAT SUGGESTS THAT THE CAPITAL BUDGET IS SUBJECT TO REVISION?

A Yes. A review of the capital budget numbers provided in a series of FPL 10Q filings with the Securities and Exchange Commission (SEC) for the quarters ending June 30, 2008, September 30, 2008 and March 31, 2009 indicate that the capital expenditures have changed over the nine month period. **Exhibit JP-4** provides a summary of the projected expenditures taken from the three 10Q filings. In those filings, by way of example, both the 2010 and the 2011 total capital expenditures have increased by over $300 and $200 million, respectively from September 2008 to March 2009. During the same period (September 2008 to March 2009), the 2009 capital expenditures have decreased by over $300 million. From the quarter ending June 2008 to the quarter ending March 2009, the 2009 expenditures have decreased by over $1 billion. These changes highlight the extent to which expenditures may change over a relatively short period of time.

Q WHAT DO THESE CHANGES SUGGEST WITH REGARD TO THE 2011 TEST YEAR?

A The revenues and expenses used to establish rates should be known and measurable. The substantial changes highlighted above raise serious questions as to whether the 2011 test year costs, revenues and other material information are sufficiently known and measurable so as to form an appropriate and sufficient basis for a "subsequent year adjustment" or full base rate increase. In effect, FPL is asking the Commission to accept that its 2011 forecast produced in mid- to late 2008 produces revenues and expenses that are known and measurable and sufficient upon which to increase base rates for the year 2011. The 2011 revenues, expenses, and plant balances represent a forecast prepared in 2008 before the full effect of the economic upheavals that occurred in late 2008 were known. This is simply the second year forecast and not a formal budget. At best, the 2011 costs are a preliminary estimate. Further, FPL has already acknowledged that there very well may be some reductions in the need for capital expenditures (FPL's *Response to SFHHA's Interrogatory No. 254*) as well as potential changes in the economic environment.

Q WILL CHANGES MADE TO FPL'S 2010 REVENUE REQUIREMENTS OBVIATE THE NEED FOR A SECOND RATE CASE?

A Yes. FPL's proposed second rate increase is $247 million. It is based on the same assumptions (*e.g.*, cost of capital, depreciation rates) as the first rate increase to take effect in 2010. To the extent that the Commission reduces

FPL's 2010 revenue requirement, it will also affect the 2011 revenue requirement obviating the need for another increase.

Q DOES THE RECENT TECO RATE CASE OFFER FPL ANY SUPPORT FOR THE SUBSEQUENT YEAR INCREASE?

A No. While I understand that TECO's second increase is still disputed and such dispute is not the subject of this testimony, TECO's circumstances are different from FPL's. TECO used a 2009 test year in measuring its base revenue requirements. The test year assumed that five new CTs would be placed into commercial operation in 2009. However, during the hearing, TECO indicated that it was not sure when this capacity would be placed in service or if all units would come on line. The Commission excluded the revenue requirements associated with the new generating plants from the rate increase, but granted TECO a limited second step rate increase, contingent on the commercial operation of the new capacity.

Q DO THIS COMMISSION'S RULES PROVIDE FPL WITH THE OPPORTUNITY TO SEEK AN INCREASE IN BASE RATES WITHOUT FILING A FULL RATE CASE?

A Yes. Florida utilities may file for a "limited proceeding" under Section 366.076 Florida Statutes. This statute allows base rates to be adjusted in the context of a limited proceeding upon appropriate proof. The ability to request a limited adjustment is also available to FPL.

Q SHOULD THE COMMISSION CONSIDER THE AVAILABILITY OF THE VARIOUS COST RECOVERY CLAUSES AND FPL'S ABILITY TO SEEK A LIMITED PROCEEDING, IF CIRCUMSTANCES SUPPORT IT, WHEN CONSIDERING THE "SUBSEQUENT YEAR" ADJUSTMENT FPL SEEKS?

A Yes. Taken as a whole, the Florida regulatory scheme provides utilities with more than ample opportunity to timely recover legitimate costs and expenses. The overall effect of the cost recovery clauses (which currently account for 67% of FPL's total revenues) is to limit substantially the need for full rate cases. The annual clauses also serve to substantially reduce the risk of under-recovery. When reaching a decision regarding the "subsequent year" concept – pancaked rate increases in this case – the Commission must also be mindful of the existence of, use of, and benefits that already accrue to utilities in the state of Florida from the numerous cost recovery clauses.

Q IF THE COMMISSION PERMITS THE GBRA TO APPLY TO WCEC-3 WOULD THIS MAKE THE REQUESTED 2011 INCREASE EVEN MORE UNNECSSARY?

A Yes. However, if the Commission does approve such an approach, it should make it clear that it applies only to WCEC-3 and the GBRA should then be terminated.

Q WHAT IS YOUR RECOMMENDATION FOR THE 2011 TEST YEAR?

A The Commission should reject FPL's attempt to implement a subsequent year base rate increase in 2011 because it is speculative, inappropriate and unnecessary.

5. CLASS COST-OF-SERVICE STUDY

Q WHAT IS A CLASS COST-OF-SERVICE STUDY?

A A cost-of-service study is an analysis used to determine each class' responsibility for the utility's costs. Thus, it determines whether the revenues a class generates cover the class' cost-of-service. A class cost-of-service study separates the utility's total costs into portions incurred on behalf of the various customer groups. Most of a utility's costs are incurred to jointly serve many customers. For purposes of rate design and revenue allocation, customers are grouped into homogeneous classes according to their usage patterns and service characteristics.

Q WHAT PROCEDURES ARE USED IN A COST-OF-SERVICE STUDY?

A The basic procedure for conducting a class cost-of-service study is fairly simple. First, we identify the different types of costs (functionalization), determine their primary causative factors (classification), and then apportion each item of cost among the various rate classes (allocation). Adding up the individual pieces gives the total cost for each class.

Identifying the utility's different levels of operation is a process referred to as functionalization. The utility's investments and expenses are separated into production, transmission, distribution, and other functions. To a large extent, this is done in accordance with the Uniform System of Accounts developed by the FERC.

Once costs have been functionalized, the next step is to identify the

primary causative factor (or factors). This step is referred to as classification. Costs are classified as demand-related, energy-related or customer-related. Demand (or capacity) related costs vary with peak demand, which is measured in kilowatts (or kW). This includes production, transmission, and some distribution investment and related fixed operation and maintenance (O&M) expenses. As explained later, peak demand determines the amount of capacity needed for reliable service. Energy-related costs vary with the production of energy, which is measured in kilowatt-hours (or kWh). Energy-related costs include fuel and variable O&M expense. Customer-related costs vary directly with the number of customers and include expenses such as meters, service drops, billing, and customer service.

Each functionalized and classified cost must then be allocated to the various customer classes. This is accomplished by developing allocation factors that reflect the percentage of the total cost that should be paid by each class. The allocation factors should reflect cost-causation; that is, the degree to which each class caused the utility to incur the cost.

Q WHAT KEY PRINCIPLES ARE RECOGNIZED IN A CLASS COST-OF-SERVICE STUDY?

A A properly conducted class cost-of-service study recognizes two key cost-causation principles. First, customers are served at different delivery voltages. This affects the amount of investment the utility must make to deliver electricity to the meter. Second, since cost-causation is also related to how electricity is used, both the timing and rate of energy consumption (i.e., demand) are critical.

Because electricity cannot be stored for any significant time period, a utility must acquire sufficient generation resources and construct the required transmission facilities to meet the maximum projected demand, including a reserve margin as a contingency against forced and unforced outages, severe weather, and load forecast error. Customers that use electricity during the critical peak hours cause the utility to invest in generation and transmission facilities.

Q WHAT FACTORS CAUSE THE PER-UNIT COSTS TO DIFFER AMONG CUSTOMER CLASSES?

A Factors that affect the per-unit cost include whether a customer's usage is constant or fluctuating (load factor), whether the utility must invest in transformers and distribution systems to provide the electricity at lower voltage levels, the amount of electricity that a customer uses, and the quality of service. In general, industrial consumers are less costly to serve on a per unit basis because they:

1. Operate at higher load factors;
2. Take service at higher delivery voltages; and
3. Use more electricity per customer.

These three factors explain why some customers pay higher average rates than others.

For example, the difference in the losses incurred to deliver electricity at the various delivery voltages is a reason why the per-unit energy cost to serve is not the same for all customers. More losses occur to deliver electricity at distribution voltage (either primary or secondary) than at transmission voltage, which is generally the level at which industrial customers take service. This

means that the cost per kWh is lower for a transmission customer than a distribution customer. The cost to deliver a kWh at primary distribution, though higher than the per-unit cost at transmission, is lower than the delivered cost at secondary distribution.

In addition to lower losses, transmission customers do not use the distribution system. Instead, transmission customers construct and own their own distribution systems. Thus, distribution system costs are not allocated to transmission level customers who do not use that system. Distribution customers, by contrast, require substantial investments in these lower voltage facilities to provide service. Secondary distribution customers require more investment than do primary distribution customers. This results in a different cost to serve each type of customer.

Two other cost drivers are efficiency and size. These drivers are important because most fixed costs are allocated on either a demand or customer basis.

Efficiency can be measured in terms of load factor. Load factor is the ratio of average demand (i.e., energy usage divided by the number of hours in the period) to peak demand. A customer that operates at a high load factor is more efficient than a lower load factor customer because it requires less capacity for the same amount of energy. For example, assume that two customers purchase the same amount of energy, but one customer has an 80% load factor and the other has a 40% load factor. The 40% load factor customers would have twice the peak demand of the 80% load factor customers, and the utility would therefore require twice as much capacity to serve the 40% load factor customer

factor customer are spread over more kWh usage than for a low load factor customer.

Q HAVE YOU REVIEWED THE CLASS COST-OF-SERVICE STUDY FPL FILED IN THIS PROCEEDING?

A Yes.

Q DOES FPL'S CLASS COST-OF-SERVICE STUDY COMPORT WITH ACCEPTED INDUSTRY PRACTICES?

A Yes. FPL's class cost-of-service study recognizes the different types of costs as well as the different ways electricity is used by various customers.

Q WHAT METHODOLOGY DOES FPL USE TO ALLOCATE PRODUCTION AND TRANSMISSION PLANT-RELATED COSTS?

A FPL uses the 12CP-1/13th AD method. The 12CP-1/13th AD method allocates costs partially on a coincident demand basis and partially on an average demand, or energy, basis. Further, the coincident demand portion is based on customer demands in all twelve months of the calendar year. Thus, 12CP-1/13th AD assumes that production and transmission plant-related costs are caused by year-round coincident peaks and average demand.

Q ARE FPL'S PRODUCTION AND TRANSMISSION PLANT COSTS CAUSED BY YEAR-ROUND COINCIDENT PEAK AND AVERAGE DEMANDS?

A No. FPL experiences its maximum annual demand for electricity in either the summer or winter months. This is shown in **Exhibit JP-5, page 1**, which is an analysis of FPL's monthly firm peak demands as a percent of the annual system

analysis of FPL's monthly firm peak demands as a percent of the annual system peak for the years 2004 through 2008 and the 2010 Test Year. The peak demands in the other months are typically well below the summer and winter peak demands. These characteristics are further summarized in **Exhibit JP-5, page 2:**

- FPL's minimum month peak is 69% of the annual system peak.
- Monthly peak demands are only 86% of the annual system peak.
- Summer peak demands are 23% (or higher) of the non-summer peak demands.
- FPL's annual load factor is only 61%.

These ratios confirm that FPL has seasonal load characteristics. Thus, electricity demands in the spring and fall months are not relevant in determining the amount of capacity needed for FPL to provide reliable service.

Q ARE THE MONTHLY PEAKS IN THE SPRING/FALL MONTHS IMPORTANT BECAUSE FPL HAS TO REMOVE GENERATION FOR SCHEDULED MAINTENANCE?

A No. Although FPL does schedule most planned outages during the spring and fall months, this does not make these months important from a cost-causation perspective. Specifically, despite planned outages, FPL generally has higher reserve margins during the non-summer months than during the summer months. This is shown in **Exhibit JP-6**. The reserve margins were calculated as the margin (available capacity less scheduled outages less firm peak demand) divided by firm peak demand. FPL's summer month reserve margins, adjusted for scheduled outages, range from 27% to 47% of the corresponding non-summer month reserve margins.

Q WHAT DO THE PEAK DEMAND AND RESERVE MARGIN ANALYSES DEMONSTRATE?

A The analyses demonstrate that the summer peak demands determine FPL's capacity requirements. The other months are irrelevant. Thus, the 12CP method does not reflect cost-causation when measured by FPL's load and supply characteristics.

Q HAS THE COMMISSION PREVIOUSLY APPROVED THE 12CP-1/13TH AD METHOD?

A Yes.

Q WHY HAS THE COMMISSION APPROVED THIS METHOD IN THE PAST?

A It is my understanding that the Commission originally adopted the 12CP-1/13th AD method to recognize that both peak demand and load duration are the drivers that determine utility investment decisions. While I do not agree that 12CP-1/13th AD accurately reflects these two cost drivers, it is certainly more appropriate than methodologies that allocate a substantial portion of production and transmission plant costs on an average demand basis.

Q WHY IS IT INAPPROPRIATE TO ALLOCATE PRODUCTION PLANT COSTS ON AN AVERAGE DEMAND BASIS?

A Average demand is not a factor that causes a utility to incur production plant costs. Cost causation means allocating costs to classes that cause the utility to incur them. Production and transmission plant are built to provide reliable

service, especially during critical demand and supply periods. For FPL, these periods occur primarily in the summer months. If FPL were to provide only the amount of capacity needed to meet average demand, it could not do so reliably. To ensure reliability, facilities must be sized to meet the projected maximum demand imposed on them.

This point is illustrated in **Exhibit JP-7**. A utility serves two customer classes (A and B) that each use 2,400 kWh of energy over a 24-hour period. Thus, both classes have an average demand of 100 kWh (2,400 kWh ÷ 24 hours). However, Class A has a cyclical load shape while Class B has a flat load shape. Because of its cyclical load shape, Class A's maximum demand is 200 kW. Class B's maximum demand is 100 kW. In order to serve both classes, the utility would require 300 kW (ignoring reserves). Had the utility provided only 200 kW (which is the combined average load of the two classes), it could not have provided reliable service.

In summary, cost-causation is primarily a function of peak demand. Thus, a proper cost allocation method should emphasize peak demand.

Q IF THE COMMISSION SHOULD DECIDE TO PLACE MORE WEIGHT ON AVERAGE DEMAND, IS THERE A REASONABLE METHODOLOGY FOR DOING SO?

A Although I disagree with the premise, if more emphasis is to be placed on average demand, my recommendation would be to adopt the Average and Excess (A&E) method. Under A&E, a portion of production/transmission plant costs equal to the utility's annual system load factor (or 59% as projected by FPL

during the 2010 test year) would be allocated on average demand. The remaining costs would be allocated on the difference between a class' maximum demand and its average demand, which is the "Excess Demand" (ED) component of the A&E formula.

Q HAVE YOU DEVELOPED ALLOCATION FACTORS USING THE A&E METHOD?

A Yes. The derivation of the A&E allocation factors is presented in **Exhibit JP-8**. The primary inputs are the group coincident peak (GCP) and the AD, which are shown in columns 1 and 2, respectively. The A&E allocation factors are derived as follows:

$$A\&E = AD\,x\,LF + ED\,x\,(1 - \mathrm{LF})$$

Where: AD=Average Demand
LF=Annual System Load Factor
ED=Excess Demand

A&E recognizes dual cost-causers. First, some plant is required for year-round operation (*i.e.,* Average Demand). High load factor customers that use electricity throughout the year would receive a larger share of the Average Demand. Second, the remaining plant is required for cycling (*i.e.,* Excess Demand). Low load factor customers require more cycling capacity than do high load factor customers. This is reflected in apportioning more Excess Demand to the lower load factor classes.

Q IS AVERAGE AND EXCESS A RECOGNIZED METHOD?

A Yes. A&E is recognized in the NARUC *Electric Utility Cost Allocation Manual.* Specifically, A&E is listed under the category of "Energy-Weighting" methods.

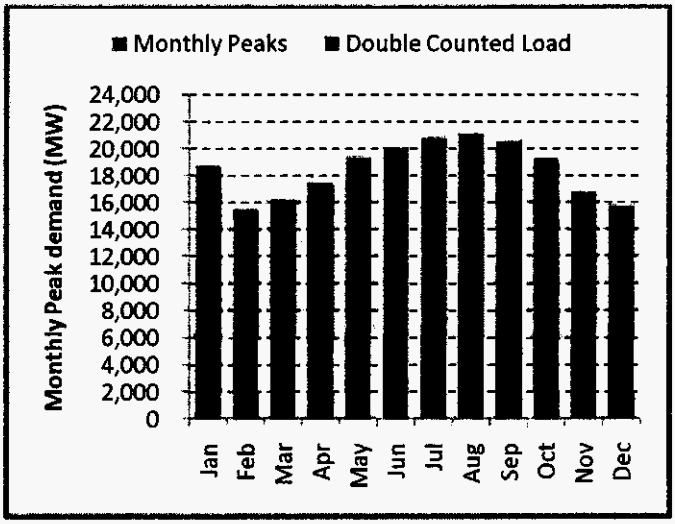
That is, it gives substantial weight to average demand or energy in determining cost causation.

Q IS A&E SUPERIOR TO OTHER ENERGY WEIGHTING METHODS?

A Yes. Unlike other energy weighting methods, such as peak and average, A&E does not double-count peak demand.

Q WHAT DO YOU MEAN BY DOUBLE-COUNTING?

A The peak and average method allocates production/transmission plant costs partially on average demand and partially on coincident peak demand. Double-counting occurs because average demand (which is the equivalent of year-round energy consumption divided by 8,760 hours) is also a component of the coincident peak demand.



The double-counting problem is illustrated above using the 12CP-50% AD method.

The portion of plant allocated on average demand is the black shaded area of the chart. Coincident demand is represented by the red shaded area. As can be seen, double-counting occurs because the portion of plant allocated on average demand overlaps the coincident peak demands.

By allocating some plant costs relative to average demand and some relative to coincident peak demand, energy is counted twice: once by itself and a second time as a subset of the coincident peak demand. If year-round energy is analogous to base load units which supply capacity on a continuing basis throughout the year, then it follows that the only time intermediate and peaking units would be needed is to meet system demands when they are in excess of the average year-round demand. Energy allocation advocates improperly allocate the cost of this additional capacity relative to the total coincident demand, rather than the excess demand.

Q HAS THE DOUBLE-COUNTING PROBLEM BEEN CITED AS A CRITICAL FLAW IN ENERGY-BASED ALLOCATION METHODOLOGIES?

A Yes. The Public Utility Commission of Texas (PUCT) has recognized the double-counting problem in numerous cases. For example:

> As to double-counting energy, the flaw in Dr. Johnson's proposal is the fact that the allocator being used to allocate peak demand, and 50% of the intermediate demand, includes with it an energy component. Dr. Johnson has elected to use a 4CP demand allocator, but such an allocator, because it looks at peak usage, necessarily includes within that peak usage average usage, or energy.
>
> * * *
>
> A substantial portion of average demand is being utilized in two different allocators, and this "double-dipping" is taking place. (El

Paso Electric Company, *Examiner's Report*, Docket No. 7460, at 193)

Q SHOULD THE COMMISSION RETAIN THE 12CP-1/13TH AD METHOD?

A Yes. While the 12CP-1/13th AD method does not reflect cost-causation because of FPL's seasonal load characteristics and the fact that reserve margins are much tighter during the summer months, the Commission has traditionally used this method as a reasonable basis to allocate costs to rate classes. Despite its flaws, this method does recognize the role that load duration plays in determining production plant costs. Thus, it is more compatible with system planning principles than peak and average methods, which not only place greater emphasis on average demand, but are flawed because peak demand is double-counted.

If faced with a choice between retaining 12CP-1/13th AD or using a method that gives more weight to AD, the Commission should adopt the A&E method. A&E accomplishes the first objective (*i.e.*, placing greater emphasis on average demand) while avoiding the fatal double-counting problem associated with flawed peak and average methods.

6. CLASS REVENUE ALLOCATION

Q WHAT IS CLASS REVENUE ALLOCATION?

A Class revenue allocation is the process of determining how any base revenue change the Commission approves should be apportioned to each customer class the utility serves.

Q HOW SHOULD ANY CHANGE IN BASE REVENUES APPROVED IN THIS DOCKET BE APPORTIONED AMONG THE VARIOUS CUSTOMER CLASSES FPL SERVES?

A Base revenues should reflect the actual cost of providing service to each customer class as closely as practicable. Regulators sometimes limit the immediate movement to cost based on principles of gradualism and rate administration.

Q PLEASE EXPLAIN THE PRINCIPLE OF GRADUALISM.

A Gradualism is a concept that is applied to prevent a class from receiving an overly-large rate increase. That is, the movement to cost-of-service should be made gradually rather than all at once because it would result in rate shock to the affected customers.

Q PLEASE EXPLAIN HOW RATE ADMINISTRATION IS RELATED TO RATE CHANGE.

A. Rate administration is a concept that applies when the design of a rate may be tied to the design of other rates to minimize revenue losses when customers

migrate from a more expensive to a less expensive rate. FPL applies this concept in designing its General Service Demand rates.

Q SHOULD THE RESULTS OF THE COST-OF-SERVICE STUDY BE THE PRIMARY FACTOR IN DETERMINING HOW ANY BASE REVENUE CHANGE SHOULD BE ALLOCATED?

A Yes. Cost-based rates will send the proper price signals to customers. This will allow customers to make rational consumption decisions.

Q ARE THERE OTHER REASONS TO APPLY COST-OF-SERVICE PRINCIPLES WHEN CHANGING RATES?

A Yes. The other reasons to adhere to cost-of-service principles are equity, engineering efficiency (cost-minimization), stability and conservation.

Q WHY ARE COST-BASED RATES EQUITABLE?

A Rates which primarily reflect cost-of-service considerations are equitable because each customer pays what it actually costs the utility to serve the customer -- no more and no less. If rates are not based on cost, then some customers must pay part of the cost of providing service to other customers, which is inequitable.

Q HOW DO COST-BASED RATES PROMOTE ENGINEERING EFFICIENCY?

A With respect to engineering efficiency, when rates are designed so that demand and energy charges are properly reflected in the rate structure, customers are provided with the proper incentive to minimize their costs, which will, in turn, minimize the costs to the utility.

Q HOW CAN COST-BASED RATES PROVIDE STABILITY?

A When rates are closely tied to cost, the utility's earnings are stabilized because changes in customer use patterns result in parallel changes in revenues and expenses.

Q HOW DO COST-BASED RATES ENCOURAGE CONSERVATION?

A By providing balanced price signals against which to make consumption decisions, cost-based rates encourage conservation (of both peak day and total usage), which is properly defined as the avoidance of wasteful or inefficient use (not just less use). If rates are not based on a class cost-of-service study, then consumption choices are distorted.

Q DOES COMMISSION POLICY SUPPORT THE MOVEMENT OF UTILITY RATES TOWARD ACTUAL COST?

A Yes. The Commission's support for cost-based rates is longstanding and unequivocal. The Commission reiterated this principle in the recent TECO rate case:

> It has been our long-standing practice in rate cases that the appropriate allocation of any change in revenue requirements, after recognizing any additional revenues realized in other operating revenues, should track, to the extent practical, each class's revenue deficiency as determined from the approved cost of service study, and move the classes as close to parity as practicable. The appropriate allocation compares present revenue for each class to the class cost of service requirement and then distributes the change in revenue requirements to the classes. No class should receive an increase greater than 1.5 times the system average percentage increase in total, and no class should receive a decrease. (Docket No. 080317–EI, *Order No. PSC-09-0283-FOF-EI,* Issued: April 30, 2009 at 86-87, footnote omitted).

Therefore, a more gradual movement of FPL's rates closer to cost would be consistent with Commission policy.

Q HOW IS FPL PROPOSING TO ALLOCATE THE PROPOSED BASE REVENUE INCREASE IN THIS PROCEEDING?

A FPL's proposed base revenue increase is shown in **Exhibit JP-9**. The General Service Demand rates are shown in groups based on applicability. The groups are:

Group	Rate Schedules
General Service Demand	GSD, GSDT, HLFT-1, SDTR-1;
General Service Large Demand-1	GSLD-1, GSLDT-1, CS-1, CST-1, HLFT-2, SDTR-2;
General Service Large Demand-2	GSLD-2, GSLDT-2, CS-2, CST-2, HLFT-3, SDTR-3;
General Service Large Demand-3	GSLD-3, GSLDT-3.

As can be seen in **Exhibit JP-9**, FPL is proposing a 25.0% base rate increase. The increases by class would range from 2.0% for standby service to a 57.6% increase for the CILC rate class.

Q IS FPL'S PROPOSED CLASS REVENUE ALLOCATION CONSISTENT WITH THIS COMMISSION'S PRACTICES?

A No. The proposed increases for the CILC, General Service Large Demand-1, and General Service Large Demand-2 groups exceed 150% of the system average increase. This is clearly contrary to this Commission's practice and precedents and should be rejected.

Q DID THE COMMISSION RECENTLY ADDRESS CLASS REVENUE ALLOCATION?

A Yes. The Commission recently addressed class revenue allocation in the TECO rate case. As previously cited, the Commission followed its past practices by limiting the lighting class increase to 150% of the system average retail base rate increase, excluding cost recovery clauses.

Q SHOULD THE COMMISSION IGNORE GRADUALISM BECAUSE FPL PROJECTS A REDUCTION IN FUEL COSTS?

A No. FPL has calculated bill impacts in MFR Schedule A-1 based on an assumed reduction in fuel charges. While a reduction is possible given the continued decline in natural gas prices since last summer and because FPL is installing more efficient generation, fuel costs are a function of commodity (e.g., coal, natural gas, and oil) prices, market energy prices, and FPL's generation mix, all of which are subject to (sometimes volatile) changes from time-to-time. These changes have nothing to do whatsoever with setting base rates as they are recovered annually outside of any rate case proceeding. Further, gradualism is not a consideration in setting the cost recovery clauses. Thus, a sudden increase in natural gas prices will not affect how base rates are determined in this case.

The Commission should continue to apply the principle of gradualism to any base revenue increase that may be approved in this case, notwithstanding any predictions about subsequent changes in cost recovery clauses.

Given that the cost recovery clauses are separate ratemaking mechanisms and can have positive or negative impacts on customers depending on the circumstances, any projected short-term changes should not be considered in setting base rates.

Q HOW SHOULD ANY RATE INCREASE OR DECREASE RESULTING FROM THIS CASE BE ALLOCATED AMONG CUSTOMER CLASSES?

A Consistent with Commission policy and precedent, rates for each class should be set at a level that will recover the cost of serving that class, subject to the policy that no class should receive an increase greater than 150% of the retail average base rate increase. This is reflected in **Exhibit JP-10** using FPL's proposed 2010 revenue requirement. However, as I noted earlier, this illustration is not an endorsement of the revenue requirement requested.

Specifically, the increases to the CILC, General Service Large Demand-1, and General Service Large Demand-2 rate groups were limited to 150% of the system average, while no class received a decrease. The remaining revenue shortfall was spread to those classes that would receive below-average base rate increases to move them equally toward cost.

Q WOULD YOUR RECOMMENDED REVENUE ALLOCATION MOVE ALL CLASSES CLOSER TO COST?

A Yes. This is shown in **Exhibit JP-11**, which shows the cost-of-service study results under my recommended class revenue allocation. All but one class (due to the 150% constraint) would be moved closer to cost. For the remaining classes, the movement toward cost would range from 9% to 33%.

7. RATE DESIGN

Q WHAT RATE DESIGN ISSUES WILL YOU ADDRESS?

A In this section, I will discuss the appropriate design of the firm and non-firm rates. Specifically, I will discuss:

- Demand and Non-Fuel Energy charges;
- The design of Rate CILC (Commercial/Industrial Load Control Program); and
- The credits paid under the Commercial/Industrial Demand Reduction Rider (CDR).

Demand and Non-Fuel Energy Charges

Q DESCRIBE THE DEMAND AND NON-FUEL ENERGY CHARGES.

A These charges are designed to recover base rate (non-fuel) costs. Demand charges are billed relative to a customer's maximum metered (kW) demand in the billing month, while the non-fuel energy charges are billed on the kWh purchased.

Q DO YOU AGREE WITH HOW FPL HAS PROPOSED TO DEVELOP THE DEMAND AND NON-FUEL ENERGY CHARGES?

A No. Consistent with cost-causation, FPL's demand-related costs should be recovered through the demand charge and energy-related base rate costs should be collected through the energy charge. However, FPL's proposed General Service Demand rate designs do not follow this practice. Specifically, FPL has underpriced the demand charge and overpriced the energy charge (based on FPL's proposed revenue levels, which I do not endorse but have used for illustrative purposes). The demand and non-fuel energy charges should closely

reflect the corresponding demand and non-fuel energy related costs as derived in the class cost-of-service study.

Q WHAT ARE THE UNIT DEMAND AND ENERGY COSTS DERIVED FROM FPL'S CLASS COST-OF-SERVICE STUDY?

A The 2010 unit costs for the General Service Demand class are as follows:

Demand Unit Cost	$11.95 per kW-Month
Non-Fuel Energy Unit Cost	0.715¢ per kWh

The proposed standard rates are as follows:

Rate	Demand Charge	Non-Fuel Energy Charge
GSLD-1	$10.45	1.506¢
GSLD-2	$10.45	1.337¢

As can be seen, the proposed non-fuel energy charges are 87% and 111% higher than the corresponding non-fuel energy costs. The proposed time-of-use (TOU), High Load Factor (HLFT), and Seasonal (SDTR) rates, which are derived from the standard rates, exhibit similar tendencies:

Rate	Equivalent Demand Charge	Non-Fuel Energy Charge	
		On-Peak	Off-Peak
GSLDT-1	$10.45	2.488¢	1.072¢
HLFT-2	$12.03	2.300¢	0.794¢
SDTR-2	$10.44	6.028¢	1.037¢
GSLDT-2	$10.45	2.371¢	0.954¢
HLFT-3	$12.05	2.080¢	0.743¢
SDTR-3	$10.35	4.665¢	0.921¢

And finally, the proposed Rate CILC energy charges are also above cost, as shown below. However, as explained later, this is the result of a different rate design issue.

Rate	Non-Fuel Energy Costs	Non-Fuel Energy Charge
CILC-D	0.710¢	1.506¢
CILC-T	0.688¢	1.267¢

Q HAS FPL EXPLAINED WHY THE NON-FUEL ENERGY CHARGES ARE MUCH HIGHER THAN ACTUAL ENERGY COSTS?

A No.

Q HOW SHOULD THE GENERAL SERVICE DEMAND RATES BE DESIGNED?

A The proposed CILC non-fuel energy charges would exceed unit costs. Accordingly, they should be scaled back to reflect cost, while the Demand charges should be correspondingly increased to recover the target revenues assigned to the CILC class.

Q DO YOU HAVE ANY OTHER CONCERNS WITH THE PROPOSED GENERAL SERVICE RATE DESIGN?

A Yes. The HLFT rates were designed for higher load factor customers. The average load factors for HLFT customers are about 80% as compared to only 64% for GSLDT customers. However, the proposed rates would make HLFT more expensive than GSLDT unless the customer can achieve load factors above 84% for HLFT-2 and over 100% for HLFT-3. The latter requirement is impractical, and it would result in customers migrating back to Rate GSLDT-2.

Q HOW SHOULD THIS CONCERN BE RESOLVED?

A The HLFT rates are a derivative of the GSLDT rates. Thus, it is essential to maintain a consistent relationship between GSLDT and HLFT to prevent customer migration. Therefore, I recommend that the HLFT rates be designed for customers with load factors above 70%. Blending the rates at a 70% load factor reflects the HLFT class' characteristics, and further, I believe it would be consistent with encouraging customers to improve load factor.

<u>CILC Rate Design</u>

Q WHAT CONCERNS DO YOU HAVE WITH THE DESIGN OF THE CILC RATES?

A The CILC rates have been designed to recover this class' cost of service. As explained above, the CILC non-fuel energy charges are significantly above the corresponding non-fuel energy costs. Yet, the demand charges are set to reflect unit demand costs. Thus, there is a rate design problem. If the rate is designed to recover actual cost, then both the demand and energy charges should reflect the corresponding per unit demand and energy costs.

Q WHAT IS CAUSING THIS RATE DESIGN PROBLEM?

A The problem is with the level of CILC payments included in the rate design for this class. Specifically, while FPL calculated the CILC base revenue requirements as the difference between the allocated firm cost of service (which assumed CILC customers receive firm service) and the following assumed level of incentive payments shown in the chart below (approximately $30.6 million), it did not use the same assumptions in its rate design. Rather, for rate design

purposes, FPL used approximately $53 million as the amount of incentive payments and allocated the $22 million difference directly to CILC.

As the chart shows, the payments used in the rate design are much higher than those used to calculate the class' base revenue requirements:

Rate	CILC Payments Embedded in the Proposed Rate Design			CILC Payments Assumed in Determining Class Revenue Requirements ($ Millions)
	Firm On-Peak - Load Control Charge ($/kW)	Load Control Billing Demand (MW)	Embedded CILC Payments ($ Millions)	
CILC-D	$7.26	4,942.9	$35.9	$19.7
CILC-G	$6.99	395.6	$2.8	$1.4
CILC-T	$6.92	2,104.7	$14.5	$9.5
TOTAL	$21.17	7,443.2	$53.2	$30.6
Source: Schedule E-14.				

Because the incentives reflected in the CILC rate design are higher than the incentives FPL used in deriving the CILC revenue requirement, there was a revenue shortfall. FPL seeks to recover this "shortfall" from within the CILC classes by increasing the non-fuel energy charges. This explains why the CILC non-fuel energy charges are higher than the CILC non-fuel energy unit costs.

Q IS THIS RATE DESIGN APPROPRIATE?

A No. The CILC payments should be restated to reflect the amounts in FPL's rate design. The $53 million should then be allocated to all customer classes (in the

same manner as FPL allocated the estimated payments) in determining class revenue requirements.

CDR Rider

Q WHAT IS THE COMMERCIAL/INDUSTRIAL DEMAND REDUCTION RIDER?

A The CDR Rider is an optional service under which a customer can elect to have its electricity curtailed under a variety of circumstances. The customer is required to have load control equipment installed to provide FPL direct control over the customer's electrical load. Thus, curtailments are made by FPL and not by the customer. This equipment is paid for by the customer through an additional Customer Charge. In return for agreeing to curtail load, the participating customers receive a credit. The current and proposed CDR Rider credit is $4.68 per kW of the Customer's Utility Controlled Demand.

Q UNDER WHAT CIRCUMSTANCES CAN FPL CURTAIL LOAD UNDER THE CDR RIDER?

A Load may be curtailed under any of the following circumstances:

> Control Condition:
> The Customer's controllable load served under this Rider is subject to control when such control alleviates any emergency conditions or capacity shortages, either power supply or transmission, or whenever system load, actual or projected, would otherwise require the peaking operation of the Company's generators. Peaking operation entails taking base loaded units, cycling units or combustion turbines above the continuous rated output, which may overstress the generators.

Thus, curtailments may occur during shortages of either generation or transmission capacity.

Q HOW MUCH NOTICE IS REQUIRED BEFORE FPL CAN CURTAIL A CUSTOMER'S LOAD?

A The tariff states that FPL will typically provide four hours advance notice. In emergencies, the required notice is 15 minutes. However, FPL reserves the right to interrupt in "less than 15 minutes' notice...in the event that failure to do so would result in loss of power to firm service customers or the purchase of emergency power to serve firm service customers."

Q HAS FPL MADE SHORT NOTICE CURTAILMENTS?

A Yes. Since 2005, several curtailments have occurred with only five minutes' notice (*FPL's Response to FIPUG Interrogatory No.10*).

Q IS THE SERVICE PROVIDED TO CDR RIDER CUSTOMERS THE SAME AS THE SERVICE PROVIDED UNDER FPL'S FIRM TARIFFS?

A No. CDR Rider customers can be curtailed (on very short notice) to allow FPL to continue serving its firm customers. This includes instances when FPL is short of operating reserves. Further, FPL does not include load management programs in determining its future capacity needs (FPL, *Ten Year Site Plan* at 51 and Schedules 7.1 and 7.2). Thus, CDR Rider customers receive a lower quality of service than firm service customers.

Q SHOULD THE CDR RIDER CREDIT REMAIN AT $4.68 PER KW?

A No. The CDR Rider credit has not changed since 2004. However, costs for new generation and transmission capacity, upon which the CDR Rider is based, have increased since 2004. These higher costs are reflected in FPL's most recent *Ten Year Site Plan*. For example, WCEC Units 1 and 2 are projected to cost

$512/kW based on 2009 in-service dates. However, WCEC-3 (2011 in-service date) is projected to cost over $780/kW, while subsequent CC capacity additions are projected to cost over $1,000/kW.

Further, load management is an important resource for the state of Florida. Interruptible tariffs have been in place for decades. In fact, FPL is projecting significant growth in non-firm load. Thus, this load has been and is projected to be a valuable resource to FPL and to the state as a whole. When capacity is needed to serve firm load customers, interruptible customers, statewide, may be called upon (with or without notice and without limitation as to the frequency and duration of curtailments) to discontinue service so that the lights will stay on for the firm customer base. Such interruptions often cause production to be shut down resulting in losses for the interruptible customer.

Q HOW CAN THE COMMISSION NURTURE THIS VALUABLE RESOURCE?

A The Commission should increase the CDR Rider credit to at least $5.50/kW. This modest increase would allow the Rider to remain a viable non-firm rate option and encourage greater participation.

Q HOW DID YOU DETERMINE THAT THE CDR RIDER CREDIT SHOULD BE INCREASED TO AT LEAST $5.50/KW?

A My recommendation is based on FPL's most recent Standard Offer filing (Docket No. 090166, filed April 1, 2009). FPL has conservatively assumed that its next avoided unit will not come on line until 2021. Thus, I discounted the 2021 avoided capacity cost to the period 2010 through 2012. This is the period in which the rates approved in this proceeding will be in effect.

Q WHY DO YOU CHARACTERIZE THE $5.50 AS CONSERVATIVE?

A FPL's avoided unit assumptions are based on projected lower load growth and the timely completion of its Turkey Point Units 6 and 7 in 2018 and 2020, respectively. These units will be among the first advanced design nuclear plants to be commissioned in the United States. No advanced design nuclear plants have been built and placed in operation in the U.S. Thus, there is considerable risk of delay. In fact, PEF recently announced a two-year delay of its planned advanced design nuclear units. These units are of the same design and manufacture as the Turkey Point additions. Any delay in completing these units may require FPL to add capacity sooner than 2021.

Q DOES THIS CONCLUDE YOUR TESTIMONY?

A Yes, it does.

APPENDIX A

Qualifications of Jeffry Pollock

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Jeffry Pollock. My business mailing address is 12655 Olive Blvd., Suite 335, St. Louis, Missouri 63141.

Q WHAT IS YOUR OCCUPATION AND BY WHOM ARE YOU EMPLOYED?

A I am an energy advisor and President of J. Pollock, Incorporated.

Q PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A I have a Bachelor of Science Degree in Electrical Engineering and a Masters in Business Administration from Washington University. At various times prior to graduation, I worked for the McDonnell Douglas Corporation in the Corporate Planning Department; Sachs Electric Company; and L.K. Comstock & Company. While at McDonnell Douglas, I analyzed the direct operating cost of commercial aircraft.

Upon graduation in June 1975, I joined Drazen-Brubaker & Associates, Inc. (DBA). DBA was incorporated in 1972 assuming the utility rate and economic consulting activities of Drazen Associates, Inc., active since 1937. From April 1995 to November 2004, I was a managing principal at Brubaker & Associates (BAI).

During my tenure at both DBA and BAI, I have been engaged in a wide range of consulting assignments including energy and regulatory matters in both the United States and several Canadian provinces. This includes preparing financial and economic studies of investor-owned, cooperative and municipal utilities on revenue requirements, cost of service and rate design, and conducting site evaluation. Recent engagements have included advising clients on electric restructuring issues, assisting clients to procure and manage electricity in both competitive and regulated markets, developing and issuing requests for proposals (RFPs), evaluating RFP responses and contract negotiation. I was also responsible for developing and presenting seminars on electricity issues.

I have worked on various projects in over 20 states and several Canadian provinces, and have testified before the Federal Energy Regulatory Commission and the state regulatory commissions of Alabama, Arizona, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, Ohio, Pennsylvania, Texas, Virginia, Washington, and Wyoming. I have also appeared before the City of Austin Electric Utility Commission, the Board of Public Utilities of Kansas City, Kansas, the Bonneville Power Administration, Travis County (Texas) District Court, and the U.S. Federal District Court. A partial list of my appearances is attached hereto.

Q PLEASE DESCRIBE J. POLLOCK, INCORPORATED.

A J.Pollock assists clients to procure and manage energy in both regulated and competitive markets. The J.Pollock team also advises clients on energy and regulatory issues. Our clients include commercial, industrial and institutional energy consumers. Currently, J.Pollock has offices in St. Louis, Missouri and Austin and Houston, Texas.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.	DOCKET NO. 080677-EI
In re: 2009 depreciation and dismantlement Study by Florida Power & Light Company	DOCKET NO. 090130-EI
	Filed: August 24, 2009

NOTICE OF SERVICE OF
THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
ERRATA TO TESTIMONY OF JEFFRY POLLOCK

The Florida Industrial Power Users Group (FIPUG), by and through its undersigned attorneys, hereby files revised pages 11 and 60 to the testimony of Jeffry Pollock filed on July 16, 2009 by Electronic Mail and U.S. Mail on this 24th day of August, 2009.

s/ Vicki Gordon Kaufman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Errata to Testimony of Jeffry Pollock was served via Electronic Mail and First Class United States Mail this 24th day of August, 2009, to the following:

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s/Vicki Gordon Kaufman
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Revised

Q WHAT LIFE SPAN DOES FPL ASSUME FOR ITS COAL UNITS?

A FPL jointly owns Plant Scherer Unit No. 4 and St. John's River Power Park (SJRPP) station. According to Exhibit CRC-1, FPL assumes these facilities will be retired in 2029 and 2028, respectively. This translates into life spans of 40 years and 41 years, respectively.

Q HAS FPL PROVIDED ANY JUSTIFICATION FOR THE PROPOSED LIFE SPANS?

A No. The Company has not indicated when it will retire these units (*FPL's 2009 Ten Year Site Plan*, Schedule 1).

Q ARE 40-41 YEAR LIFE SPANS REASONABLE FOR COAL UNITS?

A No. FPL's proposed life spans are considerably shorter than the average lives of coal-fired plants as determined in proceedings. For example:

- 60 years for Indiana-Michigan Power company's Tanner Creek Units 1 through 4 and for its Rockport Unit 1 (Indiana Utility Regulatory Commission, Cause No. 43231, *Interim Order,* 6/13/2007);
- 55 years for coal plants operated by Southwestern Public Service Company (New Mexico Public Regulatory Commission, Case No. 07-00319-UT, *Order*, August 26, 2008);
- 60 to 63 years for coal units owned by AmerenUE (Missouri Public Service Commission, Cause No. ER-2007-0002, *Order,* May 22, 2007);
- 61 years for coal units owned by Rocky Mountain Power (Wyoming Public Service Commission, Docket No. 20000-257-EA-6, *Record No. 10794*, June 12, 2008);
- 60 years for Public Service Company of Oklahoma (Oklahoma Corporation Commission, Cause No. PUD 200600285, *Order No. 545168*, October 9, 2007); and
- 55 years for Georgia Power Company's Plant Scherer Units 1-3 (Georgia Public Service Commission, Docket No. 25060-U Document 103566, 2007 Rate Case).

Revised

And finally, the proposed Rate CILC energy charges are also above cost, as shown below. However, as explained later, this is the result of a different rate design issue.

Rate	Non-Fuel Energy Costs	Non-Fuel Energy Charge
CILC-D	0.710¢	1.267¢
CILC-T	0.688¢	1.018¢

Q HAS FPL EXPLAINED WHY THE NON-FUEL ENERGY CHARGES ARE MUCH HIGHER THAN ACTUAL ENERGY COSTS?

A No.

Q HOW SHOULD THE GENERAL SERVICE DEMAND RATES BE DESIGNED?

A The proposed CILC non-fuel energy charges would exceed unit costs. Accordingly, they should be scaled back to reflect cost while the Demand charges should be correspondingly increased to recover the target revenues assigned to the CILC class.

Q DO YOU HAVE ANY OTHER CONCERNS WITH THE PROPOSED GENERAL SERVICE RATE DESIGN?

A Yes. The HLFT rates were designed for higher load factor customers. The average load factors for HLFT customers are about 80% as compared to only 64% for GSLDT customers. However, the proposed rates would make HLFT more expensive than GSLDT unless the customer can achieve load factors above 84% for HLFT-2 and over 100% for HLFT-3. The latter requirement is impractical, and it would result in customers migrating back to Rate GSLDT-2.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.	DOCKET NO. 080677-EI
In re: 2009 depreciation and dismantlement Study by Florida Power & Light Company	DOCKET NO. 090130-EI
	Filed: August 26, 2009

NOTICE OF SERVICE OF
THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
ERRATA TO TESTIMONY OF JEFFRY POLLOCK

The Florida Industrial Power Users Group (FIPUG), by and through its undersigned attorneys, hereby files revised pages 14, 18, 34, 36, and Exhibit JP-4 to the testimony of Jeffry Pollock filed on July 16, 2009 by Electronic Mail and U.S. Mail on this 26th day of August, 2009.

s/ Vicki Gordon Kaufman

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s/Vicki Gordon Kaufman
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Q WHAT LIFE SPANS DOES FPL PROPOSE FOR ITS COMBINED CYCLE UNITS?

A The average life span for FPL's combined cycle (CC) units is 27 years. This ranges from 25 years for Turkey Point, Martin 8, and Manatee to 43 years for Putnam. The new West County Energy Center (WCEC) CC units are projected to have 25-year life spans (FPL's *2009 Ten-Year Site Plan* at p. 106).

Q HAS FPL JUSTIFIED THE LIFE SPANS OF ITS COMBINED CYCLE UNITS?

A No. There are no expected retirement dates for these units (FPL's *2009 Ten-Year Site Plan* at Schedule 1). FPL has not explained why it cannot operate these units for much longer than 27 years (25 years for its newest, most efficient WCEC units). The CC units represent a combined $6.2 billion investment. Since these are the most efficient units on FPL's system, it should be economic to maintain them in good operating condition for much longer than 27 years.

Q WHAT IS THE BASIS FOR YOUR OPINION THAT COMBINED CYCLE UNITS ARE CAPABLE OF OPERATING MUCH LONGER THAN 27 YEARS?

A My opinion is based on industry projections and practices, including the following:

- 40 years for Rocky Mountain Power's CC units (Utah Public Service Commission, Docket No. 07-035-13 and Public Utility Commission of Oregon UM 1329, *Order No. 08-327*, June 17, 2008);
- Over 60 years for Public Service Company of Oklahoma (Oklahoma Corporation Commission Cause No. 200600285, *Order No. 545168*, October 9, 2007);
- 35 years for Nevada Power Company Silverhawk and Lenzie CC units (Nevada Public Utilities Commission, Docket No. 06-11022, Modified order of July 17, 2007);
- 35 years for Georgia Power Company McIntosh CC units (Georgia Public Service Commission, Docket No. 25060-U, Document 103566, 2007 Rate Case).

This treatment should continue until FPL files its next depreciation study. Coupled with my recommendation to offset the $314.2 million of capital retirements and assuming FPL's next depreciation study is filed in 2012 (four years from the filing date of this case), the book reserve would be reduced by an additional $875 million. This would still leave nearly $0.4 billion in excess book depreciation reserve.

Q IS THERE ANY PRECEDENT FOR REQUIRING FPL TO TAKE MEASURES NECESSARY TO ELIMINATE THE HUGE (OVER $1.2 BILLION) SURPLUS IN ITS DEPRECIATION RESERVE?

A Yes. My recommendations to correct a reserve surplus are the same in concept as prior Commission actions allowing FPL and FPC to correct reserve deficiencies. For example:

- FPL was to book $126 million (in accord with preliminary implementation approved in Order PSC-95-0672-FOF-EI), an additional $30 million commencing in 1996, and additional expense in 1996 and 1997 equal to 100% of base rate revenues produced by retail sales between its "low band" and "most likely sales forecast" for 1996, and at least 50% of the base rate revenues produced by retail sales above FPL's most likely sales forecast for 1996 to correct a $175.3 million deficiency in the nuclear depreciation reserve and to correct the reserve deficiency existing in FPL's other production facilities, which was calculated to be $60.3 million as of January 1, 1994 (Docket No. 950359-EI, *Order No. PSC-96-0461*); and
- FPC was ordered to amortize the gain realized from the sale of a combustion turbine from Port St. Joe to be used to offset the reserve deficiency at the Suwanee Peaking Plant. (Docket No. 971570-EI, *Order No. PSC-98-1723-FOF-EI*).

Since FPL now has a huge reserve surplus, similar adjustments are appropriate and necessary to restore generational equity and to help mitigate the impact of

included in the Planning Process Guidelines FPL issued on May 21, 2008 (*Direct Testimony of Robert E. Barrett Jr.,* at 8). The planning process resulted in an O&M budget for 2009 as well as budgets for 2010 and 2011, a capital budget for 2009, and forecasted capital expenditures for 2010 through 2013 (*Id.*). The results were reviewed in June 2008 and finally approved in late 2008 (*Id.* at 9.). The O&M budget is prepared annually for the next year and two additional years, with the next year done at a monthly level while the two "out" years are done on an annual basis. (*Id.* at 13.)

Q WHAT IS SIGNIFICANT ABOUT THE USE OF NUMBERS CALCULATED IN MID-2008 TO SET RATES FOR 2011?

A The use of projections calculated some two and half years prior to the date rates are to take effect by necessity will result in rates that are based on highly speculative information. The farther out in time projections are, the less likely they are to be accurate.

In Florida, no doubt due in part to the numerous recovery clauses, many years have often elapsed between rate cases. If the Commission were to base 2011 rates on speculative data from 2008 – which will change as 2011 gets closer – these inaccurate rates may be in effect for a long time and ratepayers may be paying more than necessary.

If FPL can support a case for rate relief in 2011, it can file a rate case or limited proceeding in 2010 when projections and budgets will be more accurate.

planning and budget process, which takes place during the latter part of each year. As such, the final 2010 budget and forecasts for 2011/2012 will be approved in late 2009."

The above response clearly indicates that both the 2010 and the 2011 capital forecasts are far from final and are subject to change. In each instance, 2010 and 2011, the final capital budget for each year will not be approved until in the case of the 2010 capital budget, this year, and in the case of 2011 until 2010.

Q IS THERE ANY OTHER INFORMATION THAT SUGGESTS THAT THE CAPITAL BUDGET IS SUBJECT TO REVISION?

A Yes. A review of the capital budget numbers provided in a series of FPL 10Q filings with the Securities and Exchange Commission (SEC) for the quarters ending June 30, 2008, September 30, 2008 and March 31, 2009 indicate that the capital expenditures have changed over the nine month period. **Exhibit JP-4** provides a summary of the projected expenditures taken from the three 10Q filings. In those filings, by way of example, both the 2010 and the 2011 total capital expenditures have increased by over $300 million from September 2008 to March 2009. During the same period (September 2008 to March 2009), the 2009 capital expenditures have decreased by over $300 million. From the quarter ending June 2008 to the quarter ending March 2009, the 2009 expenditures have decreased by over $1 billion. These changes highlight the extent to which expenditures may change over a relatively short period of time.

Docket No. 080677-EI
Capital Expenditures
Exhibit JP-4

FLORIDA POWER & LIGHT COMPANY

Comparison of Capital Expenditures from Form 10Q Reports

$ in Millions

Line	Capital Type	Form 10Q Version 6/30/2008 (1)	9/30/2008 (2)	3/31/2009 (3)
	2009 Capital Expenditures			
	Generation			
1	New	$1,190	$1,075	$1,110
2	Existing	$790	$655	$545
3	Generation Total	$1,980	$1,730	$1,655
4	Transmission and Distribution	$1,090	$595	$445
5	Nuclear Fuel	$165	$165	$65
6	General and Other	$145	$190	$150
7	Total	$3,380	$2,680	$2,315
	2010 Capital Expenditures			
	Generation			
8	New	$910	$915	$1,190
9	Existing	$675	$665	$680
10	Generation Total	$1,585	$1,580	$1,870
11	Transmission and Distribution	$1,130	$845	$865
12	Nuclear Fuel	$200	$200	$205
13	General and Other	$230	$290	$290
14	Total	$3,145	$2,915	$3,230
	2011 Capital Expenditures			
	Generation			
15	New	$490	$510	$830
16	Existing	$575	$645	$610
17	Generation Total	$1,065	$1,155	$1,440
18	Transmission and Distribution	$1,180	$925	$925
19	Nuclear Fuel	$175	$175	$215
20	General and Other	$225	$315	$315
21	Total	$2,645	$2,570	$2,895
	2012 Capital Expenditures			
22	Generation			
23	New	$760	$755	$340
24	Existing	$455	$455	$515
25	Generation Total	$1,215	$1,210	$855
26	Transmission and Distribution	$1,150	$1,165	$930
27	Nuclear Fuel	$195	$195	$220
28	General and Other	$215	$225	$300
29	Total	$2,775	$2,795	$2,305

BY MS. KAUFMAN:

Q Mr. Pollock, have you prepared a summary of your testimony?

A I have.

Q And have you heard the chairman's admonition about the lights?

A I know them. I'll try to be one with the lights.

Q Okay. If you'd give your summary, Mr. Pollock?

A This case -- and good evening, Commissioners.

This case is all about FPL's request for a nearly 1.5 billion, or a 35.6 percent, rate increase which are in addition to two GBRA increases totaling 266 million or 6.8 percent that will become effective prior to 2010, and the irony is that a nuclear plant is not even on the table. That will come later.

All Intervenors agree that FPL's request is entirely out of bounds, and several have recommended that rates be decreased. If you agree that a 35.6 percent increase is simply too high, you should also consider FPL's proposed base rate increases to certain demand meter customer classes. It would be more than twice the system average, in some cases. The rate shock of such a proposal is obvious, and it's even more

disturbing as businesses try to pull out the recession. These are businesses that employ many of FPL's customers.

This result is also contrary to this Commission's longstanding practice of limiting base rate increases to not more than one and a half times the system average to reflect the principle of gradualism. The Commission recently reiterated this important principle in a TECO rate case, and while FPL touts that it will lower fuel costs as a justification, we all know that fuel costs change every year, in contrast to base rates, that get changed infrequently.

FIPUG is you a strong advocate of cost-based rates, but we must bear in mind that a tremendous rate shock will result to certain classes if FPL's allocation proposal is adopted and suggest that the magnitude is wholly inappropriate. Therefore, we recommend that if an increase is granted, move all rates as closely possible to costs but limit the increase to about one and a half times system average.

In considering the important issue of allocations, you should recognize that on the one hand FPL wants a flash cut to cost-based rates, but the proposed rate design does not follow suit. It would set non-fuel energy charges 48 to 111 percent higher than

non-fuel energy costs, which is contrary to a cost-based rate design.

Inappropriately increasing energy charges further compounds the already enormous base rate increases that FPL seeks for high load factor customers, which are the customers that have steady demands day in, day out, who are the most efficient, least costly to serve.

And further, to the extent that they're also willing to curtail load as necessary to allow FPL to continue serving its firm customers, they're also less costly to serve than firm customers.

Non-firm load is a valuable resource in the state of Florida, but there are two problems with FPL's non-firm rates. The first is the specific flaw with the design of the CILC, which stands for commercial/ industrial load control. The flaw is revealed on page 62 of my testimony, and specifically the CILC cost to serve starts with the assumption that service is firm, but the target revenues for rate design basically takes that firm cost and removes the incentives paid to CILC customers to curtail service. The amount of the incentive is the difference between the on-peak demand charge and the load control charge which, as shown in the chart, is about 53.2 million; however, the company

is only crediting the class with 30.6 million, so the class in essence is being charged 22.6 million of incentives. This problem should be corrected by allocating the entire 52.3 million to all customer classes to recognize it as a cost of service.

Non-firm load is also provided under the CDR, commercial/industrial demand reduction rider, to allow FPL to curtail load in the event of a number of conditions. FPL is not proposing to change the credit. It says that the changes should only be made in the context of the conservation goals docket, but it did not provide any such changes in that proceeding.

This issue should be addressed now. It's timely, it's appropriate. An increase to $5.50 a KW reflects FPL's avoided capacity costs, recognizes the higher cost of capacity, and I would note that TECO also provides non-firm service a credit of over ten dollars.

As to the appropriate cost of service methodology, FIPUG is not opposing the company's cost study, but if the Commission decides to move in the same direction as in the TECO case, it should adopt the average and excess method. The average and excess, or A&E, method weights energy by 59 percent, but unlike the 12 CP and 25 percent or 50 percent average demand method, it recognizes the dual functionality of

generating plants; that is, they serve both base load and cycling loads without double-counting peak demand.

And finally, the way to also address rate shock is to thoroughly scrub the company's revenue requirements. You've heard these issues from many other Intervenors. I've addressed several issues in my testimony, including issues regarding depreciation, capital structure and subsequent year adjustment.

And that concludes my summary.

Q Thank you.

MS. KAUFMAN: The witness is available for cross-examination, Mr. Chairman.

CHAIRMAN CARTER: Okay. Mr. Wiseman or Ms. Spina? Mr. Wiseman? Oh, okay, guys. Ms. Christensen?

MS. CHRISTENSEN: No questions.

CHAIRMAN CARTER: Mr. Wiseman?

MR. WISEMAN: Thank you, Mr. Chair.

CHAIRMAN CARTER: Then I'll come to you, Ms. Bradley, after Mr. Wiseman.

CROSS EXAMINATION

BY MR. WISEMAN:

Q Good evening, Mr. Pollock.

A Good evening.

Q Mr. Pollock, could you refer to page 51 of your testimony, please?

A I have it.

Q All right. Now, at line 3 you were asked the question, should the Commission retain the 12 CP and a 13th AD method. Do you see that?

A Yes.

Q And your answer to that question is yes, correct?

A Yes.

Q Now, am I correct that under the 12 CP and the 13th methodology, FPL allocates approximately 92 percent of the cost of production plant to individual rate schedules based upon their contribution to the average of the 12 coincident peaks that FPL experiences on its system?

A That's a correct statement, yes.

Q All right. Now, I want to ask you a few questions about terminology so it's clear what we're talking about.

Would you agree that each of the coincident peaks that we're talking about is the peak demand experienced in an hour in each of the 12 months of the year?

A That's correct.

Q And the production plant we're talking about, that's -- we're talking about generating plants,

correct?

A Yes.

Q All right. Now, you'd agree with me that FPL is a summer-peaking utility, correct?

A Absolutely. In fact you can see that on my Exhibit JP-5 very clearly the summer peaks is shown in the bar graph. The summer peaks stand out very, very clearly, making FPL a very strongly summer-peaking utility.

Q And what that means is that its annual system peak is experienced in the summer, correct?

A That's correct.

Q Now, I don't know if your charts show this or not, but will you accept, subject to check, if you don't know, that the highest coincident peak experienced in each of the years 2005 through 2008 has been experienced in the month of August?

A Yes, the chart does show that.

Q All right. Now, you're aware that Mr. Baron for the Hospital Association has proposed a summer coincident peak allocation methodology, correct?

A Yes.

Q Now, would you agree that under Mr. Baron's methodology, FPL would allocate the cost of production plant to each rate schedule based upon that rate

schedule's contribution to the summer coincident peak?

A That's correct.

Q Now, isn't it true that FPL has been adding generating capacity in order to meet its summer coincident peak?

A Clearly, when you look at the ten-year site plans and their planning process, the summer peak loads are consistently projected to be the highest in the year and are the driver for determining how much capacity is needed to maintain a reliable system.

Q Right. So in other words, you'd agree that the capital costs that FPL is incurring to add generation, that those capital costs are to meet the summer coincident peak requirement, right?

A Certainly the utility needs the capacity to meet the summer peak, yes.

Q And would you agree that FPL is not adding generation or incurring capital costs to meet its average coincident peak?

A No. In fact, I illustrate that a little bit on Exhibit 7 where you show a hypothetical system with two customers, and if you look at the two customers and you look at their combined loads and look at, well, how much capacity does the utility have to have in order to reliably serve both customers, you have to look at the

maximum demands of the two customers, not the average. If you're only going to serve the average demand, which is the horizontal black line, you wouldn't have enough capacity to serve all of your load.

Q So I think you had -- the first word out of your mouth when you answered my question was no, so let me ask the question again, because I'm not sure the record's clear.

The question is that FPL is not incurring capital costs to meet the average coincident peak on its system, right?

A I would agree. I don't believe, when you look at the load characteristics and the maintenance characteristics, it's pretty clear that the winter period -- the non-summer period is not really driving the need for capacity.

Q All right. And I think this is consistent with what you said in your answer two answers ago. You'd agree that FPL has adequate capacity to meet its average coincident peak, is that right?

A Yes.

Q All right, so then isn't it true that by assigning costs to rate schedules based upon the rate schedules' contribution to the summer coincident peak, Mr. Baron's summer coincident peak methodology sends a

more accurate price signal than would be sent by FPL's 12 CP and a 13th methodology?

A I think it's fair to say, given the greater recognition of the summer period with Mr. Baron's methodology than the 12 CP and 1/13th, that it does better reflect cost causation; therefore, if you set rates based on those costs, you're going to send a more appropriate price signal for customers.

Q So Mr. Baron's proposal sends a more accurate price signal than 12 CP and a 13th?

A The recognition of the summer peak I think would accomplish that.

Q Right. And Mr. -- would you agree it's a more accurate price signal because it aligns cost responsibility with cost causation?

A Yes.

Q And specifically under Mr. Baron's summer coincident peak methodology, rate schedules would be assigned costs -- cost responsibility based upon their contribution to FPL's expenditures to add generation capacity, isn't that right?

A Yes.

Q Thank you.

MR. WISEMAN: I have no further questions.

CHAIRMAN CARTER: Okay. Ms. Bradley?

MS. BRADLEY: I have no questions for this witness, but if I may, I would like to thank him for his list of acronyms in his testimony. That was a very nice touch.

CHAIRMAN CARTER: That's always helpful in technical cases.

THE WITNESS: You're welcome.

CHAIRMAN CARTER: Mr. Wright?

MR. WRIGHT: No questions, Mr. Chairman.

CHAIRMAN CARTER: Staff -- wait a minute. Hang on a second. Sorry, Mr. Butler. I was on a streak there, you know, I was -- sorry, Mr. Butler, you're recognized.

MR. BUTLER: Thank you, Mr. Pollock.

CROSS EXAMINATION

BY MR. BUTLER:

Q Good evening, Mr. Pollock.

A Good evening.

Q To follow up briefly on the questions asked to you by Mr. Wiseman, if FPL were only serving a single hour of summer peak, do you think FPL would build the same types of plants that it has in its system now and that it is proposing to build?

A Well, I don't think any utility exists to serve one hour of load, but once you do serve that one

hour of load, you've got all the capacity you need to serve all the rest.

Q But if you didn't have to serve much in the other hours, would you agree that you'd probably build less expensive but higher fuel cost combustion turbines or something like that rather than building combined cycle plants or nuclear units?

A Well, a utility is always going to build a mix of plants because each type of plant plays a little different role. I would agree, I mean, to the extent that the utility is going to serve load throughout the year, it's going to build a mix of plants to do that in the most cost-effective manner, but it still has to have the capacity to meet the peak.

Q Have you ever prepared a dismantlement study?

A No.

Q Have you ever prepared a depreciation study?

A I have not.

Q Okay. Are you a member of the Society of Depreciation Professionals?

A No.

Q Or of any other professional association related to performing depreciation studies?

A No.

Q Okay. Am I correct that the table on page 19

of your testimony is the only place in your testimony where you mention dismantlement?

A I also mention dismantlement on page 17, as, should the Commission take any further steps to restore intergenerational equity, the second bullet says, "To cease contributions to the fossil dismantlement fund."

Q Okay. Other than that, is there any other reference?

A No, other than the table that you previously referred to.

Q Okay. Are you familiar with the Commission's Rule 25-6.04364 concerning dismantlement studies?

A I've generally reviewed the Commission rules.

Q Are you familiar with this particular rule?

A I've read it, yes.

Q Okay. I'd like to show you a copy of it and just ask you a couple of questions about that.

Mr. Pollock --

CHAIRMAN CARTER: Hang on a second. We'd all like to be on the same page.

MR. BUTLER: Good idea. Thank you.

CHAIRMAN CARTER: Including those of us at the bench, if you don't mind.

MR. BUTLER: I'm sorry, we are short a copy somehow.

CHAIRMAN CARTER: All right, then. Let's see --

MR. BUTLER: Hold on. We're going to rob Peter to pay Paul here.

CHAIRMAN CARTER: Thank you. You may proceed.

MR. BUTLER: Thank you, Mr. Chairman. I apologize for the confusion.

BY MR. BUTLER:

Q Mr. Pollock, would you focus on subsection (1) of Rule 25-6.04364, and would you agree that this subsection of the rule requires each utility to accrue funds for dismantlement to accumulate a reserve that is sufficient to meet all expenses at time of dismantlement?

A Yes, that's what it says.

Q Would you agree that your testimony says nothing about the sufficiency of FPL's dismantlement reserve?

A No, I've not attempted to analyze the sufficiency of the reserve, specifically the dismantlement reserve.

Q I'd like you to turn to page 7 of your testimony and ask you a few questions about depreciation.

Beyond FPL's depreciation study, do you have

any independent knowledge of FPL's operating practices for its power plants?

A Sorry, you cut out. I didn't hear one of the words in your question.

Q Sorry. Beyond FPL's depreciation study, do you have any independent knowledge of FPL's operating practices for its power plants?

A No.

Q The same question with respect to FPL's maintenance practices for its power plants?

A No.

Q And the same question for the basis FPL used for estimating the lifespans and retirement dates for its power plants?

A No.

Q Have you ever visited FPL's power plants?

A I have not.

Q Have you ever discussed the operation or maintenance of FPL's power plants with FPL personnel responsible for same?

A No.

Q Okay. On page 11 of your testimony, you list proceedings in which other jurisdictions have adopted longer lifespans for coal plants and approving depreciation studies. For the plants and the utilities

that are listed there, do you have any personal knowledge about the design lives for the coal plants in question?

A No, I don't have any in-depth knowledge of the plants themselves.

Q Would that also be true with respect to the maintenance practices for those plants?

A That's true.

Q And for the operational characteristics of the plants?

A Yes.

Q Would you agree that using longer plant lives in those depreciation proceedings does not necessarily mean that the coal plants in question will actually remain in service to the end of those depreciation lives?

A It's never a guarantee. A depreciation study is kind of an evolving event. You look at it every so often to see how the plants are doing and what the remaining life happens to be based on circumstances that may be different from time to time.

Q Would you turn to page 14 of your testimony?

A I have it.

Q Okay. In here you also -- you list proceedings on page 14 which discuss longer lives for

combined cycle plants that were used in depreciation studies than those that FPL has used, correct?

A Yes.

Q I'll try to shorten this by asking, do you have any independent knowledge of the same sorts of specifics about those combined cycle plants that I asked you a moment ago with respect to the coal plants referred to on page 11?

A No, I don't have any insights.

Q Okay. Are you familiar with this Commission's need determination proceedings under the Power Plant Siting Act?

A Generally so.

Q Are you aware that those proceedings involve an economic analysis comparing a utility's proposed power plant against the most favorable bids received from others to supply the power?

A I would assume that's the case.

Q And in making that comparison, would you agree that, all other things held constant, the utility's proposed power plant would be less economically attractive if the utility projected a shorter rather than a longer lifespan for that plant?

MS. KAUFMAN: Mr. Chairman, I'm going to object to this question. I think this is outside the

scope of Mr. Pollock's testimony. He doesn't discuss the determination of need proceedings or the determination that the Commission makes in those proceedings.

CHAIRMAN CARTER: To the objection, Mr. Butler?

MR. BUTLER: Well, I am going to show Mr. Pollock an exhibit in a moment which I'm going to ask him about in which the book life for combined cycle units in one of FPL's recent need determination proceedings is stated. I'm wanting to establish the predicate here on why FPL believes that that figure is representative of a realistic estimate of the expected book life for that plant.

CHAIRMAN CARTER: Welcome back, Ms. Helton.

MS. HELTON: I'm so glad to be here, Mr. Chairman. I'm sorry, I sometimes have a hard time hearing Mr. Butler and I couldn't hear -- you said what kind of life?

MR. BUTLER: Book life.

MS. HELTON: Book life?

MR. BUTLER: Yes.

MS. HELTON: Okay. Once again you have caught me in a situation where I caught the discussion and did not hear the question.

CHAIRMAN CARTER: Restate the question just for Ms. Helton, Mr. Butler.

MR. BUTLER: The question was -- well, one question before it was that I asked Mr. Pollock whether the need proceedings involve an economic comparison between the utility's proposed plant and something that was -- alternatives that might be available for power supply from others, to which he agreed he understood that's how the proceedings worked, and then I asked him, in making that comparison, would you agree that, all other things held constant, the utility's proposed plant would be less economically attractive if the utility projected a shorter rather than a longer life for that plant.

And again, what I'm wanting to establish here, Mr. Chairman, is explain further the logic of my question and make this as proper a question, as I think very important here, is that I'm wanting to establish that the utility has no incentive to be stating in its need determination proceedings a short life for the plants that it is proposing to build because a shorter life will make them less economically attractive, and I think, therefore, it sets the stage for why the life expectancy that is shown, the book life for the plants in one of FPL's recent need determination proceedings

for a combined cycle unit is relevant and sheds light on the appropriate life expectancy for a combined cycle unit for depreciation purposes.

MS. KAUFMAN: And, Mr. Chairman, if I might respond?

CHAIRMAN CARTER: Hang on one second.

Are you working on your train of thought, or --

MS. HELTON: Well, maybe Ms. Kaufman could help me. Has the witness testified to what the lifespan should be in his testimony for the plant at issue?

MS. KAUFMAN: Yes -- well, there's no plant at issue here, and that's part of my point. He has testified as to the appropriate lifespan for combined cycle and coal plants for use in the depreciation study.

Mr. Butler, I don't know if he was testifying or not in his explanation to you, but Mr. Pollock doesn't have any testimony relating to need determinations or the criteria that the Commission does or does not consider in this proceeding, so my objection is it's outside the scope of his testimony.

CHAIRMAN CARTER: Commissioner Skop?

COMMISSIONER SKOP: Thank you. Sorry to intercede. I'm following the discussion, but I want to ask a clarifying point to Mr. Butler, with respect --

and again, I'm defer the ruling to you and the General Counsel, but how is a need determination relevant to an accounting adjustment regarding depreciation?

MR. BUTLER: Mr. Pollock in his testimony disputes the, you know, life expectancy that FPL uses in its need determination -- I'm sorry -- in its depreciation study for this proceeding, 25 years. He refers to various proceedings in other jurisdictions that have used different lives for combined cycle units.

Now, one of the points that we make in our depreciation study, and Mr. Clarke made it a while back when he was on the stand, is that it's important to look at the information that the utility in question is actually using for its own purposes and that it believes is most appropriate on the expected lives for those units, and what I'm going to try to establish, showing what FPL believes and uses for various purposes as the expected life for its combined cycle units.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Ms. Helton?

MS. HELTON: It seems to me that where we're going with this, or where Mr. Butler is going with this, is the credibility of the lifespan testimony in the witness's -- the witness has given here today, and it seems to me that, based on what I've heard so far, that

this is an appropriate line of cross-examination.

CHAIRMAN CARTER: Overruled. You may proceed.

BY MR. BUTLER:

Q Do you need the question repeated, Mr. Pollock? It's been a while since you heard it.

A No, I think I kind of got it, but if I don't respond properly, you'll put me back on track, okay? Is that a deal?

Q Thank you.

A That's a very difficult question to answer, even with all other things being equal, because it really depends on -- there are a lot of moving parts in a determination of need proceeding and an economic analysis to compare different power plants. I'm not so sure a shorter life is necessarily better. You may be -- your alternative might be a purchase power contract. It might actually be cheaper over a shorter term than, you know, than a 25-year life cycle, and you may actually be better with a longer life than a purchase power agreement.

So, you know, I can't just say, you know, willy-nilly that it's always going to go one way or the other just because of the life of the plant that you're comparing to.

Q Let me try, then, with a different question,

Mr. Pollock. I think you may have answered a slightly different question than mine, which is fair enough, but --

A I'm trying.

Q -- let's go with what you described. I mean, you would agree that in a need determination in which there is bids submitted by other entities, that a significant part of the exercise is to determine whether the utility's proposed plant or one of these other bids is the most economically attractive alternative, correct?

A I'm with you.

Q Okay. Now, what I'm asking is that in making that comparison, when the utility is proposing its, you know, plant that it would propose to build instead buying from some other entity, wouldn't it make the economics of that plant, the utility's proposed plant, less attractive in comparing to these bid alternatives it may have received if it used a shorter life for that proposed plant rather than a longer life?

A Well, I suppose, if the comparison is just between two equal options, in one option somebody wants a 30-year deal and another wants a 25-year deal, you know, recovery costs over a shorter period typically tends to be more expensive, all other things being

equal.

But those are not the only things that get compared in a determination of need proceeding, and what I've found in my experience is that utilities often want long-term resources to compare against the market because the market simply doesn't have the, you know, the risk tolerance to provide, say, a 20-year guaranteed purchase power contract vis-à-vis a power plant or something like that. So it's not just a straightforward yea or nay.

MR. BUTLER: Okay. I'd like to hand out at this point an exhibit that is entitled West County 1 and 2 Need Study Excerpts.

CHAIRMAN CARTER: To be marked, Mr. Butler?

MR. BUTLER: I think that it should be marked as 454.

CHAIRMAN CARTER: 454. Title, short title?

MR. BUTLER: West County 1 and 2 Need Study Excerpts.

(Exhibit No. 454 marked for identification.)

CHAIRMAN CARTER: Okay, you may proceed.

BY MR. BUTLER:

Q Mr. Pollock, have you ever reviewed need studies submitted in Power Plant Siting Act proceedings here in Florida before?

A I've probably reviewed some studies a long time ago, but nothing recent, and certainly not this particular study.

Q I'm going to try to move this along quickly.

If you'll look on the third page -- I'm sorry, the fourth page in, including the cover, the one that has the Romanette ii at the bottom, do you see that?

A Yes.

MS. KAUFMAN: I'm sorry, Mr. Butler. Which page?

MR. BUTLER: The fourth page in, it has a Romanette ii, the two little i at the bottom of it.

THE WITNESS: The Table of Contents?

BY MR. BUTLER:

Q Yes. You'll see at the bottom that there is a category for financial and economic data?

A Yes.

Q Now, if you'll turn back a couple of pages, you'll see on the page that has Romanette iv at the bottom, little iv, there's a reference to Appendix G, Financial and Economic Assumptions. Do you see that?

A Yes.

Q Okay. Now, I'd like to ask you to move through the document to what has an Arabic 34 at the bottom and then Financial and Economic Data at the top.

A Okay.

Q And I'd like you to read what appears as item 3, Financial and Economic Data, the sentence that appears under that heading.

A Out loud?

Q Please.

A "The financial and economic assumptions used in the resource planning process, the selection of the NPGU and the analysis of proposals received in response to the RFP are presented in Appendix G."

Q And to Commissioner Edgar's comment about baffling acronyms, my apologies for not doing this first, let me move back to the prior page that has a page 3 at the bottom of it, and you see in the beginning of the second paragraph under Introduction that NPGU is the acronym for next planned generating unit. Do you see that?

A Yes.

Q Now, if you would, please, turn to the next-to-last page in the document, which is Appendix G, Financial and Economic Assumptions.

MS. KAUFMAN: Mr. Chairman, I'm going to interpose an objection here. This is a very lengthy document. I think Mr. Pollock said that he had not reviewed it. I don't think it's appropriate to select a

few pages and ask him on the stand to review and confirm or to ask him questions about a document that I don't think he's ever seen before.

CHAIRMAN CARTER: Mr. Butler, to the objection?

MR. BUTLER: I frankly forget the really cool term that Mr. Mendiola used earlier for completing the document, completeness option, I think -- optional completeness. I would certainly offer that to Ms. Kaufman.

This document is literally two feet high. We certainly tried to avoid killing trees and plugging up the proceeding by copying all of it. If there are any provisions in this that Ms. Kaufman feels are necessary to provide appropriate context, I would extend the offer for her to add them to the exhibit. We simply are trying to get to the heart of what we wanted to show without burdening the record with a enormous pile of paper.

MS. KAUFMAN: Mr. Chairman, if I might?

CHAIRMAN CARTER: Yes, ma'am.

MS. KAUFMAN: I'm certainly not attempting to kill trees or burden the record, and I don't think it is my responsibility to -- or my witness's -- to take the time and effort to review a voluminous document in order

to be prepared to answer questions. He's never seen this document before and I don't think it's appropriate to select Appendix G and question him about it when he hasn't reviewed the entire document in its context.

MR. BUTLER: Appendix G is the only part that's relevant to the point I want to make. I've really only got one more question on this, and why don't I ask it, let Mr. Pollock answer, and if Ms. Kaufman --

CHAIRMAN CARTER: Let's see where it goes, let's see where it goes.

BY MR. BUTLER:

Q Mr. Pollock, would you turn to Appendix G? The first page of it says page G-1 of 2 at the bottom.

A I have it.

Q Down under Tax Assumptions, would you read what is listed as the combined cycle book life?

A Yes. It says, "equals 25 years."

Q Okay, thank you.

Mr. Pollock, would you agree that exposure to elevated salt levels in the air would tend to cause more rapid deterioration of outdoor power plant components?

MS. KAUFMAN: Excuse me. More rapid than what?

MR. BUTLER: I'm sorry?

MS. KAUFMAN: I think your question was

unclear. I think you said "more rapid," and I'm just asking you, more rapid than what? What are you --

CHAIRMAN CARTER: Rephrase.

BY MR. BUTLER:

Q Mr. Pollock, would you agree that exposure -- that operating a plant in an environment with high chloride levels, high salt levels in the air, would tend to cause more rapid deterioration of that plant than one that is operated in an environment that has lower salt or chloride levels in the air?

A I've not done a analysis of that so I really couldn't say one way or the other.

Q Okay. Next I would like to explore a simplified depreciation hypothetical with you that is going to be made more simple, I hope, by an exhibit that we're going to distribute at this point.

CHAIRMAN CARTER: Okay. Do we need to mark?

MR. BUTLER: I'd like to mark it as Exhibit 455.

CHAIRMAN CARTER: 455, Commissioners. Short title?

MR. BUTLER: The title will be 25 Versus 35 Year Depreciation Lives.

CHAIRMAN CARTER: 25 Versus 35 Year Depreciation Life?

MR. BUTLER: Yes.

(Exhibit No. 455 marked for identification.)

CHAIRMAN CARTER: You may proceed.

MR. BUTLER: Thank you.

BY MR. BUTLER:

Q Okay, Mr. Pollock, let me lay out what I'm trying to illustrate with this, the hypothetical I'm trying to illustrate with the exhibit I just handed out that's been marked as Exhibit 455, and then we will go through the pages of the exhibit.

I'd like you to assume that a utility has one combined cycle plant with the initial cost of $500 million, and I'd like for you further assume that the plant can operate for 25 years before a major refurbishment in the form of a new rotor is required, but it could operate for 35 years if the utility spends $150 million in major refurbishment in year 25, okay? Do you understand the hypothetical?

A Yes.

Q Okay. Now, if you will look at the first page of Exhibit 455, this is attempting to illustrate a 35-year life for depreciation purposes with this investment in the new rotor, $150 million ten years from retirement in year 25, and this particular example involves a four-year capital recovery schedule for the remaining value

of the first rotor.

And would you agree that the graph that's shown here appropriately depicts what the depreciation levels would be for the power plant in my hypothetical using the 35-year life and the four-year capital recovery schedule?

A Well, if you make all the assumptions that you've made, then I think the graph basically shows what you've just said.

Q Okay. Now, if you would, turn over two pages to the next graph, and this is the same 35-year -- 35-year depreciation life, the same $150 million rotor replacement ten years from retirement, but it does not have a capital recovery schedule. It just goes on with sort of normal depreciation of the remaining plant values at that point, and would you agree that this is representative of the general trend of depreciation you would see in that simplified example?

A So we spend $150 million in year 25 to extend the life of the plant ten years?

Q That's right.

A And we're depreciating that over the ten years, basically?

Q Depreciating it over the remaining life of the plant at that point.

A Right. Yes.

Q Okay. Now, if you'll turn to the next-to-last page in this exhibit, what this is intended to depict is, instead of having a 35-year life for the plant for depreciation purposes, use a 25-year life, and then in year 25 at what would otherwise be the end of that plant's life, instead there's the $150 million capital addition in the form of the rotor replacement made, and you would, of course, then depreciate that over the, what would then be ten additional years of life.

Would you agree that this is representative of the shape of the depreciation expense requirements over the 35-year period in that example?

A Okay, I'm not sure. So in this last chart the accrual is 20 million a year, so you've, what, built in the cost of the $150 million rotor replacement?

Q No, I'm sorry. Let me clarify.

In this example it starts from year one with a 25-year depreciation life, so that $500 million initial investment is depreciated over the 25-year sort of initial life of the plant, and then, instead of retiring the plant at the end of its originally projected lifespan, the $150 million rotor replacement is made and the plant operates for the additional ten years that I had described earlier in my hypothetical.

A Okay. What I'm having a problem is I don't understand why in this particular third graph the accrual is 20 million a year versus 15 for all the other graphs. We're not comparing apples and apples, I don't think.

Q It's a 25-year depreciation life in this example. The other two have a 35-year depreciation life.

A Okay.

Q With that -- I'm sorry if I didn't make that clear. With that distinction between the two, would you agree that this is representative for the simplified hypothetical that I had described?

A Okay, so you've recovered the initial investment in 25 years?

Q That's right.

A That part I understand.

Q That's right.

A I'm not following the last part of the graph.

Q There is a $150 million investment in the rotor made in order to allow it to continue operating --

A Okay. I understand.

Q -- to 35 years.

A Okay, I understand. I see what you're doing. Yes.

Q And would you agree that, given all the assumptions I made and with the 25-year initial depreciation life, that this is representative of what the annual depreciation expense would be over that 35-year period?

A Well, you're talking about a very long time period, so we have to make a further assumption that nothing else changes, no technological advances, no better maintenance practices that would otherwise extend the life and not necessitate a rotor replacement in year 25. But if you ignore all of that, sure.

Q Okay, thank you.

All right, I'm going to change subjects away from the fascinating subject of depreciation to the equally fascinating topic of capital structure.

Your capital structure recommendation is based on the average per book equity ratio in A-rated companies included in your Exhibit JP-2, is that correct?

A Yes, it is.

Q And I'd like you to turn to JP-2, please.

A Okay.

Q You list the source of the information for that schedule to be S&L Financial at the bottom, correct?

A Yes.

Q And is it your understanding that those would be the book capital structures for the companies that are listed in JP-2?

A Yes, that's my understanding.

Q In other words, the capital structures that is reflected here, are reflected in S&L Financial's information, wouldn't include any PSC type adjustments to the capital structure, would they?

A No. This is a short, I'll call regulatory capital structure without things like investment tax credits, customer deposits and other things that this Commission recognizes.

Q Okay.

A Because every Commission does it differently, so this provides an apples-and-apples comparison.

MR. BUTLER: Okay, I'd like to hand out a copy of FPL's Schedule D1-A for the test year which has been annotated with a simple calculation that I'm going to want to discuss with Mr. Pollock, and I'd like to identify that as Exhibit 456.

CHAIRMAN CARTER: Short title?

MR. BUTLER: Per Book and Adjusted Equity Ratio.

CHAIRMAN CARTER: I didn't hear you,

Mr. Butler. Give it to me again.

MR. BUTLER: Sure. Per Book and Adjusted Equity Ratio.

CHAIRMAN CARTER: Per Book and Adjusted Equity Ratio, okay.

MR. BUTLER: Yes.

(Exhibit No. 456 marked for identification.)

CHAIRMAN CARTER: You may proceed.

MR. BUTLER: Thank you.

BY MR. BUTLER:

Q Mr. Pollock, would you agree that Schedule D1-A provides information on capital structure both on a per book basis and then on an adjusted jurisdictional basis?

A Yes, for the projected test year, 2010.

Q Right. I'd like you to look at column 2 in the schedule, which is titled Company Total Per Books.

A Okay.

Q And would you agree with me that this column represents the book capital structure that FPL is proposing prior to any regulatory adjustments required by the Commission or proposed by the company?

A Yes.

Q And would you agree that the equity ratio for that column is comparable to the S&L Financial values

that you show on JP-2?

A They should be relatively comparable. I mean, the same elements are included.

Q Now, would you agree, subject to check of the math if you'd like to, that the book equity ratio proposed by FPL in the test year is 55.88 percent on a company total per books basis?

A That number's correct.

Q Okay. And would you agree that in contrast to the jurisdictional adjusted equity ratio that would be shown for the components in Column 7 is 59.62 percent?

A Right, the one that counts.

Q So would you agree that the 55.88 percent is the appropriate figure to use to compare to the book equity ratios of the other companies that are shown on Exhibit JP-2?

A Well, no, because in JP-2 we're looking at historical information and, of course, you know, nobody has access to each utility's forecast to 2010. So to really fairly compare apples and apples, you need to look at the historical information.

Q I'm sorry, my question wasn't clear. I see what you're saying.

What I meant is that in terms of the basis for stating the capital structure, the total company per

books or a jurisdictional adjusted basis, the 55.88 percent is what would compare to the figures that are shown on JP-2, which are also stated on a per books basis?

A Yeah. Assuming the per books numbers are year-end numbers, I believe that would be correct. It would be the same elements measured in the same way.

Q Now, I'd like you to turn to your Exhibit JP-2.

A Okay.

Q This schedule summarizes the impact to FPL's revenue requirements from your capital structure recommendation, is that correct?

A Yes.

Q Would you agree that the total dollars of equity that you're recommending for FPL's capital structure is about $6.88 billion?

I'll tell you where I'm getting that figure and you can confirm whether you agree with it or not. I'm taking your total rate base figure of 17,063,000,000 and multiplying it times .4036, the 40.36 percent common equity shown in Column 1?

A Yes, that's correct.

Q Okay. Now, if you'll look at Schedule D1-A that I had provided you a moment ago that we have marked

as Exhibit 456, if you look in there, there is a figure for common equity on an jurisdictional adjusted basis of $8.179 billion. Do you see that?

A Yes.

Q Would you agree, subject to check, that the total equity that you are recommending in your capital structure is about $1.3 billion less than FPL's jurisdictional equity adjusted component?

A That's the correct math; and I'm not recommending an equity number, I'm recommending a percentage for using -- calculating the cost of capital.

Q But if you were to carry your percentages through to their logical conclusion, it would have that impact as a reduction on FPL's -- the equity in FPL's capital structure, wouldn't it?

A Well, if FPL went out and immediately changed its capital structure, yes, it would have that effect, but I'm not suggesting that they necessarily do that. This is a ratemaking adjustment.

Q But if FPL didn't do that and rates were set based on the capital structure you're suggesting, FPL wouldn't end up making enough of a return to earn its allowed return on all of the extra equity that would be left around, would it?

A That's part of the consequence of not having

enough leverage.

Q Okay, Mr. Pollock, let me change to a different subject. I'd like to move to page 44 of your testimony, just to really kind of confirm something.

You'd had some discussion -- we had some discussions on this earlier. It concerns the 12 CP and 1/13th methodology.

A Okay.

Q Do you agree that FPL's class cost of service study is consistent with industry practice?

A I think the way the study was conducted and generally the methodologies used are similar to studies I've seen all over the country, and therefore I would say, with a couple of exceptions, it's consistent.

Q Okay. Are you aware -- excuse me, sorry.

Are you aware of any instance in which this Commission has approved the average and excess allocation methodology?

A I can't recall a time when that method has been proposed, but I think it certainly is, you know, probably timely, given where the Commission went in the TECO case, to consider that as an alternative.

Q But you're not aware of any instance in which the Commission has actually adopted it?

A I'm not aware of any, no.

Q Okay. I'd like you to turn to page 51 of your testimony to clarify something that had been addressed earlier.

A I have it.

Q The question reads, "Should the Commission retain the 12 CP 1/13th AD method?" Is it correct your answer to that question is yes?

A Yes.

Q Let me turn to the topic of gradualism, page 56 of your testimony.

A I have it.

Q Okay. Are you familiar with the Commission's recent decision in the Peoples Gas rate case?

A I have not reviewed the order in that case, no.

Q Have you reviewed the staff recommendation in that case?

A No.

MR. BUTLER: Okay, I'd like to hand out as an exhibit the staff recommendation in the Peoples Gas rate case. I think that would be what, 457?

CHAIRMAN CARTER: Ms. Helton?

MS. HELTON: Yes, sir.

CHAIRMAN CARTER: I want to see it first before I ask my question.

MS. HELTON: Can I ask a question of Mr. Butler?

CHAIRMAN CARTER: Yes, ma'am, you may.

MS. HELTON: My recollection is the order has been issued on this recommendation or -- you know, concerning Peoples' petition for a rate increase, is that correct?

MR. BUTLER: It is, Ms. Helton. The reason that we are distributing the staff recommendation is that the particulars on this issue of the relative increases in rates for different classes did not get expressly addressed in the order.

MS. HELTON: Wait, wait, just a second. I'm being reminded that that order is on reconsideration, also, or that's the Commission's decision, and the Commission has not yet voted on the motion for reconsideration.

CHAIRMAN CARTER: Okay.

MR. BUTLER: I'll tell you what, in the interest of --

CHAIRMAN CARTER: I'm kind of nervous about that, anyway, so that was --

MR. BUTLER: In the interests of time and considering the status of the decision in that case, I will withdraw that exhibit.

CHAIRMAN CARTER: Okay, you may proceed.

BY MR. BUTLER:

Q Mr. Pollock, I gather from your earlier answer you're not aware of the extent to which the Commission deviated from the 150 percent of system average retail rate base constraint in determining rates for the individual classes in that decision, or in that case, are you?

MS. KAUFMAN: I'm going to object to that question, Mr. Chairman. I don't think that that has been established.

BY MR. BUTLER:

Q Mr. Pollock, are you aware of what, if any, deviations there are in the decision that is apparently subject to reconsideration in the Peoples Gas Company rate case concerning the relative increases of various classes compared to the system average?

A No, I'm not --

CHAIRMAN CARTER: Hang on, hang on a second. Hang on. Ms. Helton?

MS. HELTON: This is making me a little bit uncomfortable, Mr. Chairman, and that's because there is a pending motion for reconsideration and --

CHAIRMAN CARTER: Well, let's strike the question and the answer and move on, Mr. Butler. Move

on.

MR. BUTLER: All right. That's fine.

BY MR. BUTLER:

Q The final set of questions, Mr. Pollock. I'm sure we're all happy to come to that point.

CHAIRMAN CARTER: We're just getting our second wind.

MR. ROSS: So am I.

BY MR. BUTLER:

Q I'd like to ask you a couple of questions about the CDR rider, your testimony that starts on page 65.

Are you familiar with the rate impact measure test?

A Yes.

Q Are you aware that in Florida all demand-side management programs must pass this rate impact measure test to be implemented by utilities?

A Yes.

Q Okay. Isn't it correct that nowhere in your testimony is there any analysis showing that your proposed CDR credits pass the RIM test?

A No, it's not correct.

Q Where in your testimony did you demonstrate that the CDR credits have passed the rate impact measure

test?

A It's in the description of how I arrived at the $5.50 charge.

The major element of the RIM test is avoided costs, and what I did is I looked at the, FPL's standard offer in their avoided unit and discounted the cost back to the period 2010 to 2012, which basically has the effect of saying -- and then I set the credit lower than that, so therefore it provides, you know, some margin above -- margin below avoided costs. So therefore I think under those circumstances, it would pass the RIM test.

Q You think, but you've not actually evaluated it under the RIM test, you simply have set this or proposed to set the CDR rider credit at a level that comports with one of the elements of the test, correct?

A Well, a major element, but yes.

MR. BUTLER: Indulge me for minute and let me confirm. I think I'm pretty close to finishing.

CHAIRMAN CARTER: Take a moment.

(Brief pause.)

MR. BUTLER: We have no further questions. Thank you, Mr. Pollock.

CHAIRMAN CARTER: Shucks.

MR. BUTLER: Well, in that case --

CHAIRMAN CARTER: No.

Staff, you're recognized.

MS. BENNETT: I can make up for it if you want.

CHAIRMAN CARTER: Okay. How much have you got?

MS. BENNETT: Actually I have two questions, but I need to find out if the parties are agreeing to stipulate staff's documents into the record.

CHAIRMAN CARTER: Okay, let's find out about that before we go with the questions.

Have you guys seen those?

MS. KAUFMAN: Yes, sir.

CHAIRMAN CARTER: Are there any objections from any of the parties?

MS. KAUFMAN: Mr. Chairman, I don't have an objection.

CHAIRMAN CARTER: Ms. Kaufman?

MS. KAUFMAN: I don't have --

CHAIRMAN CARTER: It's consistent. Go ahead.

MS. KAUFMAN: I don't have an objection, but I believe that staff only wanted to introduce a portion of the interrogatory responses. I think it was 7 to 14, and we would just ask that 1 through 6 be included as well, and I discussed this with Ms. Bennett and I don't

believe she has an objection.

CHAIRMAN CARTER: Did you discuss that with the parties?

MS. BENNETT: I talked with Ms. Kaufman and I don't have an objection. I told her that it would be her responsibility to provide it to the clerk.

MS. KAUFMAN: And I have a complete set for everyone if they so desire.

CHAIRMAN CARTER: Is there any objection from any of the parties? Mr. Wright?

MR. WRIGHT: No objection, Mr. Chairman. I would like a complete set. Thank you.

MS. KAUFMAN: I'll be happy to distribute that when --

CHAIRMAN CARTER: Get the *Encyclopedia Brittanica* --

MS. KAUFMAN: It is not, no, actually it's not. It's not very long at all.

CHAIRMAN CARTER: I trust you, Vickie. I trust you.

Okay. You say you have two questions, or you say you've got two beginning questions?

MS. BENNETT: Two questions.

CHAIRMAN CARTER: Okay, let's get them on. Let's roll.

CROSS EXAMINATION

BY MS. BENNETT:

Q On page 16 of your testimony, Mr. Pollock, you used the term in your question "accelerate recovery of certain capital investments," and it's late and I'm going to try and understand, but my understanding of the acceleration of recovery of certain capital investments is that you accelerate the recovery earlier than the asset retires, and that's what the term *acceleration* means. Am I correct in that understanding?

A Pretty much. You establish in a depreciation study how long a particular asset is supposed to live, and by retiring it early, I consider that an acceleration of the recovery.

Q Okay.

A Because you're recovering the costs sooner than you would otherwise if it had just lived out its useful life.

Q Oh, okay.

Question number two: On page 32 --

A Did I pass?

CHAIRMAN CARTER: What page was that?

BY MS. BENNETT:

Q Page 32 of your testimony.

A 32.

Q Starting on line 21.

A Okay.

Q You state, "Assuming its 2011 assumptions are accurate, which FIPUG disputes, FPL is really asking the Commission to guarantee that it will achieve the authorized return," and you're talking about the 2011 test year. I'd like a little bit more explanation of what that statement means.

A Well, basically, by having a second test year and a second rate increase, the company is asking the Commission to give it money based on a speculative set of assumptions about what its future costs are going to be, knowing full well that those costs are going to change, and to the extent the company is able to manage those costs in the way that we think they should be able to, recognizing the economic circumstances, the amount of money that they're asking for will almost certainly allow them to exceed the authorized rate of return.

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

CHAIRMAN CARTER: Anything from the bench? Redirect?

MS. KAUFMAN: Thank you, Mr. Chairman.

REDIRECT EXAMINATION

BY MS. KAUFMAN:

Q Mr. Pollock, do you recall that Mr. Wiseman

asked you some questions about the 12 CP and 1/13th methodology at the beginning of his examination?

A Yes.

Q And I believe that Mr. Butler asked you some questions about the average and excess methodology as well. Do you recall those?

A Yes.

Q Can you explain to the Commission what your position is both on the 12 CP and 1/13th and as compared to the A&E methodology?

A Certainly. The 12 CP 1/13th is the method that FPL has been using for many years in its rate cases and continues to support it in this case, and our position is that given where the classes are right now, it really doesn't make any sense to make any change to that study. A different study is not going to show classes dramatically different unless you go all the way to a summer peak method or something like that.

But if the Commission decides that they want to go for something more like the methodology that it approved in TECO, then I would invite you to consider the merits of the average and excess method, because it accomplishes, I think, the same overall objectives, but I think it does it in a much better way and a more accurate way, because you're looking at not only plant

to serve year-round demand but also the plant that FPL says it has to cycle to meet those day-to-day loads, and that's what the average and excess method does.

Q Mr. Butler also ran through a series of questions with you asking you, for example, have you ever performed a depreciation study, have you ever performed a dismantlement study, and I believe you answered no, correct?

A That's correct.

Q How long have you been involved in the utility regulation business?

A Some would say too long, but 34 years, give or take.

Q During the course of your 30-plus years, have you had occasion to review dismantlement studies?

A I've reviewed all these studies, including, you know, depreciation studies, life studies, you know, net salvage studies.

Q And have you offered testimony in other proceedings regarding such studies?

A Generally I've offered advice and whether or not those are issues that the group should consider doing. I was fortunate to be in a practice that had a person that was very -- more expertise on depreciation issues and tended to get the testimony assignments, but

usually that was based on analysis that we did of the studies.

Q And you're familiar with what goes into a depreciation study and what goes into a dismantlement study?

A Generally, yes.

Q I think on page 17 of your testimony Mr. Butler asked you about your recommendation that contributions to the fossil dismantlement fund cease, and he referred you to the rule. Can you explain why it is your view that those contributions should cease?

A Well, I think it goes to the issue that the company has accumulated a tremendous reserve surplus, and something needs to be done to restore that balance so that the ratepayers are only paying for the plant that they're actually using.

Q Would that be one of the components of what we've heard called intergenerational, or I guess it's generational inequity?

A Right, that's exactly the reason. And, of course, depreciation, you know, is pay me now, pay me later. You're going to pay it eventually. The question is over what time and from whom is actually going to do the paying.

And so what we're trying to do is get that

payment pattern, you know, corrected so that the customers that are, you know, receiving the service now that are the ones that are paying for it. It's the customers in the past that have really have been overcharged for that.

Q Now, Mr. Butler I believe referred you to the decisions that you cite on page 11 of your testimony and on page 14, do you recall that?

A Yes.

Q And he asked you some questions as to whether you were familiar with the operating practices, for example, of these particular plants, and you said you were not, correct?

A Correct.

Q You don't have any reason to assume that FPL's operating practices are less efficient or in any way inferior to these utilities, do you?

MR. BUTLER: I object to that question. I mean, he just said he doesn't know anything about them, and how can he have any reason to assume one way or the other?

CHAIRMAN CARTER: To the objection, Ms. Kaufman, to the objection?

MS. KAUFMAN: I think that the implication was that there was something different about these, and I

was just asking him to let us know whether or not these, you know, were any different than FPL.

CHAIRMAN CARTER: Ms. Helton?

MS. HELTON: Were you asking about studies that Mr. Butler asked him about, Ms. Kaufman?

MS. KAUFMAN: No, Ms. Helton. I'm asking him about the cases that he's citing on page 11 and 14 that Mr. Butler asked him about.

MR. BUTLER: And again, Mr. Chairman, his answers to my questions -- and she actually prefaced her question with this -- is that he wasn't familiar with the details on those studies, so to ask him now whether he thinks there's differences between those plants and FPL's, there couldn't possibly be any foundation for him to have an opinion on that subject.

MS. KAUFMAN: Mr. Chairman, that wasn't my question. I'm not asking him about the details of these studies, I'm asking him if he has any reason to assume that those utilities are run more efficiently than FPL is.

CHAIRMAN CARTER: Just hold on. Just hold on. Ms. Helton is thinking.

MS. HELTON: I'm sorry. Slowly.

CHAIRMAN CARTER: Take your time, Ms. Helton.

MS. HELTON: Thank you, Mr. Chairman.

CHAIRMAN CARTER: Okay.

MS. HELTON: I think this is another one of those where counsel to Florida Power & Light opened the door with respect to the witness's knowledge about the studies listed here in his testimony, so I think it's appropriate for Ms. Kaufman to inquire in a short line of questioning about his assumptions, if any, that he may have with respect to these studies.

CHAIRMAN CARTER: Overruled, but tread lightly, Ms. Kaufman, tread very lightly.

MS. KAUFMAN: I will, Mr. Chairman, thank you, and I just have very brief questions on this line.

BY MS. KAUFMAN:

Q And, Mr. Pollock, we were talking about the cases you relied on on page 11 and 14 of your testimony. Do you have any reason to assume that, for example, the plant maintenance of the plants that you have listed is superior to that of FPL?

A No. I have no knowledge that they're superior or inferior to FPL.

Q What is the import of the decisions that you have cited on pages 11 and 14?

A The decisions I think give evidence as to, you know, what other regulatory commissions who have faced the same issues, how they've come down on the subject,

and I think it provides good guidance to the Commission to know, you know, okay, here's what the industry is looking at, here are these utilities that operate these specific plants, one of which is, you know, in the same area as one of FPL's plants, to conclude that, well, maybe 40 years is really not the right number, because another utility that operates three units in the same site can do it, you know, over 55 years.

So it's really just to provide some general guidance to the Commission as to, you know, where things fall out in the lifespan of the coal and combined cycle units, and the Commission can then judge, based on those comparisons, what is a reasonable lifespan.

Q And what is the plant that you're referring to that's in same area?

A That's Plant Scherer. Georgia Power owns and operates Units 1 through 3, and Florida Power & Light owns a part of Plant Scherer 4. All four plants are on the same site. In fact, there's even common plant between Scherer 3 and 4.

So you have another utility saying, well, we think that plant will last 55 years that's operating three of those four units.

Q Do we have -- to your knowledge, do ratepayers have any guarantee that the coal plants and combined

cycle plants that you discussed in your testimony will be retired at the lifespan that FPL has predicted?

A There's no guarantee. As I said, it's an evolving concept based upon economics, technology, circumstances -- and other circumstances that will dictate how long a plant can live. I don't know that a lot of utilities thought their coal plants were going to go beyond 40 years, and now we're looking at plants that can operate 55, 60, 65 years.

Q I want to ask you some questions about Exhibit No. 455, which is the exhibit that Mr. Butler asked you about, having to do with the different depreciation assumptions. Do you have that?

A Yes.

Q And he went through a couple of the graphs with you, correct?

A He did.

Q Are the assumptions that Mr. Butler related to you reasonable, in your opinion?

A Having just seen this exhibit for the first time, I don't, you know, I don't have an opinion one way or the other. It just illustrates that if you make some assumptions about how long a plant lives and when you're going, you know, to refurbish it, then here's the pattern.

But I think the point is that, you know, 20 years is a long period of time, and we don't know what's going to happen, you know, to these plants in 20 years. We don't know that -- there might be something, you know, that can be done to make the plants -- extend their lives without a major refurbishment. You know, we just don't know, and that's why we do these studies every four years, so that we can kind of keep things on track, on a reasonable track.

Q Would it be possible to take these graphs and assumptions and change them to get different results?

A Sure.

Q Now, do you have Exhibit 456, which I think was the capital structure exhibit that Mr. Butler asked you about?

A Yes.

Q And you responded to some of his questions about the equity ratio and you told him that the number, I guess, in column 7 is the one that is the one that counts, I think is what you said. Can you explain that?

A Well, that's the capital ratio in column 8 that determines what the overall weighted cost rate is in column 10.

Q And you also commented in regard to FPL not perhaps having enough leverage. Can you explain what

you meant by that?

A Well, as I explained in my testimony, when you look at FPL's equity ratio of nearly 60 percent, that's one of the least leveraged, that is, least amount of debt of an investor-owned utility, as shown in my Exhibit JP-2, which compares a bunch of utilities and looks specifically at utilities with different bond ratings that have generally much lower equity ratio than 59.62 percent.

Q And is that why you have testified that the equity ratio you've suggested is more appropriate?

A Yes.

Q And I think the final area that Mr. Butler asked you about had to do with the CDR credit. Do you recall that?

A Yes.

Q And he asked you whether you had performed a RIM analysis. Do you recall that?

A Yes.

Q And I know the Commission in other dockets has heard probably more about that than they care to, but can you explain -- I think you said that the analysis that you did comprised a major component of the RIM test. Can you explain that?

A Right, and I looked at FPL's avoided costs in

its standard offer filing that was filed earlier in the spring which showed a capacity need in, I think, 2021 or something like that, and I projected out the revenue requirements from that study, and then I discounted those requirements back to the period of 2010 and '12, therefore on a present value basis coming up with a credit that is -- and I adjusted the credit downward a little bit so that the credit would essentially be the same net present value or a little less than the net present value of the avoided cost of that avoided unit.

Avoided cost is the biggest input to the RIM test. To the extent that you can provide capacity at a cost cheaper than putting in new capacity in the ground, i.e., the capacity costs that you avoid, so if you can pay somebody a credit less than what it would cost the utility to build a plant, then that's beneficial to the ratepayers, and that's what I did to arrive at 5.50.

Q In your professional opinion, would this pass the RIM test?

A I think it would have a good chance of passing the RIM test, yes.

MS. KAUFMAN: If I could have just one minute?

CHAIRMAN CARTER: Absolutely.

Commissioner Skop?

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just a quick question, I haven't seen this one get fleshed out yet, but if you could refer the witness to page --

COMMISSIONER ARGENZIANO: Commissioner Skop, if you could just speak into -- I can't hear you well, I'm sorry.

COMMISSIONER SKOP: I'm sorry, I'll get closer.

Just a quick question. I haven't heard this point fleshed out yet, but on page 27 of your prefiled testimony, lines 22 through 25 -- I'll give you a moment to get there.

THE WITNESS: I have it.

COMMISSIONER SKOP: In your professional opinion, are you suggesting that there should not be an imputed debt adjustment for power purchase agreements based in part upon the fact that the Commission has an annual cost recovery provision through the capacity cost recovery clause?

THE WITNESS: That's certainly one of the major factors. I think the other is the fact that y'all have to basically approve each contract, and I think that takes a lot of the risk off the table, that and the dollar-for-dollar recoveries in the clause.

COMMISSIONER SKOP: All right. Thank you.

MS. KAUFMAN: I think I'm done with redirect. Thank you, Mr. Chairman.

CHAIRMAN CARTER: Okay, exhibits? On staff's comprehensive exhibit list, No. 257 through 268, is that correct, Ms. Kaufman?

MS. KAUFMAN: Yes, and FIPUG would move 257 to --

CHAIRMAN CARTER: 268.

MS. KAUFMAN: -- to 268, yes.

CHAIRMAN CARTER: Are there any objections?

Without objection, show it done.

(Exhibit Nos. 257 through 268 admitted into the record.)

CHAIRMAN CARTER: One moment before we go to the back pages, guys.

Okay, let's go to the back pages. Exhibit No., Ms. Kaufman, 453-A and B?

MS. KAUFMAN: I would move those, Mr. Chairman.

CHAIRMAN CARTER: Are there any objections?

Without objection, show it done.

(Exhibit Nos. 453-A and 453-B admitted into the record.)

CHAIRMAN CARTER: Mr. Butler, 454 through 456.

MR. BUTLER: Yes, I would move -- do you want

me to do them individually or as a group?

CHAIRMAN CARTER: Let's do them as a group.

MR. BUTLER: I would move Exhibits 454 through 456.

CHAIRMAN CARTER: Are there any objections?

MS. KAUFMAN: Yes, Commissioner -- yes, Mr. Chairman.

CHAIRMAN CARTER: Okay. Let's do them individually. 454.

MR. BUTLER: I would move admission of Exhibit 454.

CHAIRMAN CARTER: 454.

MS. KAUFMAN: Yes, Mr. Chairman, and we would object to this. This is the short excerpt from the larger need assessment that Mr. Pollock said that he had not reviewed and he was not familiar with, and we would object.

MR. WISEMAN: Mr. Chair, we object to that, 454 as well. This is an exhibit -- it's either direct testimony or supplemental rebuttal testimony. They had the opportunity to put this in. I think Mr. Butler described it as a document that consists of hundreds of pages. We don't know what else is in the document. The witness is unfamiliar with it. I think this is improper to put it in through cross-examination.

CHAIRMAN CARTER: Anyone else before I go to Mr. Butler?

Okay. Mr. Butler, do you want to speak to the objection, please?

MR. BUTLER: Certainly. This is a -- it's an excerpt, as we said, to save pages, but it's from a Commission proceeding. All parties had, certainly, access to this. It's something that people practicing before this Commission are intimately familiar with on the day-in/day-out basis of the need proceedings.

I don't think there's anything that is, you know, incomplete or insufficient about, you know, what was provided to make the one simple point that the exhibit demonstrates, and I think that it's something that the Commission certainly should take into consideration in evaluating all the various evidence that is before it on the appropriate lives for the combined cycle units and the depreciation study.

MS. KAUFMAN: Mr. Chairman, may I respond?

CHAIRMAN CARTER: Ever so briefly, Ms. Kaufman, ever so briefly.

MS. KAUFMAN: I'll be as brief as I can.

I was going to say that while parties may be generally familiar with need determinations, FIPUG wasn't a party to this case and I certainly am not

familiar with this document and hadn't seen it before today and nor had the witness.

CHAIRMAN CARTER: Fair enough.

Ms. Helton, good evening.

MS. HELTON: I'm wishing I had let Ms. Sabula stay down here all evening.

CHAIRMAN CARTER: She didn't get a single objection, you know?

MS. HELTON: My inclination is, Mr. Chairman, to recommend to you that the exhibit be admitted into the record but that it be given the weight that it's due, acknowledging that it is an excerpt which the witness had not had an opportunity to review before he was cross-examined on it.

CHAIRMAN CARTER: Okay. Show it done.

(Exhibit No. 454 admitted into the record.)

CHAIRMAN CARTER: 455.

MR. BUTLER: I'd move the admission of 455.

CHAIRMAN CARTER: Are there any objections?

MS. KAUFMAN: Yes, Mr. Chairman.

CHAIRMAN CARTER: Ms. Kaufman, you're recognized for the objection.

MS. KAUFMAN: We would object to this exhibit as one -- first of all, there are several pages in here that there weren't even any questions asked about them,

and I'm not exactly sure what they are, and those are the -- I guess they're Excel spreadsheets that follow each of the graphs, and we would certainly object to those as haven't been discussed or authenticated in any way.

And we would object to the admission of the graphs. As Mr. Pollock testified, the assumptions are ones that he would not agree with.

CHAIRMAN CARTER: Mr. Wright, do you want to be heard on this one?

MR. WRIGHT: Yes, Mr. Chairman.

CHAIRMAN CARTER: You're recognized, sir.

MR. WRIGHT: I would join in FIPUG's -- the Retail Federation would join in FIPUG's objection.

You know, our objection is that it really is an exhibit that defines a problem that purports to show what FPL wants it to show by making assumptions that drive the result, and I just don't think it's probative at all.

CHAIRMAN CARTER: Okay, before I go to Mr. Butler, are there any Intervenors who want to be heard on this objection?

Okay. Mr. Butler, to the objection?

MR. BUTLER: Thank you, Mr. Chairman.

First of all, the pages of data are the data

that support the points that are graphed on the preceding pages. FPL would certainly have no objection to removing those pages if that responded to Ms. Kaufman's objection.

As to what the graphs show, I think that Mr. Pollock clearly understood the import of them, and neither he nor FPL understood this to be a specific, you know, utility or a specific case. It's illustrating a particular point about the trends in depreciation expenses over time. It's clear from his answers to my questions as well as his answers to Ms. Kaufman's follow-up questions that he understood the exhibit and was using if for the purpose it was intended, which is to illustrate the trends that would result from the different depreciation lives.

CHAIRMAN CARTER: Ms. Helton?

MS. HELTON: Mr. Chairman, my recollection from what -- my evidence class 20 years ago with Professor Ehrhardt is that if you're going to make an objection to an exhibit that it has to be contemporaneous to when the exhibit is first discussed, and so for that reason I would suggest that you overrule the objection, but I would also note that the exhibit should be given the weight that it's due.

CHAIRMAN CARTER: Okay. And we can strip the

information that wasn't used. We'll just use the graphs, okay?

MS. HELTON: I think Ms. Kaufman requested that and Mr. Butler agreed to that.

MR. BUTLER: Okay, that's fine. We'll provide a replacement copy that has only the graph pages in it.

CHAIRMAN CARTER: Okay. Objection overruled, entered within the parameters that we just defined.

(Exhibit No. 455 admitted into the record.)

CHAIRMAN CARTER: No. 456, Mr. Butler.

MR. BUTLER: I would move the admission of 456.

CHAIRMAN CARTER: Are there any objections?

MS. KAUFMAN: We have no objection.

CHAIRMAN CARTER: Okay. Show it done.

(Exhibit No. 456 admitted into the record.)

CHAIRMAN CARTER: Anything further from the witness?

MS. BENNETT: We have --

CHAIRMAN CARTER: Whoa, whoa, hold the phone, everybody.

MS. BENNETT: We have exhibits on Staff's Composite Exhibit 37. It's items 63 to 70.

CHAIRMAN CARTER: Now, these were the ones that were stipulated to, is that correct?

MS. BENNETT: That's correct.

CHAIRMAN CARTER: And, Ms. Kaufman, right, you agreed also to supply the complete list, is that correct?

MS. KAUFMAN: I will do that. I can do it now or I can it first thing in the morning, whenever is your pleasure.

CHAIRMAN CARTER: We can do it first thing in the morning. That would be fine. I don't want to ruin the rest of your night.

MS. BENNETT: And also 126 to 133.

CHAIRMAN CARTER: Say again?

MS. BENNETT: 126 to 133.

MR. WRIGHT: Mr. Chairman?

CHAIRMAN CARTER: Mr. Wright.

MR. WRIGHT: I apologize, but I'm lost. I am not at the right place on the exhibit list, and I just want to make sure I check off what comes in. Thank you.

CHAIRMAN CARTER: All right. Ms. Bennett?

MS. BENNETT: This is staff's Composite Exhibit 37, which is the manila -- oh, you guys have blue ones. It's ones that are numbered individually, each -- it's much easier to deal with.

CHAIRMAN CARTER: Mr. Wright?

MR. WRIGHT: I am found enough to proceed and

don't have any objections.

CHAIRMAN CARTER: Okay. Ms. Bennett, you may proceed.

MS. BENNETT: It was just items 63 through 70 and items 126 through 133 on the list.

CHAIRMAN CARTER: Also inclusive of the information that will be provided by Ms. Kaufman.

Without objection, show it done.

(Exhibit No. 37 on the Composite Exhibit List, Items 63 through 70 and Items 126 through 133, marked for identification and admitted into the record.)

CHAIRMAN CARTER: Anything further, staff?

MS. BENNETT: Nothing for this witness.

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

Okay. Anything further for the good of the order this afternoon, this evening, or whatever time it is?

MR. BUTLER: There is, from FPL, two or three small matters.

CHAIRMAN CARTER: Let's don't torture you, my brother. Go ahead and have a good evening.

THE WITNESS: Thank you.

CHAIRMAN CARTER: Mr. Butler?

MR. BUTLER: Thank you.

In no particular order here, I first just would note there have been some red confidential folders passed out earlier and I ask that staff pick those back up for, I guess, redistribution tomorrow.

More substantively, would it be possible for us to start earlier tomorrow, trying to get a little bit more in during the day, Mr. Chairman?

CHAIRMAN CARTER: No, we had this before, Mr. Butler, and I'm going to give you the same answer I gave you before. No. Commissioners have -- we do have other schedules that we're trying to maintain and staff also, too, to get prepared for that. So, I mean, where I can do the times, I can extend an evening, but it's impractical for us, as an organization, to come before 9:30, so that's my same answer, and if you ask me next year at this time, it will still be the same.

MR. BUTLER: Okay. I will remember that. Thank you, Mr. Chairman.

I also want to let you know that we're going to be getting with the parties after we adjourn this evening to discuss a proposal for order of witnesses that we hope will allow us to conclude the proceeding by using this Saturday and a half day a week from Friday, if that's a possibility.

CHAIRMAN CARTER: Say what? Did you miss my

announcement before? Because I said that the -- after Saturday, the date that we have available will be on the 16th.

MR. BUTLER: Yes, I had heard that. I think our -- we were hoping, optimistically, that the Friday of next week, toward the end of the nuclear cost recovery proceeding might be available.

CHAIRMAN CARTER: Not going to be happen, because we can't -- I want to be as definite as possible. That's why I didn't say that, because that, you know, it's inconclusive at this time and I hate to have all of these parties to bring all of their witnesses up here to be prepared for something and then say, oh, sorry, guys, they didn't finish in time. So I really don't want to do that.

I know about the 16th, that's a definite, I can give you that, but no, I can't give you anything else. If something happened, you know, and it comes out, then we may be able to do that, but at this point in time I'm unable to do that, Mr. Butler.

MR. BUTLER: One final thing.

CHAIRMAN CARTER: Do you want to speak to that issue, Commissioner Skop?

COMMISSIONER SKOP: Thank you, Mr. Chair.

With respect to being able finish within the

allotted time frame, I know Saturday is on the books and I guess I would expect we'd have a long Saturday based on the way we're going.

CHAIRMAN CARTER: Saturday we're doing a half day, this Saturday. We're going to start at 9:00 on Saturday and we're going to go to 1:00. I'm still optimistic that we could probably finish this puppy by Friday, and if we don't finish on Friday, then we've got the 16th and we will do a 9:30 to 7:00. I mean, I may be the only person here that's optimistic, but I am optimistic about it.

Mr. Butler, you may proceed.

MR. BUTLER: One final matter that might help to bolster that optimism. We are proposing -- we've discussed this with some of the other parties, although we haven't been able with all -- but we would be willing to stipulate in Mr. Kollen's testimony, to waive cross-examination on his. I understand that he has plans where he was really hoping to get done today, and obviously we've reached a point where that's not going to happen, but to accommodate him and to help move things along, if other parties are prepared to do so --

CHAIRMAN CARTER: Mr. Wiseman?

MR. WISEMAN: No, we would like Mr. Kollen to appear tomorrow.

CHAIRMAN CARTER: Okay.

And let me just say this: I appreciate the parties' working together because each day you guys give me a different list, so continue to work and give me a different list tomorrow, and I think that we've kind of beat a dead horse to sleep, and as Commissioner Argenziano always reminds me, that's illegal in the state of Florida.

COMMISSIONER ARGENZIANO: That's right, Mr. Chair.

CHAIRMAN CARTER: So with that, we are adjourned. See you at 9:30.

(Hearing adjourned at 7:30 p.m.)

(The transcript continues in sequence with Volume 23.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, RAY D. CONVERY, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings at the time and place herein stated.

IT IS FURTHER CERTIFIED that the foregoing transcript is a true record of my stenographic notes.

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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 8th day of September, 2009, at Tallahassee, Leon County, Florida.

RAY D. CONVERY