

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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

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

VOLUME 27
Pages 3782 through 3819

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PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN MATTHEW M. CARTER
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

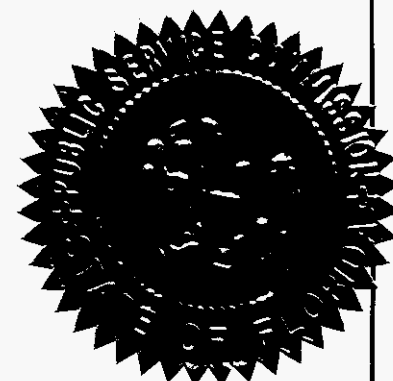
DATE: Friday, September 4, 2009

TIME: Commenced at 9:42 a.m.

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

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

APPEARANCES: (As heretofore noted.)



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I N D E X

WITNESSES

NAME: PAGE NO.

KIM OUSDAHL

Cross Examination by Mr. Moyle

3785

CERTIFICATE OF REPORTER

3819

EXHIBITS

	NUMBER:	ID.	ADMTD.
1			
2			
3	469 FPL Response to Staff's 6th Set of Interrogatories Number 65	3793	
4			
5	470 Decoupling Report Excerpt	3803	
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P R O C E E D I N G

1
2 (Transcript follows in sequence from Volume
3 26.)

4 **CHAIRMAN CARTER:** We're back on the record.
5 And when we last left, I think, Mr. Moyle, you were
6 doing cross-examination; is that right?

7 **MR. MOYLE:** Yes, sir.

8 **CHAIRMAN CARTER:** You're recognized. Good
9 morning.

10 **MR. MOYLE:** Thank you. Good morning.

C R O S S E X A M I N A T I O N

11
12 **BY MR. MOYLE:**

13 **Q.** Good morning, Ms. Ousdahl. You're still under
14 oath; right?

15 **A.** Yes, I am.

16 **Q.** Okay. And I'm Jon Moyle. I represent the
17 Florida Industrial Power Users Group. I have some
18 questions for you today.

19 The first thing I want to do is I want to go
20 back to some questions you were asked yesterday, and I'm
21 going to try to not be repetitive, but the GBRA is an
22 issue that has received a lot of attention in this case.
23 And would it be correct to characterize the GBRA as a,
24 as a one-way street in terms of the ability of FP&L to
25 recover its expenses for new power plants?

1 **A.** That would certainly not be my
2 characterization of GBRA.

3 **Q.** And, and the one-way street description is, is
4 meant to focus on whether FPL is at risk for not
5 recovering those costs or that, I guess it's -- the GBRA
6 doesn't look at everything like a rate case does, does
7 it? It looks just at the new plant coming in; correct?

8 **A.** The GBRA is structured to recover the cost for
9 the first 12 months of operation of the new asset that's
10 previously been reviewed through the need determination.
11 It's designed to start recovery on the date the unit
12 begins commercial operation.

13 **Q.** Yes, ma'am. And that's materially different
14 from a rate case, is it not?

15 **A.** Yes. It is an interim base rate measure.

16 **Q.** Right. And the need determination cases, is
17 it your understanding that, that those are cases in
18 which people dig in and really look at the cost of the
19 unit, or is it more of a situation where the Commission
20 looks and says, you know, is this needed with respect to
21 the reserve requirements? What's your understanding of
22 a, of a need determination in that respect?

23 **A.** Well, obviously cost is a key consideration in
24 determining what technology needs to be implemented. So
25 I think it's extremely important.

1 **Q.** In your view, would Intervenors such as FIPUG
2 and the Retail Federation, would they have the ability
3 to intervene in a need determination to contest FPL's
4 cost?

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

7 **MR. MOYLE:** I think she's -- my understanding
8 on legal conclusions is, is that she is able to, able to
9 answer. I understand she's not a lawyer, but it's going
10 to her understanding of, of whether that forum would
11 present an opportunity to challenge costs like we're in
12 today.

13 **MR. BUTLER:** That's purely -- I'm sorry.

14 **CHAIRMAN CARTER:** Go ahead, Mr. Butler,
15 briefly.

16 **MR. BUTLER:** I think it is purely a legal
17 question. He's asking whether the parties would be
18 entitled to intervene. I mean, that's exactly, you
19 know, would be a subject to be determined looking at the
20 statute and, you know, applying it to whatever facts are
21 presented and reaching a legal conclusion on whether
22 people had standing to intervene. I think he could
23 probably phrase a different question that wouldn't be
24 subject to the objection, but that one in my mind
25 clearly is.

1 **CHAIRMAN CARTER:** You want to rephrase it or
2 do I need to deal with the objection?

3 **MR. MOYLE:** Well, I guess what I'm interested
4 in is FPL is proposing this GBRA. And does it afford
5 people the chance like we have here today to dig into
6 costs, and I -- and what's her understanding of that. I
7 don't necessarily need it as a legal conclusion binding.

8 **CHAIRMAN CARTER:** Okay. Ms. Helton, to the
9 objection. Good morning.

10 **MS. HELTON:** Good morning, Mr. Chairman.

11 I do remember the witness testifying yesterday
12 about the costs from the need determination carrying
13 over to how the GBRA costs are collected from customers
14 and referring to the rule. So I think she probably does
15 have some knowledge and I think it's appropriate to ask
16 her what, if any, opinion she has about that. And if
17 she doesn't, we can move on.

18 **CHAIRMAN CARTER:** Okay. Overruled.

19 **BY MR. MOYLE:**

20 **Q.** Do you need me to rephrase or --

21 **A.** Yes, I do.

22 **Q.** Okay. Is it, is it your understanding that
23 entities such as FIPUG and the Retail Federation would
24 be able to participate in a need determination,
25 intervene, participate and dig into cost issues in the

1 same way in a need determination proceeding as is being
2 done in this rate case?

3 **A.** I do not know which parties are provided
4 participation in the need determination. I do know,
5 however, and I think I mentioned this yesterday on the
6 record, that the Commission's Rule 25-22.082 on the
7 selection of generating capacity signals its intent to
8 look at need determination as a threshold measure for
9 reasonableness when public utilities include those costs
10 in rates. And it states if the public utility selects a
11 self-build option, costs in addition to those identified
12 in the need determination proceeding shall not be
13 recoverable unless the utility can demonstrate that such
14 costs were prudently incurred.

15 It appears the Commission believes the
16 economic determination in a need determination
17 proceeding is very important.

18 **Q.** Is it your understanding that the prudence
19 determination is made at the need determination or is
20 that something that's subsequently determined?

21 **A.** Well, the language in this rule certainly
22 implies that there is a level of review on the prudence
23 of those dollars associated with the need determination
24 activities.

25 **Q.** So if your understanding is correct then, then

1 it would follow logically, would it not, that
2 Intervenor such as FIPUG would have that opportunity to
3 come in and contest costs?

4 **A.** Could you repeat the question?

5 **Q.** Sure. If you're under the belief that
6 prudence is done at the need determination and that's
7 where the Commission makes its decision on cost, then it
8 seems logically it would follow entities like FIPUG, the
9 Retail Federation, AARP, that would be an opportunity to
10 come in and challenge costs; correct?

11 **MR. BUTLER:** I'd like to object again that
12 this is going right back to asking her for a legal
13 conclusion. I would note that, you know, customers,
14 ratepayers have intervened in need determination
15 proceedings. I don't think Mr. Moyle needs this line of
16 cross to get that information.

17 **CHAIRMAN CARTER:** To the objection, Mr. Moyle.

18 **MR. MOYLE:** Well, I think it's important
19 because they're suggesting you all adopt a policy, and I
20 think part of their argument is that you have a chance
21 to understand and get into the cost in the similar
22 magnitude as a rate case. We don't, we don't think
23 that's the case.

24 And I have some further questions with respect
25 to the rule. It was a competitive bid rule when the

1 merchant plants were trying to come in, and I want to
2 explore that, that with her. But I'm trying to get her
3 to admit, if her logic follows, to say, yes, need
4 determination is where prudence is done, then people
5 should be able to come in and present arguments like
6 we're doing here in the rate case with respect to cost.
7 And that's where our, our point of contention is.

8 **CHAIRMAN CARTER:** Ms. Helton.

9 **MR. BUTLER:** Excuse me, Mr. Chairman.

10 **CHAIRMAN CARTER:** Yes, sir, Mr. Butler.

11 **MR. BUTLER:** Before we go there, I'm wondering
12 if we can short-circuit this. FPL is prepared to
13 acknowledge on the record here today that customers of
14 FPL have standing in need determination proceedings.
15 They have intervened in others previously and would be
16 entitled to intervene in ones subsequently. And
17 certainly the issues involved in the need proceedings
18 involve, among other things, looking at the
19 cost-effectiveness of the facility. So that point, we,
20 we don't see any dispute on that.

21 **MR. MOYLE:** I'll accept -- if Mr. Butler is
22 stipulating to that, I can, I can move on.

23 **CHAIRMAN CARTER:** Okay. Let's move on.

24 **MR. MOYLE:** Okay. And I say move on with
25 respect to the ability to participate in the need case.

1 I just wanted to ask her her understanding of the
2 genesis of that rule she's referencing, if she has one.

3 **BY MR. MOYLE:**

4 Q. Do you understand, do you know if that rule
5 was put in place in response partially to other power
6 producers, independent power producers, others who
7 wanted to come in and have an opportunity to construct
8 power plants and wanted a competitive process to have
9 their projects evaluated vis-a-vis FPL's projects?

10 A. I don't know the genesis of the rule. What I
11 know about the rule is what I'm reading.

12 **MR. MOYLE:** Now we were, we were talking about
13 the GBRA, and I got off a little bit on the need
14 determination.

15 So let me hand out or ask some, one of my
16 colleagues if they would help me hand out FPL's response
17 to staff's sixth set of interrogatories.

18 **CHAIRMAN CARTER:** Do you need a number,
19 Mr. Moyle?

20 **MR. MOYLE:** You know, I think staff is, is
21 going to introduce it. It might be easier just to put a
22 number on it so, so it'll be easier to locate, if need
23 be.

24 **CHAIRMAN CARTER:** Okay. 469. Title?

25 **MR. MOYLE:** FPL Response to Staff's Sixth Set

1 of Interrogatories, Number 65.

2 **CHAIRMAN CARTER:** Thank you.

3 (Exhibit 469 marked for identification.)

4 **BY MR. MOYLE:**

5 **Q.** You have what's been marked as 469 in front of
6 you; correct?

7 **A.** I do.

8 **Q.** And is that an interrogatory that you
9 prepared?

10 **A.** No. Bill impact interrogatories I think were
11 submitted by Witness Deaton. It may have been a, it may
12 have been both of us. I don't know.

13 **Q.** Okay. Do you have any information or
14 knowledge with respect to whether the impact on
15 customers' bills of the new generating units, West
16 County 3, Canaveral and Riviera, can be determined at
17 this point in time?

18 **A.** Well, the answer describes the fact that it,
19 the actual bill impact will be based on sales
20 projections for the first 12 months of operation of that
21 unit, and that sales information is not data that's been
22 presented in this base rate filing.

23 **Q.** You would agree that when this Commission has
24 to set rates, that one of the things that is important
25 to them is knowing the impact on, on customers; correct?

1 **A.** I do.

2 **Q.** And the GBRA proposal, as I understand this
3 answer to interrogatory, does not allow that information
4 to be known at this point in time to this Commission;
5 correct?

6 **A.** Well, we're not setting base rates for West
7 County 3 in this proceeding. In fact, they've been
8 removed. We are asking the Commission to formalize its
9 policy with regard to GBRA. And if I might add, in the
10 one need determination proceeding for which I
11 participated there was bill information presented in the
12 need determination.

13 **Q.** Okay. Well, so, so -- I'm not clear. I
14 thought that you also -- I thought that you are asking
15 this Commission to set rates based on West County 3 in
16 this proceeding.

17 **A.** We are not.

18 **Q.** So, so the GBRA is the only, only mechanism by
19 which you're asking this Commission to establish rates
20 for the West County 3; is that correct?

21 **A.** Well, I think, I think my testimony is clear
22 on that. We have requested that the Commission allow us
23 to recover on a continuing basis the cost of new
24 generation through GBRA. Therefore, we've adjusted out
25 the effects in the test year of 2011 associated with

1 West County 3 and removed those. We did provide the
2 West County 3 schedules, which are consistent with the
3 need determination revenue requirements but for the
4 true-up associated with the new midpoint. So the
5 Commission has the information available certainly to
6 make the decision on whether or not it wants to provide
7 for a continuing GBRA policy.

8 Q. You also provide testimony as to the
9 appropriateness of the, of the test year; correct?

10 A. I'm not sure what you mean.

11 Q. I mean, part of your testimony is to suggest
12 that this Commission adopt 2010 and 2011 as appropriate
13 test years?

14 A. Yes.

15 Q. Okay. And you previously had experience in
16 Texas, did you not? Weren't you with Houston Power &
17 Light and Reliant?

18 A. Many years ago, yes.

19 Q. And you were involved in rate cases with those
20 companies, were you not?

21 A. Many, many years ago.

22 Q. Okay. And isn't it true that in Texas that
23 rate cases are set on historical data rather than
24 projected data?

25 A. My information is, is decades old,

1 unfortunately. But when I was participating in the
2 litigation of rate cases in Texas in the '80s, that
3 Commission utilized historical test year adjusted for
4 known and measurable adjustments, which would include
5 new plant.

6 I might also add, in the case of Houston Light
7 & Power we filed a rate case just about every 18 months
8 because the regulatory lag impacts were so significant.

9 Q. So, so in Texas, rate cases were every 18
10 months, somewhat frequent, and based on historical data;
11 is that correct?

12 A. Speaking for my company.

13 Q. That's right. And with respect to your
14 company in Texas, it's your testimony that rate cases
15 were somewhat frequent and based on historical data;
16 correct?

17 A. Right. The circumstances were that the
18 company's customer base was growing so rapidly that
19 generation was having to be brought online, again, very
20 rapidly. There were no unique recovery mechanisms like
21 a GBRA. It was historical with known and measurable,
22 and therefore we filed rate case after rate case after
23 rate case.

24 Q. And in this case the test year 2010 is based
25 entirely on projections; correct?

1 **A.** That's right. This Commission utilizes a
2 projected test year.

3 **Q.** And isn't it true that no one has, has ever
4 come into this Commission and asked that rates be set on
5 information that was projected two years into the
6 future, the 2011 test year that y'all are proposing?

7 **A.** Are you asking if no party has ever requested
8 a subsequent year test year?

9 **Q.** I'm asking -- your test year is 2011 and 2010;
10 correct?

11 **A.** That's correct.

12 **Q.** Okay. And in 2010 we have a lot of
13 information on that, and then 2011. I'm asking you with
14 respect to coming in and asking, asking this Commission
15 to look two years into the future with respect to the,
16 to all the information that's being requested, isn't it
17 true that no company has come in and made that request
18 prior to today?

19 **A.** I think it's about 18 months into the future.
20 And my understanding is there has been an order that has
21 been rendered in the past. I mean, I know I've heard of
22 one that provided for a subsequent year adjustment
23 through the ratemaking process here in Florida. So, no,
24 I don't think what we're asking for is outside of the
25 Commission's historical practice.

1 Q. You would agree that some of the data that's
2 being used to support your requested rate adjustments
3 comes from 2008; correct?

4 A. It was forecasted during 2008, yes.

5 Q. And that it's also important to use timely
6 data when setting rates?

7 A. It's important to use reasonable forecasts in
8 the case of the Florida forecast test years.

9 Q. Wouldn't you also agree, only from a
10 reliability perspective, that it's more reliable to set
11 rates using historical data as compared to forecast
12 data, all other things being equal?

13 A. No, I would not.

14 Q. Why not?

15 A. Well, if you're able to reasonably forecast
16 the costs, the investment and expenses of the period for
17 which rates will be set, that's an optimum situation.
18 Your costs will equal your revenues. That's the whole
19 idea. Historical approach builds in regulatory lag.

20 Q. I understand the reason why you don't want to
21 do a historical is because of the regulatory lag.
22 Couldn't this be characterized as regulatory reach where
23 you're going out to the customers and asking them to, to
24 pay rates on information that, you know, that's
25 completely in the future?

1 **A.** Are you subscribing the term "regulatory
2 reach" to the 2011 test year or are you referring to
3 GBRA?

4 **Q.** Well, it's probably more particular to the
5 2011 test year. I mean, it's --

6 **A.** I'm sorry.

7 **Q.** It's a further stretch.

8 **A.** It is -- it's looking out one year beyond our
9 2010 period. We feel that we've demonstrated that that
10 forecast is reasonable, and we likewise believe and have
11 demonstrated that the cost increases are significant and
12 will require rate increases in order to sustain the
13 required cost of equity.

14 **Q.** Yes, ma'am. And I guess back to my point that
15 I was hoping to make, which I don't know that we've
16 agreed yet, but with respect to making a decision, you
17 know, assuming information data is collected
18 appropriately and there's not errors in the collection
19 of data, wouldn't you agree that it's, you're more
20 likely to make a good, sound reliable decision using
21 historical data as compared to forecast data? Would you
22 agree with that, yes or no?

23 **A.** No, I would not. And I'm not the forecast
24 witness, and I know that, that Witness Barrett addressed
25 some of the circumstances that might arise in rendering

1 an out year more readily able to forecast than a current
2 period. But I'm not the forecast witness.

3 Q. On Page 4 of your testimony --

4 A. Direct or rebuttal, sir?

5 Q. This is your direct, Line 22.

6 A. I'm there.

7 Q. Would you just read for the record the
8 sentence that starts with "The estimate"?

9 A. Just that one sentence?

10 Q. Yes, ma'am.

11 A. "The estimate used in the GBRA is assured of
12 true-up when actual capital costs are known, which
13 ensures that any savings achieved through improved cost
14 control are realized by customers."

15 Q. Now I took that sentence to suggest that, that
16 actual data would be important in, in making rate
17 decisions and that that was a good quality of
18 information. Given your last answer about the relative
19 value of historical data as compared to forecast data,
20 am I reading that sentence improperly in your view?

21 A. I think those are two totally different
22 questions. This sentence discusses specifically the
23 recovery of a known asset at the exact point in time
24 that it goes into rates and provides for a true-up to
25 customers if our actual costs are lower. And in fact

1 that has been the fact circumstance in Turkey Point 7 --
2 Turkey Point 5 back in 2007. The question that you were
3 asking me was general and around future forecast.

4 Q. You mentioned the subsequent year adjustment.
5 You're not telling this Commission that if the
6 subsequent year adjustment is not provided, that you
7 will be back in to seek rate relief in 2011, are you?

8 A. I think that a number of witnesses have been
9 asked about the likelihood of the company's need to
10 request future rate relief if the subsequent year is not
11 provided for, and I think the answer has been it would
12 be a, a probable scenario.

13 Q. Your testimony suggests that it's something
14 that FP&L would have to consider; isn't that correct?

15 A. Could you refer me, please?

16 Q. Sure. Page 4, Line 12.

17 A. Yes.

18 Q. So, so as we sit here today, if the subsequent
19 year adjustment is not provided, it's, it's, you don't
20 know whether you'd be back in or not. It's something
21 you'd have to consider according to your testimony;
22 correct?

23 A. Well, consider means analyze.

24 Q. Okay.

25 A. And I think you were asking for the

1 likelihood.

2 Q. Right.

3 A. And I think many witnesses have testified that
4 it would be probable.

5 Q. Have you done that analysis today as we sit
6 here? Have you done a complete analysis as to whether
7 you'd have to come back in or not?

8 A. I have not.

9 Q. Has the company?

10 A. I do not know.

11 Q. Same question with respect to the generation
12 base rate adjustment. You're not saying that if you
13 don't get the GBRA, that you definitely have to come
14 back in in 2011, are you?

15 A. I think there are other factors I would have
16 to know in terms of whether or not the costs of that
17 plant are included in the current request.

18 Q. It would have to be --

19 A. In rates for 2010.

20 Q. Similar to the subsequent year adjustment, it
21 would have to be something that would be considered by
22 the company?

23 A. The decision to file for rate relief is one
24 that the company certainly doesn't take lightly. And
25 the outcome of this proceeding will have a great weight

1 on what we need to do prospectively. So it's very
2 difficult for me to answer your questions.

3 Q. You're aware that recovery of monies from
4 ratepayers has trended away from base rates and toward
5 clauses and adjustments; correct?

6 A. Are you asking me specifically about FPL?

7 Q. Yes, ma'am.

8 A. And its history?

9 Q. Yes, ma'am.

10 A. I have a short history here, but we do have a,
11 you know, about a 50/50 split, or a little bit greater
12 than 50 percent of our revenue is being recovered
13 through clause.

14 MR. MOYLE: Can I have an exhibit marked? I
15 guess it'll be 470.

16 CHAIRMAN CARTER: 470. Title?

17 MR. MOYLE: Decoupling Report Excerpt. Thank
18 you.

19 (Exhibit 470 marked for identification.)

20 CHAIRMAN CARTER: Thank you. See how
21 efficient the military is? You and Mr. Wright, y'all
22 need to take a lesson. You see, she's putting the
23 numbers on them as she passes them out. She's raised
24 the bar tremendously on you guys.

25 MR. MOYLE: Thank you.

1 **BY MR. MOYLE:**

2 Q. You have in front of you what's been marked as
3 Exhibit 470; correct?

4 A. Yes.

5 Q. And are you aware that the Florida Public
6 Service Commission provided a report to the Legislature
7 on utility revenue decoupling in December of 2008?

8 A. No, I was not.

9 Q. Okay. On Page 16 of the exhibit, there's a 16
10 at the bottom, there's a chart that purports to
11 represent costs recovered through clauses as a percent
12 of annual expenses by FP&L. Do you, do you see that?

13 A. I do.

14 Q. And would you agree that that trend line has
15 generally gone up, upward from December 1999 to
16 December 2007?

17 A. It has.

18 Q. Okay.

19 **MR. BUTLER:** Mr. Moyle, how does this relate
20 to Ms. Ousdahl's direct or rebuttal testimony?

21 **MR. MOYLE:** I'll, I'll show you hopefully in a
22 minute, Mr. Butler.

23 **MR. BUTLER:** Well, I'm going to object on
24 relevance grounds unless Mr. Moyle can identify how this
25 is relevant. It seems clearly beyond the scope of

1 Ms. Ousdahl's testimony.

2 **CHAIRMAN CARTER:** To the objection, Mr. Moyle.

3 **MR. MOYLE:** Sure. And I think the point -- I
4 mean, Ms. Ousdahl is supporting things like a GBRA
5 request, a nuclear clause adjustment, and I think it's
6 continuing this trend of having more and more stuff come
7 through clauses. And I think the reason that that is
8 being done is to avoid a rate case, which is, you know,
9 the proceeding where everything is looked at. And these
10 clauses are designed to look at minimal things. It's a
11 one-way street with respect to costs. It's not an
12 opportunity for, for the whole, the whole kit and
13 caboodle to be examined, and I want to make, make that
14 point with her through this document in part.

15 **CHAIRMAN CARTER:** Ms. Helton.

16 **MS. HELTON:** I'm sorry, but can I ask
17 Mr. Moyle to repeat his question?

18 **MR. MOYLE:** I think that the question -- I
19 don't think I had a pending question. I think the
20 previous question was to have her acknowledge that the
21 trend has been an increase in recovery through, through
22 clauses.

23 And the next question I was going to ask is if
24 she agrees with the statement on the fourth paragraph
25 that the growing trend of running capital items through

1 cost recovery clauses has reduced risk for utilities by
2 removing a disincentive against them in items that could
3 result in efficiency improvements.

4 **CHAIRMAN CARTER:** And the first question you
5 asked her was was she familiar with this document, and
6 her answer was no.

7 **MR. MOYLE:** No, that's right. But then I
8 think, even though she's not familiar with it, does she
9 have information about the, you know, the trend.

10 **MR. BUTLER:** All he's doing is getting her to
11 read out of it. And, Mr. Chairman, FPL's position is
12 that, you know, the GBRA, we're not advocating the
13 nuclear cost recovery clause. That's already been
14 enacted by statute and is in your rules. We're simply
15 utilizing it. But for the GBRA, yes, our position is
16 that it's good because it helps reduce the need to come
17 in for rate increases, base rate cases, which
18 Ms. Ousdahl has already testified several times in this
19 proceeding.

20 So I just, I fail to see how this is moving
21 anything forward in terms of the relevant evidence in
22 this case.

23 **CHAIRMAN CARTER:** Ms. Helton.

24 No lunch today for you guys.

25 **MS. HELTON:** I think given the, the fact that

1 the company has asked for a GBRA mechanism to be set up
2 for the company, I think it's a fair question for
3 Mr. Moyle to ask the witness about her opinion with
4 respect to this particular statement.

5 **CHAIRMAN CARTER:** Overruled. You may proceed.

6 **BY MR. MOYLE:**

7 **Q.** The statement that I read into the record, do
8 you agree with that, about the growing trend of running
9 capital items through cost recovery clauses?

10 **A.** Well, I agreed with you that clearly the
11 amount of dollars passing through the clause is
12 increasing on a percentage basis. I am not in a
13 position to judge whether or not that change increases
14 or decreases the risk for the company.

15 **Q.** Okay. And your testimony does advocate for
16 the GBRA recovery; correct?

17 **A.** Yes, it does.

18 **Q.** Okay. And that amount is approximately
19 \$850 million associated with the Martin County 3;
20 correct?

21 **MR. BUTLER:** I'm sorry, Mr. Moyle. Are you
22 asking for the revenue requirements that would go into
23 base rates or are you asking for the capital cost of the
24 project?

25 **MR. MOYLE:** The capital cost I think is the

1 850 number.

2 **BY MR. MOYLE:**

3 Q. Do you know the revenue requirements and the
4 capital costs?

5 A. Yes. And it's, it's not Martin. It's West
6 County 3.

7 Q. Oh, I'm sorry.

8 A. Yeah. It's \$182 million of revenue
9 requirement, and I think the 13-month plant is about 837
10 net.

11 Q. Okay.

12 A. It's in the schedule, so.

13 Q. And the revenue requirements, that's an annual
14 amount that ratepayers would pay; correct?

15 A. That's correct.

16 Q. Okay. So if we were putting that on this
17 chart, it would have that trend of more being recovered
18 through the clauses going upward, correct, all other
19 things being equal?

20 A. Well, I think this is referring to clause
21 specifically, and I don't think our GBRA is a clause
22 recovery. It's an interim base rate recovery.

23 Q. Or an adjustment; is that right?

24 A. The dollars that are going to be recovered for
25 that West County plant through GBRA in the interim will

1 then be rolled into base rates upon the next full base
2 rate setting.

3 Q. Okay. You're also seeking an adjustment that
4 would not be part of a base rate case for nuclear
5 expenses not recovered in the nuclear cost recovery
6 docket; correct?

7 A. You're going to have to refer me more
8 specifically.

9 Q. Page 5.

10 A. In my direct?

11 Q. Yes, ma'am. Line 13.

12 A. Yes.

13 Q. You're asking for any monies not recovered in
14 the nuclear cost recovery to be recovered through an
15 adjustment; is that right?

16 A. Yes. I mean, this has a very specific set of
17 fact circumstances, this whole discussion in my direct
18 case. And it has to do with the fact that there is
19 provision under the statute and the Commission rules for
20 recovery of all nuclear uprate costs through clause.
21 But because of the distinct timing between the base rate
22 setting and the clause setting, I was trying to both
23 remind the Commission and offer an opportunity to make
24 sure that dollars didn't fall through the crack if they
25 were denied any uprate proceeding and had not been

1 included in our filing. I'm not suggesting that
2 anything be done outside of the norm.

3 Q. Mr. Barrett was asked some questions about
4 FPL's view of recovery through a rate case versus
5 recovery through a clause, and I think he indicated that
6 FPL was indifferent to which mechanism was used. I
7 think he was assuming so long as the money is recovered.
8 Is, is that your understanding of FPL's policy as it
9 relates to clause recovery vis-a-vis a base rate
10 recovery?

11 MR. BUTLER: I'm going to object to the
12 question. I think it's assuming facts not in evidence.
13 Mr. Moyle needs to point out specifically what
14 Mr. Barrett said and allow Ms. Ousdahl to put it into
15 context. I don't think it's fair for him to paraphrase
16 it and then ask her whether she agrees with the
17 paraphrase.

18 BY MR. MOYLE:

19 Q. Well, I don't even need to reference
20 Mr. Barrett. I can -- you know, that's going to take
21 time. I can just ask her: Does FPL have a preference
22 as to whether it recovers monies through a clause as
23 compared to a base rate proceeding as you, as far as you
24 know?

25 A. I can't, I can't answer that general question.

1 I do not know.

2 Q. Now you talked a little bit about return on
3 equity, and I just want to make sure I'm clear. You're
4 not telling this Commission that you believe the
5 12.5 percent ROE is the appropriate ROE. You just kind
6 of said here's what we're asking and these other experts
7 will support it; is that correct?

8 A. I am not the ROE witness. That's Witness
9 Avera and Pimentel.

10 Q. So you don't have an opinion on the, on the
11 ROE; correct?

12 A. No, I -- no, I do not.

13 Q. Okay. And on -- you talked about a 4.7 ROE
14 if, if a rate increase was not granted; correct?

15 A. I calculate the result if a rate increase is
16 not granted. That's correct.

17 Q. Okay. If you assumed -- if I understand
18 depreciation, if you take less depreciation in a, in a
19 year, doesn't that have the result of increasing
20 earnings as compared to taking more depreciation?

21 A. Generally a change in the depreciation is not
22 going to affect earnings because it's synchronized with
23 the change in rates. It will have no impact.

24 Q. Would it affect the change of ROE with respect
25 to how depreciation is treated?

1 **A.** If rates are in sync with the expense, it will
2 have no effect. It will have an effect on cash, as has
3 been discussed significantly in this proceeding.

4 **Q.** I have a few, few more lines, and let me refer
5 you to Page 25, Line 7 of your testimony. This is
6 related to the Glades Power Park.

7 **A.** I'm there.

8 **Q.** Do you see that?

9 **A.** Yes.

10 **Q.** And you had, what, 34 million in cost in that;
11 is that right?

12 **A.** We had 34 million that was granted eligible
13 for recovery.

14 **Q.** Okay. And, and some of that, some of that
15 cost included work related to a need determination,
16 correct, legal work and regulatory work related to a
17 need determination?

18 **A.** Well, these were costs spent leading up to a
19 need determination, and we were not granted that
20 affirmation through that process.

21 **Q.** Did any of it entail regulatory and legal work
22 as part of that cost?

23 **A.** I'm certain that there were permitting costs
24 that were part of that, that 34 million.

25 **Q.** Okay. And the Commission suggested that these

1 costs would be amortized over a five-year period;
2 correct?

3 A. They did.

4 Q. And are you aware that FIPUG suggests that the
5 cost of this proceeding should be amortized over, over
6 five years as well?

7 A. I didn't know that specifically. I'm
8 recommending the costs be amortized over three.

9 Q. Page 28, Line 9. You're talking about a
10 \$6 million expense for a nuclear, end-of-life nuclear
11 fuel; is that, is that correct?

12 A. I am.

13 Q. There's also a, a nuclear decommissioning fund
14 of approximately \$600 million of monies that are in
15 excess of the amount recommended by NRC; correct?

16 A. I don't know what the excess might be against
17 the NRC minimums today, nor do I know what the amount of
18 excess might be as determined by the study which we'll
19 be filing next year with this Commission. But there was
20 a determination of excess. That's what led to the
21 cessation of our accrual.

22 Q. Isn't it true that the, that these end-of-life
23 issues, that the PSC might order that they be funded
24 from nuclear decommissioning funds and the NRC might act
25 favorably upon such a request?

1 **MR. BUTLER:** I'm going to object to the
2 question. It calls for a legal conclusion. It's
3 speculative, beyond the scope of her testimony.

4 **MR. MOYLE:** Well, maybe I can ask it this way.

5 **BY MR. MOYLE:**

6 **Q.** Let me refer you to your rebuttal, Page 23,
7 Line 1, and I'll just quote. Quote, on Line 1, "While
8 it is possible that with prior Florida Public Service
9 Commission approval the NRC might also approve the use
10 of existing funds for purposes other than NRC defined
11 decommissioning activities." Were you, were you trying
12 to suggest that the PSC might have the ability to have
13 nuclear expenses paid for with funds that are already
14 accrued with that statement?

15 **MR. BUTLER:** I think that Mr., Mr. Moyle has
16 failed to read the rest of the sentence in which the
17 parenthetical goes on to say that that would be
18 speculative.

19 **CHAIRMAN CARTER:** She can answer.

20 **THE WITNESS:** Do you mind repeating the
21 question?

22 **BY MR. MOYLE:**

23 **Q.** Sure. The point that you were trying to
24 convey with your first part of your sentence -- and,
25 Mr. Butler, I read only the first part.

1 I mean, it is what it is. It's your
2 testimony. I was trying to better understand what your
3 point was by saying that it's possible that if the PSC
4 approves, the NRC might approve the use of existing
5 funds for purposes other than NRC defined
6 decommissioning activities. What do you -- what's the
7 point of that?

8 A. Well, I was, I was trying to be factual and
9 fair. It is possible. We could go through these steps.
10 I do not know how long they would take. And it appears
11 the probabilities might be remote for achieving that
12 approval.

13 I go on to say in my testimony we're setting
14 rates today on those costs. We can't assume that we're
15 going to get some favorable action out of multiple
16 bodies, regulatory bodies later to offset today's costs.

17 Q. Have you, have you had any of those
18 conversations with the NRC at this point on this issue?

19 A. No, we have not.

20 Q. I want to ask you a little bit about affiliate
21 transactions and splits. That's part of your area of
22 responsibility in terms of how charges are allocated
23 against FP&L, the regulated utility, versus FPL Group;
24 correct?

25 A. Right. How, how charges are billed out of the

1 utility to our family of companies.

2 Q. Okay.

3 A. And back actually.

4 Q. Now Mr. Pimentel, he is an officer, he's one
5 of the officers whose salary is listed in the SEC
6 filings; correct?

7 A. Yes, he would be.

8 Q. Okay. And, and roughly speaking, his, his
9 allocation is split 70 going to FP&L the regulated
10 utility and 30 going to Group; is that right?

11 A. Well, it's approximately 68 percent in 2008,
12 the last historical year. In the test year we're
13 estimating for those costs that include executive
14 salaries, but many other costs that are allocated using
15 the Massachusetts formula, and that's what you're
16 referring to. That percentage being retained by the
17 utility would drop to 66 percent, then to 65.

18 Q. Okay. On Page 37 of your, of your testimony
19 under the affiliate transactions --

20 MR. BUTLER: Are you back to the direct
21 testimony?

22 MR. MOYLE: Yes, sir.

23 THE WITNESS: Oh. Okay.

24 BY MR. MOYLE:

25 Q. Okay. You state, and I quote, "Today FPL is

1 one of more than 500 legal entities that operate under
2 FPL Group's corporate legal structure." Is -- that's an
3 accurate statement; correct?

4 **A.** I believe so.

5 **Q.** And each of these separate legal entities,
6 these 500 legal entities, they're up under Group, FPL
7 Group; is that right?

8 **A.** No. They're not all single level subsidiaries
9 of FPL Group. That was counting all the legal entities
10 under the structure. So there are tiers in a corporate
11 structure such as ours.

12 **Q.** Okay.

13 **A.** The vast majority of those entities are under
14 the NextEra umbrella.

15 **Q.** Okay.

16 **CHAIRMAN CARTER:** Mr. Moyle, if you wouldn't
17 mind, we're going to need to do a quick change out with
18 the court reporters.

19 **MR. MOYLE:** Sure.

20 **CHAIRMAN CARTER:** So would you, would you,
21 would you mind if we just took a break right now? We
22 just need to change out our court reporters.

23 **MR. MOYLE:** No problem. And I'm trying to
24 finish up.

25 **CHAIRMAN CARTER:** No. It's okay. You can

1 take your time. We're just -- well, not all the time.
2 We're just trying to trade out with the court reporters.

3 Ten minutes, Commissioners.

4 (Recess taken.)

5 (Transcript continues in sequence with Volume
6 28.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

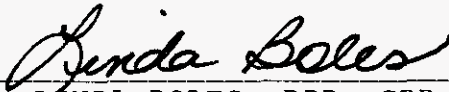
3
4 I, LINDA BOLES, RPR, CRR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 10th day of September,
19 2009.

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