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I N D E X

WITNESSES

NAME:	PAGE NO.
KIM OUSDAHL	
Continued Cross Examination by Mr. Moyle	3823
RICHARD F. MEISCHEID	
Direct Examination by Ms. Clark	3845
Prefiled Rebuttal Testimony inserted	3847
Cross Examination by Mr. Moyle	3861
Cross Examination by Mr. Wright	3879
Cross Examination by Ms. Bennett	3890
Redirect Examination by Ms. Clark	3909

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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NUMBER:		ID.	ADMTD.
471	FPL's Response to Staff's 11th Set of Interrogatories	3834	
472	Falcon 2000 LX	3834	

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 27.)

4 CHAIRMAN CARTER: We are back on the record.
5 And, by the way, just before we take our lunch break,
6 I'll let you guys know about the time we're working with
7 admin to get DMS so that we get the building open
8 tomorrow, okay. I'll let you know about that later on.

9 Mr. Moyle, you're recognized.

10 MR. MOYLE: Thank you, Mr. Chairman.

CONTINUED CROSS EXAMINATION

11
12 BY MR. MOYLE:

13 Q Ms. Ousdahl, when we took a break, we were
14 starting to have a conversation about affiliate
15 transactions. And you would agree with me, would you
16 not, that part of the tension with respect to affiliated
17 transactions is there is a concern of self-dealing when
18 market forces do not drive prices? If you could answer
19 yes or no, it might move it along.

20 A Yes.

21 Q And also there's a concern that there is a
22 natural incentive to shift costs to the regulated
23 utility since recovery is more certain with captive
24 ratepayers, correct?

25 A Yes, but I would like to elaborate very

1 briefly.

2 The rule certainly at FERC, and I think at the
3 Florida Commission, describes the necessary balance that
4 needs to be developed between flexibility in the rule so
5 that the economic benefits can be provided to
6 ratepayers, customers, along with the need to do --
7 provide for controls for precisely the reason you're
8 describing.

9 Q Right. And with respect to these affiliate
10 transactions, I mean, we just identified two concerns.
11 Another would be, would it not, that to the extent that
12 you have a business entity that's in a competitive
13 market, that if you can put costs on a regulated side of
14 the house, it would reduce the cost of the competitive
15 entity and enable it to compete more rigorously? That
16 would be another reason?

17 A I don't think that's an issue that the
18 Commission is concerned about. I think our regulators
19 are concerned that ratepayers bear the reasonable cost,
20 and if we're providing services in our case to our
21 affiliates from the embedded utility business, we need
22 to ensure that the appropriate costs are billed to those
23 affiliates.

24 Q If you improperly allocate costs to FP&L with
25 the ratepayers and the captive customers, there's no

1 penalty associated with that, you don't have refund it
2 plus a ten percent of the amount that was improperly
3 billed or anything like that, do you?

4 A I do not know what the sanctions might be --
5 we might suffer from any of our regulators, FERC or the
6 Commission, but clearly there is a rule and we endeavor
7 with, you know, great effort to comply with the rules.

8 Q In part of this proceeding it talks about
9 incentives and disincentives. You've been here for a
10 couple of days. You've heard that Power & Light is
11 looking to increase the late fee from \$5 to \$10 to put
12 more of a disincentive or more of an incentive for
13 people to pay timely, right?

14 A I think Witness Santos's discussion on fees
15 has to do with ensuring that certain customers are not
16 bearing the costs of other customers. Those are sort
17 of, you know, balancing issues within the classes of
18 customers themselves.

19 Q So we were talking about your statement about
20 FPL is one of more than 500 legal entities that operate
21 under FPL Group's corporate legal structure. Isn't it
22 true that all of those separate legal entities have
23 separate financial statements?

24 A No.

25 Q They don't keep their own set of books? Each

1 legal entity doesn't have its own set of books?

2 A In general, you know, we've got SEC reporting
3 requirements for any SEC filers. Certainly those 500
4 entities are not SEC filers.

5 As you know, FPL Group files financial
6 statements and FPL is responsible for filing its
7 financial statements with the SEC. That's it from an
8 SEC reporting perspective for FPL Group. Within the
9 group of companies within NextEra, I'm sure there are
10 reporting requirements because many of those entities
11 have partial ownership, but I'm not familiar with what
12 all the various reporting requirements are. There's
13 also, certainly, reporting requirements associated with
14 certain debt obligations.

15 Q Do you have any information as to whether it's
16 a requirement for a legal entity created in the state of
17 Florida to keep a set of books as it relates to that
18 legal entity?

19 A We have legal entities within that structure
20 that have absolutely no operation and have no assets
21 and/or liabilities, so I don't think there would be a
22 reporting requirement. Some of those are just shell
23 entities that I understand have been left on the books
24 for some time, but that's not the majority of the
25 entities we're discussing, clearly.

1 Q Mr. Pimentel, as an officer of both Group and
2 also with Power & Light, he would ultimately be
3 responsible for overseeing these 500 separate legal
4 entities, would he not, with respect to financial
5 matters?

6 A Well, he's our chief financial officer.

7 Q So that would be a yes?

8 A It was a very general question, but I think in
9 general, yes.

10 Q You haven't done any kind of allocation or
11 time sheets to show the respective amount of time spent
12 on overseeing 500 legal entities as compared to Florida
13 Power & Light, the regulated entity, have you?

14 A Is your question have I studied whether or not
15 the fact that we have 500 legal entities and the
16 specific reporting requirements for those legal
17 entities, if they've had an impact on the proper
18 allocation of costs of -- Witness Pimentel's --

19 Q Yes, ma'am.

20 A No, I have not. His responsibilities are
21 generally, because of the position he holds, focused
22 much more on -- he can tell you this himself -- securing
23 capital, setting the financial strategies for the
24 company, et cetera. I'm certain he does not review the
25 financial statements of all 500 entities.

1 Q A couple more questions about affiliated
2 transactions, and if you could answer yes or no, it
3 might move it along.

4 The audit of affiliated transactions, you do
5 not have an independent audit performed specifically on
6 affiliated transactions, do you?

7 A During my tenure here, we have not sought an
8 independent audit of our affiliate transactions, no. We
9 have, of course, performed internal audits and the
10 Commission has reviewed our transactions.

11 Q A couple of other areas and I'll try to
12 conclude.

13 Page 18, line 1 of your rebuttal, this is a
14 discussion about decommissioning costs.

15 MR. BUTLER: Sorry, Mr. Moyle. Page 18, line
16 1 of rebuttal?

17 MR. MOYLE: Yes, sir, and there's a question
18 on 21 that talks about greenfields, and I wanted to ask
19 this witness a couple of questions about greenfields.

20 MR. BUTLER: It seems that this goes to
21 dismantlement and not decommissioning.

22 MR. MOYLE: I'm sorry, I used the wrong
23 phrase.

24 THE WITNESS: I'm on page 18.

25 / / / / /

1 BY MR. MOYLE:

2 Q Okay. Is it your understanding that FPL
3 restores former sites to a greenfield status?

4 A I know that at least on one occasion we have,
5 the Palatka dismantlement, which occurred some years
6 prior.

7 Q And a greenfield is -- is it your
8 understanding that it's capable of being used for, in
9 effect, like a development of a residential property?

10 A Well, my simple way of thinking about it is
11 park-like. Whether it can used for development has to
12 do with, you know, other factors outside of whether or
13 not we've graded and seeded, obviously.

14 Q You would agree that the cost to restore to a
15 greenfield status are greater than a brownfield status,
16 correct?

17 A I would agree there are costs associated with
18 seeding and grading, yes, after dismantlement. We've
19 included those costs in our study.

20 Q Okay. And to restore to a greenfield, you
21 have to meet clean soil standards, is that right?

22 A I don't know specifically.

23 Q Wouldn't it be appropriate, if certain of your
24 projects are not going to be used for parks and
25 residents, that you restore them to a lesser standard,

1 that they might be able to be used for industrial type
2 activities?

3 A Well, first of all, we follow the Commission
4 order, which I've described, where the Commission has
5 opined that our studies should contemplate those costs.
6 And secondly, unless and until we can determine whether
7 some of those sites are appropriately at what you're
8 characterizing as brownfield -- I'm not exactly certain
9 what that is -- I don't think it makes sense in our
10 study to assume that event.

11 Q Do you have an understanding of what a
12 brownfield site is?

13 A No, I don't know what you mean by
14 "brownfield."

15 Q Let me refer you to page 47 of your testimony.
16 In line 2 you talk about a rule, and I wanted to ask you
17 a question about that rule.

18 MR. BUTLER: Are you in the direct or the
19 rebuttal?

20 MR. MOYLE: Rebuttal.

21 CHAIRMAN CARTER: What page, Mr. Moyle?

22 MR. MOYLE: This is page 47.

23 CHAIRMAN CARTER: Do you need a number, Mr.
24 Moyle?

25 MR. MOYLE: This is a rule, a Commission rule.

1 CHAIRMAN CARTER: Okay, thank you. Yeah, we
2 don't need a number for that.

3 MR. MOYLE: I'm just going to refer to it.

4 CHAIRMAN CARTER: You may proceed.

5 MR. MOYLE: Thank you.

6 BY MR. MOYLE:

7 Q Now, you state that you believe that Rule 25-
8 6.1351, Cost Allocation and Affiliate Transactions,
9 (3)(d), is not applicable to FPL's transfer of its New
10 Hampshire asset, is that correct?

11 A I do.

12 Q And there's nothing in this rule that suggests
13 that the Commission does not have jurisdiction with
14 respect to this transfer, is there?

15 A No, I'm not making a jurisdiction -- I'm not
16 rendering an opinion on jurisdiction.

17 Q Okay. And the first sentence seems to suggest
18 that when an asset is transferred from a utility to a
19 non-regulated affiliate, the utility must charge the
20 affiliate the greater of the market price or the net
21 book value. You would agree with that, wouldn't you?

22 A That's what the rule says.

23 Q Okay. And then you're suggesting, well, it's
24 not applicable because it hasn't -- it doesn't benefit
25 Florida ratepayers, is that right?

1 A No. I'm suggesting that if you have a
2 transfer of an asset that was not an asset that was
3 supported by the retail customer here in Florida, then
4 that customer shouldn't receive benefit, if there is
5 any, of the transfer any more than the opposite should
6 occur. But generally speaking, Commission rules and
7 FERC rules ensure that if you're taking an asset out of
8 a regulated business and transferring that asset and
9 customers have supported that and have borne the risks
10 and responsibilities, they should likewise bear the
11 benefit, and that's what I'm suggesting is the
12 difference here.

13 Q In this line of testimony, I mean, you're
14 talking about an asset that is in New Hampshire,
15 correct?

16 A That's correct.

17 Q Okay. And FPL ratepayers, they don't benefit
18 in any way from this asset in New Hampshire, do they?

19 A It has no impact on FPL ratepayers.

20 Q Okay. And it was done because FPL, the
21 regulated company, was needed for the purposes of being
22 able to transact business in the New England
23 marketplace, is that right, in general terms?

24 A Yes. In order to operate, that business needs
25 to be held by a regulated entity.

1 Q Was there any consideration paid to FPL for
2 using its corporate structure to benefit the operation
3 of the NextEra assets in New Hampshire?

4 A Not that I'm aware of.

5 Q Now, this is being unwound, is that right, or
6 you're looking for another way to structure this so that
7 it's not an asset of FPL, the regulated utility?

8 A That's correct. Our Commission here in
9 Florida has expressed concern, and we are responding to
10 that concern.

11 Q And there's time that's associated with that,
12 lawyers are involved. These lawyers and others who are
13 involved in this are being paid by FPL, the regulated
14 company, to figure this out, are they not?

15 A Every hour of the time spent in support of NED
16 have been billed -- has been billed to NED. That's no
17 different than any other affiliate work that might be
18 being performed by somebody in the FPL utility business.

19 Q Are there any other assets besides the Scherer
20 power plant, which is in Georgia, that are owned by
21 Florida Power & Light, the regulated utility, that are
22 outside of the state of Florida?

23 A I don't believe there are any outside the
24 state. We do have partial ownership in other assets,
25 the SJRPP, the St. Johns River Power Park, but it's here

1 in Florida.

2 Q I have one final line of questions and it
3 relates to aircraft expense. Staff has asked some
4 questions about that and I wanted to have a follow-up
5 conversation with you on that point if I could.

6 MR. MOYLE: Mr. Chair, if I could have
7 marked --

8 CHAIRMAN CARTER: Okay. Next in line is 471.
9 Short title?

10 MR. MOYLE: FPL's Response to Staff's 11th Set
11 of Interrogatories. And, I'm sorry, Mr. Chairman, I
12 have one more that I'd like to hand out.

13 CHAIRMAN CARTER: Do you want to do it now,
14 or --

15 MR. MOYLE: Yes, sir.

16 CHAIRMAN CARTER: Okay. That will be 472.
17 Short title?

18 MR. MOYLE: Falcon 2000 LX.

19 CHAIRMAN CARTER: Falcon 2000 LX?

20 MR. MOYLE: Yes, sir.

21 CHAIRMAN CARTER: Okay.

22 (Exhibit Nos. 471 and 472 marked for
23 identification.)

24 BY MR. MOYLE:

25 Q I'm going to ask you a few questions about

1 question number 199 in staff's 11th set of
2 interrogatories, attachment number 6, page 1 of 1. It's
3 entitled, "Net Book for Aircraft." This is an FPL
4 document, correct?

5 A Yes, it was our response.

6 Q And you prepared this in response to a
7 question that the PSC staff asked, is that right?

8 A Yes, that -- yes.

9 Q And this is information with respect to your
10 net book value for the aircraft that Mr. Olivera was
11 asked about, is that right?

12 A Right, for purposes of calculating the amount
13 we needed to bill to affiliates.

14 Q There's an entry here for jet, 2010. What
15 does that reflect?

16 A Well, there's a note at the bottom that
17 there's a plan to purchase a new jet, replacing a prior
18 aircraft.

19 Q Do you know how much this new jet's going to
20 cost?

21 A Not off the top of my head.

22 Q The exhibit I showed you, 472, is a document
23 that came from the Internet, which is probably right
24 there with newspapers, admittedly, but shows the cost of
25 a Falcon jet new being approximately \$31 million. Does

1 that sound like a right number, ballpark-wise?

2 A Well, that's what we're showing here at end of
3 year 2010. I just didn't know if that -- you know,
4 sometimes these things are paid out over time as they're
5 being built, so --

6 Q Okay, so this is part of the rate request,
7 the -- for 2010-2011, the \$31 million for the new jet,
8 is that right?

9 A I would assume that both the -- now you're
10 asking me a forecast question, so I'm going to make an
11 assumption, because what I'm dealing with here is the
12 billing to the affiliate, but I'm going to assume with
13 you that the forecast includes the capital expenditure
14 for the new jet, but likewise it includes that salvage
15 value of 18 million for the jet that's being replaced.

16 Q Now, up at the top of the document it says,
17 quote, "Assumes no change in rates." Was that assuming
18 that the Commission would not provide any rate relief,
19 do you know, or would FPL -- do you know what that
20 reference is?

21 A I think it's referring to the depreciation,
22 the return of these assets that we then charge to our
23 affiliates.

24 Q Okay. And with respect to the operating costs
25 of these planes, do you also break them out on an hourly

1 basis? Do you have any information on that?

2 A No. The information I typically see has to do
3 with the statute mile costs that Witness Bennett
4 referred to yesterday whether we performed the variable
5 cost billing to affiliates based on usage.

6 Q Okay.

7 A That's just one portion of the affiliate
8 billing that takes place.

9 Q The document 472 suggest that these planes
10 have a range of 4,000 nautical miles. Do you know that
11 that's their range?

12 A I don't know a thing about these aircraft.

13 MR. BUTLER: I'm going to object.

14 MR. MOYLE: The question was asked by staff
15 yesterday whether these are --

16 ACTING CHAIRMAN EDGAR: Just a moment. I
17 don't know what the objection is based upon.

18 MR. BUTLER: I'm sorry. I was going to object
19 to it as being well beyond the scope of her testimony.
20 She answered she didn't know. I'll withdraw the
21 objection.

22 ACTING CHAIRMAN EDGAR: Okay.

23 MR. MOYLE: Okay, I think I'm done. Thank
24 you.

25 ACTING CHAIRMAN EDGAR: Okay. Does that mean

1 you think, so you wanted to look at your notes, or does
2 that mean you are?

3 MR. MOYLE: Can you give me just one second?

4 ACTING CHAIRMAN EDGAR: Of course.

5 MR. MOYLE: I appreciate the patience already.

6 (Brief pause.)

7 BY MR. MOYLE:

8 Q I just want to clarify one thing on the GBRA
9 mechanism. I was unclear as to the ROE that will be
10 used in the GBRA, assuming it were to be granted. Is it
11 correct that the ROE within the GBRA would be whatever
12 this Commission determines would be the ROE in this rate
13 case?

14 A Yes, we would -- if GBRA is provided for, then
15 a decision will be made on the ROE. The midpoint of
16 that ROE would be what would be used in the GBRA, going
17 forward.

18 Q So you're not indicating that the ROE that was
19 set forth in the settlement agreement would carry over,
20 correct?

21 A No. I believe I answered that question
22 yesterday.

23 MR. MOYLE: Okay, that's all. Thank you.

24 ACTING CHAIRMAN EDGAR: And my understanding
25 and recollection from yesterday is that that completes

1 the Intervenor cross for this witness, so, hearing
2 nothing differently, are there questions from staff?

3 MS. BENNETT: Yes, there are.

4 ACTING CHAIRMAN EDGAR: Okay.

5 MS. BENNETT: Let's start with -- staff has an
6 affectionately referred to as several stacks of exhibits
7 that we'd like to have marked.

8 Staff 1 is FPL's discovery responses, and we
9 would like that marked as -- are we up to 473?

10 ACTING CHAIRMAN EDGAR: Does that look
11 something like this big stack?

12 MS. BENNETT: Yes, ma'am. There are several
13 sets of exhibits in that.

14 ACTING CHAIRMAN EDGAR: Okay, so I believe
15 that this will be 473. We will label FPL's discovery
16 responses -- let me catch up for a moment --

17 MS. BENNETT: And then let me know when you're
18 ready for me.

19 ACTING CHAIRMAN EDGAR: Are there any
20 questions? Do we all know what we're looking at?

21 MR. BECK: Madam Chairman?

22 ACTING CHAIRMAN EDGAR: Mr. Beck.

23 MR. BECK: Yes, we have some questions about
24 the exhibits. Some of -- the title page doesn't match,
25 at least with our pile, and I'd like to ask for a minute

1 or two for us to get together with staff to see if we
2 can reconcile.

3 ACTING CHAIRMAN EDGAR: Okay, let's take five
4 minutes, five to seven, so that everybody can at least
5 take advantage to stand up and stretch, and we are on
6 break.

7 (Brief recess.)

8 CHAIRMAN CARTER: We're back on the record,
9 and before we continue our cross-examination, we have a
10 preliminary matter we're going to deal with. It will
11 impact our schedule.

12 As I told all of the parties at the beginning,
13 we'll do what we can to accommodate your calendars, and
14 I think I've kept my record and we've been able to that.

15 With that, Ms. Clark, you're recognized.

16 MS. CLARK: Thank you, Mr. Chairman. As noted
17 on your schedule, we had indicated that Mr. Meischeid
18 needed to be finished by two o'clock. Now seems to be
19 an appropriate breaking point to put him on the stand as
20 long as -- so he can meet that time frame. I've checked
21 with the Intervenors and staff and they are comfortable
22 with accommodating him in that way.

23 CHAIRMAN CARTER: And the point being to all
24 the parties is that staff will conduct the cross of Ms.
25 Ousdahl afterwards in an effort to, you know,

1 accommodate everyone, so at this point in time, Ms.
2 Ousdahl, you are on recess.

3 THE WITNESS: Thank you.

4 CHAIRMAN CARTER: And we will call Mr.
5 Meischeid now, is that right?

6 MR. MOYLE: Mr. Chairman?

7 CHAIRMAN CARTER: Mr. Moyle.

8 MR. MOYLE: I'm fine with that. The staff's
9 confidential salary exhibit, I have a need for that, so
10 I'm going to need that.

11 CHAIRMAN CARTER: I beg your pardon?

12 MR. MOYLE: The salary exhibit that's
13 confidential, I think staff has it, so if you could just
14 give me one minute to get a copy of --

15 COMMISSIONER EDGAR: For Mr. Meischeid?

16 MR. MOYLE: Yes, I'm sorry, for Meischeid.

17 COMMISSIONER SKOP: Thank you, Mr. Chair.

18 If I heard you correctly, is it my
19 understanding that after we take this witness out of
20 sequence, that Ms. Ousdahl will be back on for --

21 CHAIRMAN CARTER: Will be back on for cross,
22 that's correct.

23 Staff, Mr. Moyle was needing a copy of the
24 confidential -- you need the red folder?

25 MR. MOYLE: Right, all the salary information.

1 CHAIRMAN CARTER: Okay. While we've got this
2 lull, why don't we just give all the parties who have
3 signed the agreement a copy of the red folder, so --
4 you're going to be using it with Mr. Meischeid, is that
5 right?

6 MR. MOYLE: I just want to refer to it and I
7 have some questions. He's a salary expert and I just
8 wanted to have that available.

9 CHAIRMAN CARTER: Okay, that's fine.

10 Mr. Meischeid, have you been sworn?

11 THE WITNESS: No, I have not.

12 CHAIRMAN CARTER: Would you please stand and
13 raise your right hand?

14 Whereupon,

15 RICHARD F. MEISCHEID

16 was called as a witness on behalf of Florida Power &
17 Light Company and, having been duly sworn, was examined
18 and testified as follows:

19 CHAIRMAN CARTER: Please be seated.

20 MS. CLARK: Mr. Chairman?

21 CHAIRMAN CARTER: Ms. Clark.

22 MS. CLARK: I was just reminded of something.
23 Actually Mr. Meischeid did not prepare or have anything
24 to do with this exhibit, and I don't believe he has
25 signed the confidential agreement on it. If --

1 CHAIRMAN CARTER: Mr. Moyle, are you
2 listening?

3 MS. CLARK: And I would also point out I don't
4 think it's within the scope of his rebuttal.

5 CHAIRMAN CARTER: Mr. Moyle, did you hear what
6 Ms. Clark said?

7 MR. MOYLE: I did. I did, and I guess we can
8 explore him. He's offered as a person, I think, to talk
9 about how the FPL compensation and bonuses and things
10 are reasonable, and if he doesn't have this information,
11 he doesn't have it, but I think it's something that I
12 thought maybe he would have, and then I think also
13 there's some information on this that will help me to
14 refer to in asking him questions.

15 CHAIRMAN CARTER: But he hasn't signed the
16 confidentiality agreement so he doesn't have access to
17 it, so I don't know if that would be appropriate, Mr.
18 Moyle. I'm just thinking aloud with you on that.

19 MS. CLARK: Yes, Mr. --

20 CHAIRMAN CARTER: Yes, Commissioner Skop? One
21 second, Ms. Clark.

22 COMMISSIONER SKOP: Thank you, Mr. Chair.

23 Since we're bouncing around between witnesses,
24 do we know or can staff tell me what the witness's
25 prefiled testimony, what volume that would be in?

1 Because I can't find it on the list. Thank you.

2 CHAIRMAN CARTER: Okay. Ms. Clark?

3 MS. CLARK: Yes. Just to refer Mr. Moyle, if
4 you look on page 2 of the prefiled testimony, he
5 essentially has three areas that he talks about, and it
6 wasn't a -- the discussion of this confidential
7 document, or his activities did not encompass this.

8 CHAIRMAN CARTER: Okay. Mr. Moyle?

9 MR. MOYLE: Well, my thinking was, is that,
10 you know, he's talking about incentives, annual
11 incentive programs, long-term incentive programs, and I
12 think some questions related to -- and I'll kind of
13 preview my cross, but, you know, there's stock --

14 CHAIRMAN CARTER: Hang on one second.
15 Mr. Wright?

16 MR. WRIGHT: Mr. Chairman, I appreciate being
17 recognized, and I would just like to add to the
18 discussion, the witness testifies that the overall cost
19 of FPL's total rewards program is reasonable. I mean,
20 he's supporting the cost of the company's program. I
21 don't see how it's not appropriate and relevant to
22 inquire about the components of it.

23 CHAIRMAN CARTER: Well, I'll tell you what we
24 can do, guys, we can tread lightly with the areas that
25 are confidential. Remember, we had a witness before

1 where we talked about the document but we talked --
2 Ms. Bradley did a beautiful job by talking in
3 generalities and that sort of thing. So I think we can
4 get there, all right?

5 Okay, you may proceed.

6 MS. CLARK: That works for me, Mr. Chairman.

7 DIRECT EXAMINATION

8 BY MS. CLARK:

9 Q And, Mr. Meischeid, I think you were just
10 sworn, is that correct?

11 A That's correct.

12 Q Okay. Would you please state your name and
13 business address?

14 A Richard F. Meischeid, 1500 Market Street,
15 Philadelphia, Pennsylvania.

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

17 A Towers Perrin, and I'm a management
18 consultant.

19 Q And have you prepared and caused to be filed
20 nine pages of rebuttal testimony in this proceeding?

21 A I have.

22 Q And did you also prepare and cause to be filed
23 one errata sheet to your rebuttal testimony?

24 A I did.

25 Q Do you have any other changes or revisions to

1 your rebuttal testimony?

2 A I do not.

3 Q With the errata, if I asked you the same
4 questions contained in your rebuttal testimony, would
5 your answers be the same?

6 A They would.

7 MS. CLARK: Mr. Chairman, I would ask that the
8 rebuttal testimony of Mr. Richard Meischeid be inserted
9 in the record as though read.

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

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **REBUTTAL TESTIMONY OF RICHARD F. MEISCHEID**

4 **DOCKET NO. 080677-EI**

5 **AUGUST 6, 2009**

6

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

8 A. My name is Richard Meisheid. My business address is Towers Perrin at
9 Centre Square East, 1500 Market Street, Philadelphia, PA 19102.

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

11 A. No.

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

13 A. I am employed by Towers Perrin as Managing Principal.

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

15 A. I am responsible for managing the firm's compensation practice in the east
16 region and leading Towers Perrin's Energy Services compensation practice.

17 **Q. Please describe your educational background and professional
18 experience.**

19 A. I graduated from St. Francis College and received an MBA from the Wharton
20 School of the University of Pennsylvania. I have been with Towers Perrin for
21 over 30 years, and during that time have held a variety of positions with the
22 firm.

1 **Q. Please provide a brief overview of Towers Perrin.**

2 A. Towers Perrin is one of the world's largest management and human resources
3 consulting firms, helping organizations manage their investment in people to
4 achieve measurable performance improvements. The firm has approximately
5 6,500 employees in more than 70 offices worldwide. Towers Perrin's
6 compensation practice is one of the largest in the world with over 400
7 consultants. Towers Perrin has dedicated energy and utility industry
8 practitioners specializing in compensation, human resources, and benefits.

9 **Q. Are you sponsoring any rebuttal exhibits in this case?**

10 A. No.

11 **Q. Please summarize what Towers Perrin was retained to do.**

12 A. Towers Perrin was asked to provide competitive practice information on the
13 subject of annual and long-term incentives in the utility industry in response to
14 issues raised by Office of Public Counsel (OPC) witness Brown's direct
15 testimony. Towers Perrin was also asked to compare FPL's 2009 base salary
16 budget increase to market practices of other utilities.

17 **Q. What specific tasks did Towers Perrin perform?**

18 A. We performed the following work: 1) assessed the prevalence of annual
19 incentive programs in the utility industry, 2) assessed the prevalence of long-
20 term incentive programs in the utility industry, and 3) analyzed FPL's 2009
21 salary merit budget increase compared to other large utilities.

22 **Q. What was the purpose of your analysis of annual and long-term incentive**
23 **prevalence?**

1 A. The purpose of the analysis was to discern how widespread the use of annual
2 incentives has become in the utility industry and therefore the degree to which
3 these incentives have become a standard part of the typical compensation
4 package offered to employees today.

5 **Q. On what sources of compensation data did you rely?**

6 A. Competitive compensation information was collected from the following
7 sources:

8 1) Towers Perrin's 2008 Energy Services Executive Compensation
9 Database

10 2) Towers Perrin's 2008 Energy Services Middle Management and
11 Professional Compensation Database

12 3) EAPDIS's 2008 Energy Technical Craft Clerical Survey.

13 **Q. Are these the most current survey sources available?**

14 A. Yes. The Towers Perrin databases reflect compensation in effect as of March
15 1, 2008. The EAPDIS Energy Technical Craft Clerical Survey reflects
16 compensation effective as of April 1, 2008.

17 **Q. Are these the most comprehensive surveys of utility industry positions?**

18 A. Yes. The Towers Perrin databases reflect the practices of approximately 65
19 utilities and include both staff (e.g., human resources, information technology,
20 finance, etc.) and line (e.g., nuclear, generation, transmission and distribution,
21 etc.) positions. The executive compensation database provides data covering
22 107 positions common among utilities and the middle management database
23 includes data for 1,949 exempt positions. EAPDIS's database reflects the
24 practices of 76 utilities covering 96 non-exempt positions.

1 **Q. For the purpose of assessing the prevalence of incentives, how was the**
2 **competitive market defined?**

3 A. For this study, Towers Perrin analyzed market data relative to two market
4 reference points:

5 1) FPL's peer group of utilities developed by the company for purposes of
6 determining the appropriateness of its pay. Specifically, FPL's peer group
7 consists of the following companies: Allegheny Energy, American Electric
8 Power Company, Consolidated Edison, Constellation Energy Group,
9 Dominion Resources, Duke Energy Corporation, Edison International,
10 Entergy Corporation, Exelon Corporation, FirstEnergy Corporation, PG&E
11 Corporation, Progress Energy, Public Service Enterprise Group, Sempra
12 Energy, The Southern Company, and Xcel Energy. 2) Towers Perrin also
13 reviewed the use of incentives within the broader utility industry by analyzing
14 the practices of approximately 65 utilities in Towers Perrin's databases.

15 **Q. What were your findings on annual incentive prevalence in the utility**
16 **industry?**

17 A. Since practices vary based on the type of positions analyzed, Towers Perrin
18 provides market practices based on the following employee populations:
19 executive, non-executive exempt and non-exempt positions.

20

21 We found that all 16 utilities (100 percent) in FPL's peer group and 100
22 percent of the utilities in the broader utility sample maintain formal annual
23 incentive plans for their executive populations. All of the companies in FPL's
24 peer group and 98 percent of utilities in the broader utility sample also

1 maintain formal annual incentive plans for their non-executive exempt
2 populations. Lastly, 78 percent of the utilities in FPL's peer group and 68
3 percent of the broader utility sample pay annual incentives to non-exempt
4 employees.

5 **Q. How broadly do utility companies use annual incentives?**

6 A. To assess how broadly annual incentives are used within these organizations,
7 Towers Perrin analyzed eligibility on a position-by-position basis among all of
8 the benchmark positions included in Towers Perrin's databases and EAPDIS's
9 database. We found that the majority of positions surveyed for all three types
10 of employees – executive, exempt and non-exempt – are eligible for annual
11 incentives. For executive positions, we found that 100 percent of executives at
12 FPL's peer group companies and 99 percent of executive positions from the
13 broader utility company sample are eligible for annual incentives. For non-
14 executive exempt positions, our findings were that 99 percent of exempt
15 positions at FPL's peer group companies and 95 percent of exempt positions
16 from the broader utility company sample are eligible for annual incentives.
17 For non-exempt positions, we found that 76 percent of non-exempt positions
18 at FPL's peer group companies and 63 percent of non-exempt positions from
19 the broader utility company sample receive annual incentives.

20 **Q. What were your findings on long-term incentive prevalence in the utility
21 industry?**

22 A. For this analysis, Towers Perrin focused on executive positions only, since
23 most non-executive exempt and non-exempt positions are typically not
24 eligible for this type of award. The analysis revealed that the use of long-term

1 incentive plans for executives is a very common practice in the utility
2 industry. Specifically, all 16 utilities (100 percent) in FPL's peer group and
3 98 percent of the utilities in the broader utility sample maintain formal long-
4 term incentive plans for their executive populations.

5 **Q. How broadly do utility companies use long-term incentives?**

6 A. To assess how broadly annual incentives are used within these organizations,
7 Towers Perrin analyzed eligibility on a position-by-position basis among all of
8 the 107 benchmark positions included in Towers Perrin's executive
9 compensation database. We found that the majority of executive positions
10 surveyed are eligible for long-term incentives. Specifically, we found that 97
11 percent of executive positions at FPL's peer group companies and 96 percent
12 of executive positions from the broader utility company sample are eligible
13 for long-term incentives.

14 **Q. Does FPL need to offer incentive opportunities in order to provide a**
15 **competitive compensation package?**

16 A. Yes. To attract and retain talented employees in today's highly competitive
17 market, companies, including FPL, must offer a competitive total rewards
18 program, including compensation, a retirement program, health and welfare
19 benefits, and learning and development opportunities. As the prevalence data
20 provided above shows, annual incentives are used widely in the utility
21 industry and are a standard component of the compensation package provided
22 to employees. Long-term incentives are also widely used among utilities in
23 compensating executive positions and are a critical component of pay for
24 these positions. Thus, incentive compensation is not "additional" or "optional"

1 compensation that FPL provides to employees, but a required element in the
2 compensation program and a necessary cost of doing business.

3
4 Multiple groups (e.g., customers, employees, community groups,
5 shareholders, etc.) have a vested interest in utilities' operations and
6 performance. Incentives play a critical role in focusing employees on key
7 organizational, business unit and individual goals. The use of both financial
8 and non-financial goals is common practice among utilities. Non-financial
9 measures are designed to focus employees on achieving superior operational,
10 safety, and customer service results, while financial measures help focus
11 employees on achieving those results in an efficient and cost effective manner.
12 Additionally, financially strong companies have greater access to credit
13 markets and a lower cost of capital, which benefits rate payers through a lower
14 cost structure and ultimately lower rates. FPL's approach of using both
15 financial and non-financial measures is consistent with sound compensation
16 practice and helps provide balance so that excellence in one area is not
17 achieved at the expense of other areas.

18 **Q. What was the purpose of your analysis comparing FPL's 2009 salary**
19 **merit increase to market practices?**

20 A. The purpose was to determine whether FPL's 2009 merit increase of 2% was
21 consistent with competitive practices of other companies.

22 **Q. On what sources of compensation data did you rely?**

23 A. Towers Perrin analyzed data from WorldatWork's 2009/2010 Salary Budget
24 Survey which is based on submissions from 2,644 U.S. companies from the

1 broader general industry. A separate utility sample was not available at the
2 time of my testimony.

3 **Q. How did FPL's 2009 salary merit increases compare to market practices?**

4 A. Similar to FPL, many companies significantly reduced the level of salary
5 increases in 2009 from practices in prior years. Towers Perrin found that
6 FPL's 2009 salary merit increase was consistent with market practices. FPL's
7 2% salary budget increase compares to average salary budget increases that
8 ranged from 2.0% to 2.3% among the broader general industry companies.

9 **Q. Based on the results of your analysis, what is your recommendation with
10 respect to the Company's request in this rate proceeding?**

11 A. Based on the information provided by Company witnesses, the overall cost of
12 FPL's total rewards program is reasonable. This being the case, allowing the
13 Company to determine the allocation between the different components of the
14 total rewards program is critical to the Company's ability to manage the
15 business to the benefit of its customers, shareholders and employees. The
16 Company's track record over the past several years in managing the total cost
17 in a prudent, thoughtful manner demonstrates both the importance and success
18 of this approach.

19
20 If recovery for all or a portion of the costs of its annual and long-term
21 incentive plans were denied, the Company would be faced with basing
22 decisions on allocations of its total rewards programs not on sound business
23 judgments but on an allocation that maximizes their ability to recover their
24 costs. In the extreme, this would lead to eliminating all annual and long-term

1 incentives in favor of a base salary only program. Not only would this result
2 in a higher level of fixed cost, but paying compensation solely in salary would
3 remove incentives for employees to provide superior service to customers and
4 the other constituencies that FPL serves. Incentives ensure that individuals
5 have an element of "at risk" compensation that allows FPL to align pay with
6 performance. Further, long-term incentives serve to ensure that the Company
7 is well-stewarded and remains a reliable service provider in the long-term.

8 **Q. Does this conclude your rebuttal testimony?**

9 A. Yes.

1 REPORTER NOTE: Page 3856 inadvertently left blank.

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1 BY MS. CLARK:

2 Q Mr. Meischeid, are you sponsoring any exhibits
3 to your rebuttal testimony?

4 A I am not.

5 Q Have you prepared a summary?

6 CHAIRMAN CARTER: Hang on. Before you go with
7 the summary, this is my big moment. You know, I wait
8 for this. I live for this moment every day.

9 Mr. Meischeid, in front of you are three
10 lights.

11 THE WITNESS: Yes, Mr. Chairman.

12 CHAIRMAN CARTER: And they work similar to the
13 Supreme Court, but I think they only have two lights,
14 but we've got three.

15 As you're doing your summary, the green is
16 always good. When the amber light comes on, you have
17 two minutes. When the red light comes on, you have 30
18 seconds, okay?

19 THE WITNESS: Thank you.

20 CHAIRMAN CARTER: All right. Ms. Clark?

21 BY MS. CLARK:

22 Q Mr. Meischeid, would you give your summary
23 now?

24 A Yes, thank you.

25 Good morning, Mr. Chairman and Commissioners.

1 My rebuttal testimony supports FPL's use of
2 annual and long-term incentive plans in its employee
3 compensation and benefit program. The use of such
4 incentive plans is a near universal practice among FPL's
5 specific compensation peer group of 16 utilities and the
6 65 utilities in Towers Perrin's compensation, 2008
7 compensation survey.

8 These results show that annual and long-term
9 incentive plans are a standard component of utility
10 compensation programs, and FPL would be at a competitive
11 disadvantage if the company did not provide this form of
12 compensation to its workforce.

13 The prevalence of annual and long-term
14 incentives confirms that the compensation opportunity
15 offered through these plans is not additional or
16 optional compensation, but a required cost of providing
17 a competitive total compensation opportunity.
18 Therefore, denying recovery for a portion of these costs
19 associated with the annual and long-term incentive plans
20 as proposed by Witness Brown is inconsistent with the
21 ability to recover reasonable costs.

22 Additionally, allowing the company to recover
23 the costs of its annual and long-term incentive plans
24 provides management with the needed flexibility to align
25 the total rewards program with changing market

1 conditions and costs with operational and financial
2 performance. This alignment benefits the company's
3 major partners, customers, shareholders and employees.
4 To constrain the company's ability to determine the
5 appropriate mix of compensation and benefit programs and
6 the allocation of costs would place the company in the
7 undesirable position of basing decisions not on sound
8 business judgments, but on an allocation that maximizes
9 their ability to recover costs.

10 Allocations based on principles like pay for
11 performance have served the company well over many years
12 and should be continued.

13 I also show that FPL's 2009 salary budget
14 increase of two percent is in line with the average
15 salary increases for the over 2500 companies surveyed by
16 World At Work. The economic downturn in the second half
17 of 2008 caused companies across a wide range of
18 businesses to revise their 2009 salary increase program
19 downward from the levels being considered before the
20 depth and breadth of the recession became known. The
21 results of World At Work's survey show that the average
22 salary increase for all companies in the survey ranged
23 from two percent to 2.3 percent. FPL's average salary
24 increase of two percent was at the low end of this
25 range.

1 This concludes my summary.

2 MS. CLARK: Mr. Meisheid is tendered for
3 cross, but I'd like to ask him move that way, too, so I
4 can see him a little bit better. Thank you.

5 CHAIRMAN CARTER: Now, it's my understanding
6 that cross is -- the only person who had cross is Mr.
7 Moyle and Mr. Wright, is that correct? Is that right,
8 Mr. Wiseman? Mr. Beck?

9 MR. BECK: Yes.

10 CHAIRMAN CARTER: Ms. Bradley?

11 MS. BRADLEY: Yes.

12 CHAIRMAN CARTER: Okay. So we'll go with Mr.
13 Moyle and then Mr. Wright.

14 Mr. Moyle, you're recognized, sir.

15 MR. MOYLE: Thank you, Mr. Chairman.

16 CHAIRMAN CARTER: Yes, ma'am? Hang on a
17 second.

18 MS. CLARK: I may have misspoken. I don't
19 think Mr. Wright had any questions.

20 CHAIRMAN CARTER: Mr. Wright, do you have
21 questions?

22 MR. WRIGHT: I don't plan to have any at this
23 time. If I could preserve the right if Mr. Moyle asks a
24 question that I think needs following up, I would, but I
25 don't plan to ask anything.

1 MS. BENNETT: Mr. Chairman, staff does --

2 CHAIRMAN CARTER: And staff has?

3 MS. BENNETT: Cross.

4 CHAIRMAN CARTER: Absolutely.

5 MR. MOYLE: And given my cross, it wouldn't
6 come as a complete surprise if Mr. Wright has some
7 follow-up that needed to be done, but --

8 CHAIRMAN CARTER: Okay. Everybody's welcome
9 to the party.

10 CROSS EXAMINATION

11 BY MR. MOYLE:

12 Q Good morning, sir. I'm Jon Moyle. I
13 represent the Florida Industrial Power Users Group.

14 You are -- as I understand it, you're not here
15 suggesting that the actual dollar amounts associated
16 with FPL's incentive compensation are reasonable, are
17 you?

18 A That's correct, sir. As stated on page 8 of
19 my testimony, in reference to the reasonableness of the
20 cost, I refer to the information provided by company
21 witnesses.

22 Q And what information did you get? Did you
23 happen -- let me ask it this way: Were you provided
24 access to information that shows the amount of awards,
25 the total amount awarded for FPL executives that has

1 been marked in this case as a confidential exhibit?

2 MR. MOYLE: And I'm sorry, staff has had this
3 exhibit, if we could just get the record number?

4 CHAIRMAN CARTER: I think we just had one --
5 we had a special number just for all the confidential
6 documents.

7 MS. BENNETT: It's on staff's Confidential
8 Composite Exhibit 36, and it is FPL's Response to
9 Staff's Third Set of Interrogatories, Nos. 16 and 17,
10 which is number 1 on our list, and it is FPL's Response
11 to Staff's Fourth Set of Interrogatories, No. 32, which
12 is number 2 on our list currently, and FPL's Response to
13 Staff's Eighth Set of Interrogatories, No. 97, which is
14 number 3 on our list.

15 I do want you to -- as you're looking at the
16 documents, 2 and 3 actually show up on one document
17 because we a combined filing.

18 MR. MOYLE: So -- Mr. Chairman, I essentially
19 want to be able to ask him whether he had reviewed this
20 information or not. It's going to be a little difficult
21 to try to tiptoe around it without showing it to him and
22 asking him if he'd seen this before. So if FPL wants to
23 make a representation as to whether this information was
24 provided -- I presume not, because he hasn't signed a
25 confidentiality agreement, and, you know, that issue

1 came up, but I think it would be a useful fact to know.

2 CHAIRMAN CARTER: Ms. Clark?

3 MS. CLARK: If I've understood Mr. Moyle
4 correctly, he's asking if he's seen this confidential
5 information in this form. I don't believe he has, but I
6 think it would be appropriate to ask Mr. Meischeid that.

7 THE WITNESS: I have not been provided that
8 information.

9 BY MR. MOYLE:

10 Q If, hypothetically, there was information that
11 showed base salaries, stock awards, option awards, non-
12 equity incentive compensation, all other, would that
13 information be useful to you as the basis of forming
14 your opinion which you state on page 8, line 11, that
15 the overall cost of FPL's total awards program is
16 reasonable?

17 A If I had that information and conducted an
18 independent analysis, I could comment on the
19 reasonableness.

20 Q Okay. But at this point it's your testimony
21 that you don't have this information that's been
22 referred to, correct, which is the confidential exhibit?

23 A That's correct, I do not have that
24 information.

25 Q Okay. And incentive programs, you would agree

1 that they take a variety of forms, correct? I mean,
2 stock options, that would be an incentive program,
3 correct?

4 A Yes, sir, that would be a form of long-term
5 incentives.

6 Q And option awards, that would be another long-
7 term incentive, correct?

8 A Yes, sir.

9 Q Okay. And then -- and I didn't state this
10 correctly, but stock awards would be an incentive,
11 option awards would be an incentive and non-equity
12 incentive compensation would also be an incentive,
13 correct?

14 A Typically, yes, they are.

15 Q Okay. And then sometimes -- are you familiar
16 -- do any companies -- in addition to stock awards,
17 option awards and non-equity incentive compensation, do
18 they provide more incentives than those?

19 A Most forms of annual and long-term incentives
20 would fall under those categories.

21 Q So with respect to something called "all
22 other," you wouldn't have any information about that,
23 would you?

24 A No, sir. That's a category, I believe, that
25 -- if you're referring to the all other compensation

1 from the proxy disclosure schedule, there is a defined
2 number of elements that are required to be reported in
3 there.

4 Q As we sit here today, if I were to ask you
5 what you thought would be a reasonable incentive
6 compensation award for a vice-president of Marketing and
7 Communication, line 15, would you be able to, do you
8 think, give me an answer to that question?

9 MS. CLARK: Mr. Chair, I don't believe he has
10 that in front of him.

11 MR. MOYLE: I'm asking him whether he can tell
12 me or not.

13 MS. CLARK: Just asking that generic title,
14 not with specific --

15 CHAIRMAN CARTER: I don't think he has -- I
16 think you can ask him without asking him about line 15.

17 MR. MOYLE: Well --

18 CHAIRMAN CARTER: And I think you can get what
19 you need without using line 15.

20 MS. CLARK: Mr. Chairman, if I can, we cannot
21 refer to the line and the title.

22 CHAIRMAN CARTER: Yeah, that was part of the
23 agreement, but I think you can get what you need to
24 without doing that, Mr. Moyle.

25 MR. MOYLE: And all I'm trying to do is ask

1 him if he has any information, whether it's line 15 or
2 line 7.

3 CHAIRMAN CARTER: Well, Mr. Moyle, Mr. Moyle,
4 we're all working cooperatively, aren't we, and part of
5 the agreement was -- I mean, you can get what you need
6 to get to without --

7 MR. MOYLE: I'm not going to ask him the
8 number. I'm going to ask him if he has a view or an
9 opinion as to what the number is, and then that will
10 match up. I'm not going to ask him the number on this
11 document, Mr. Chairman.

12 CHAIRMAN CARTER: Well, the line number is a
13 little -- let's do this --

14 MS. CLARK: If I can be clear, Mr. Moyle, you
15 can ask a generic title, but please don't give the line
16 number, and furthermore, it doesn't help Mr. Meisheid
17 in answering this question.

18 MR. MOYLE: The line number was for the
19 benefit of people who could look at the document, so
20 I'll --

21 CHAIRMAN CARTER: We can do the matching. You
22 don't have to give us the line number.

23 BY MR. MOYLE:

24 Q Okay, let me ask you, could you give us an
25 opinion as to what you thought would be a reasonable

1 amount of incentive compensation for a vice-president of
2 Marketing and Communication?

3 A Sir, I could do that if I had additional
4 information, including the industry, the size of the
5 company, the company's compensation philosophy and the
6 specific duties of that position. We don't -- I
7 wouldn't comment specifically using a title only to try
8 and --

9 CHAIRMAN CARTER: Could you do that for --
10 excuse me, Mr. Moyle. Could you do that for a company
11 similarly situated to FPL?

12 THE WITNESS: Similar in size? Not from
13 memory.

14 CHAIRMAN CARTER: What would be the components
15 of that, of a salary for a person like that in a company
16 similarly situated as FPL?

17 THE WITNESS: Again, Mr. Chairman, I couldn't
18 comment generically on a position, a specific position.
19 We do --

20 CHAIRMAN CARTER: Well, you could comment on
21 -- you said there were typically components of a salary
22 package. You're saying that there are no generic
23 commonalities? I think one of the questions that Mr.
24 Moyle asked you, you said those are common to most
25 businesses. Do you remember that part?

1 THE WITNESS: Yes, Mr. Chairman. If the
2 question is would it be typical for that position to
3 have the various components of compensation I commented
4 on, annual and long-term incentives, as well as salary,
5 my answer would be yes.

6 CHAIRMAN CARTER: Okay. That's the question
7 I'm asking you.

8 THE WITNESS: I thought the question was
9 around the level of incentives. If I misunderstood, I
10 apologize.

11 CHAIRMAN CARTER: No, that's what I'm asking
12 you.

13 THE WITNESS: Then my answer would be that
14 yes, it would be typical for that position generally to
15 have a salary, an annual incentive and a long-term
16 incentive in a company similar to FPL.

17 CHAIRMAN CARTER: And those incentives would
18 be components such as stock options?

19 THE WITNESS: Long-term incentives. The
20 annual incentive based on -- and the annual results
21 would typically be a cash incentive based on a number of
22 financial operational factors. The long-term incentive
23 could be stock options, some form of -- other forms of
24 equity such as restricted stock, performance shares, or
25 there could be a cash component in that as well.

1 CHAIRMAN CARTER: Which would be like a bonus,
2 right?

3 THE WITNESS: It would be a long-term
4 incentive, correct.

5 CHAIRMAN CARTER: Okay.

6 Mr. Moyle. I didn't mean to --

7 MR. MOYLE: No, that's all right, and the
8 question -- I'm trying to just understand whether this
9 witness has information, without referring to any of
10 this information that, you know, there's a debate about
11 whether it's confidential or not, as to what he believes
12 would be an appropriate level of incentives for a vice-
13 president of Marketing and Communication. Assume -- he
14 said, well, I'm not sure because I would need to know
15 more about the company.

16 BY MR. MOYLE:

17 Q Assume that the company looks a lot like
18 Florida Power & Light. Could you answer that question?

19 A I couldn't on the moment. We provide and have
20 access to information, survey information where I could
21 answer that question, but I don't have access to that
22 information this morning.

23 Q And in part of making your judgment, I guess,
24 then, you look at what the company's actually paying
25 before making your judgment, is that right?

1 A If that's the role we're asked to play by the
2 company, yes, we do perform that type of analysis, but
3 we were not asked to provide that in this case.

4 Q So -- okay. So you're not, then, providing
5 testimony about reasonableness as it relates to numbers
6 of compensation for particular people or for classes of
7 people, correct?

8 A Correct.

9 Q You're essentially saying that companies in
10 this industry have incentive programs, correct?

11 A That's correct.

12 Q Do most companies have -- and you did review
13 other companies, correct, big electric companies?

14 A Yes, sir.

15 Q Don't most of those companies provide stock
16 awards or options as compared to stock award and option
17 awards?

18 A No, sir. It's a fairly common practice in
19 long-term incentives to provide two or perhaps even
20 three forms of long-term incentives, so it's not
21 uncommon at all among FPL's peers to have stock options
22 plus some other form of equity and possibly, in some
23 cases, a cash component to the long-term incentive
24 program as well.

25 Q As an industry total -- I presume incentives

1 are out there for -- you set goals for people to reach
2 goals to then receive incentive pay, is that generally
3 right?

4 A Generally, but, for example, in stock options,
5 the nature of a stock option is that there's no specific
6 goal other than the value derived from that stock option
7 would be a function of the future share price of the
8 companies whose option you receive. Other forms of a
9 long-term incentive may have goals.

10 Q Did you review any goals that FPL has set for
11 its executives who are eligible to receive incentive
12 pay?

13 A I did not.

14 Q So then you're not commenting as to whether,
15 you know, whether those goals are appropriate in any
16 way, shape or form, correct?

17 A No, sir, I did not.

18 MS. CLARK: I would like some clarification.
19 Are you speaking for individual executives? I just want
20 some clarification from Mr. Moyle.

21 MR. MOYLE: I was asking as to whether he
22 reviewed goals for his overall opinion that FPL's
23 incentive is compensation, and I'm trying to understand
24 whether he looked at goals that were set for -- I asked
25 the question, as employees, all of the executives who

1 are eligible for this, and so it was asked broadly with
2 respect to all employees who are eligible for incentive
3 compensation, whether he reviewed the goals and had an
4 opinion with respect to the reasonableness of the goals.

5 CHAIRMAN CARTER: You may proceed.

6 BY MR. MOYLE:

7 Q Did you look at any of that information, sir?

8 A I looked at the goals and commented on the
9 fact that FPL's use of a combination of financial and
10 operational goals in its annual incentive plan was a
11 practice comparable to other, similar companies.

12 As to the reasonableness of the actual
13 calibration of those goals, no, sir, I did not look at
14 the specific levels set around each of those goals.

15 Q As an industry whole, can you give this
16 Commission some idea as to, you know, if you set up an
17 incentive program and it's set up properly with
18 stretched goals designed to move the company forward,
19 approximately what percent of a workforce would achieve
20 those goals?

21 A It would depend on how the program is
22 structured and specifically around the allocation
23 between overall company results, specific functions
24 within the organization, or on individual results. The
25 more that the total incentive is based on a larger

1 result related to the entity, the more likely it is that
2 in that case -- in the extreme case where that is the
3 only metric you are using, all individuals in the plan
4 would receive the same incentive. The more you
5 differentiate the incentive down to, say, individual
6 goals, then the greater variation in awards that you
7 would tend to see.

8 Q Wouldn't you agree, as a business practice,
9 that it would be more appropriate to differentiate the
10 goals down to specific levels so that they have more
11 specificity as to what is being sought from that
12 particular executive?

13 A As a general concept, I would agree. The
14 challenge in a lot of organizations is the ability to
15 set and measure goals down at those levels, so if you
16 have the infrastructure and the ability to set and
17 measure goals at the individual level, then generally
18 companies are predisposed to do that. But it does
19 present challenges both in the administration and the
20 maintenance of those programs, which is why some
21 companies choose not to do that.

22 Q Do you know if FPL has the ability to
23 establish those goals for the individual levels?

24 A No, sir, I don't.

25 Q You just don't know one way or the other?

1 A I don't.

2 Q And the way you described the first component
3 about meeting incentives, as I understand that, that's
4 essentially, if the stock price goes up, the rising tide
5 would float all boats, is that fair?

6 A Are you referring to a stock option award?

7 Q Yes, sir.

8 A The way a stock option works is typically --
9 there are variations, but typically you are granted a
10 stock option at a price equal to the price of the
11 company's stock on the day it's awarded. The value you
12 would receive from the stock option would be a function
13 of the difference between the price at the time you
14 exercised that stock option and the date at which it was
15 granted, so it's completely dependent on increasing the
16 value of the company's equity.

17 Q Okay. And you described how the option could
18 be exercised. What I was trying to get at is, with
19 respect to meeting goals, I thought you said some
20 companies have goals that are -- I guess I can do a
21 stock price. If the stock price reaches X, then you
22 will be eligible for incentive compensation, is that
23 right?

24 A Some plans would do that but not typically in
25 a stock option. It's embedded in the vehicle itself

1 that the only value created through the stock option is
2 if the price appreciates from the price that it was
3 granted to you at, so there's an implicit goal of
4 improving the share price in a stock option.

5 Q Okay, I just have a couple more questions.

6 You're also testifying that you think a two
7 percent -- I think you called it a merit increase, on
8 page 7, line 20. Is that -- could you refer to that?

9 A Yes, sir.

10 Q What's a merit increase?

11 A That's the -- again, definitions can vary from
12 company to company, but that's the portion of the
13 salary, the salary budget that is awarded to individuals
14 or made to individuals based on their performance
15 against goals and competencies for the position.

16 Q So is it your understanding that the two
17 percent is determined based on performance as compared
18 to an across-the-board two percent raise for all FPL
19 employees?

20 A No, sir. The two percent, as I understand it
21 for FPL, is the overall budget, then there are
22 individual appraisals made of employees, some of who
23 will receive more or less than the two percent, but the
24 two percent refers to the total budget allocated for
25 merit increases in 2009.

1 Q You surveyed some other businesses, I guess,
2 to come to your conclusion that you thought two percent
3 was reasonable. Did any of these other entities include
4 like municipal power companies or governmental entities
5 in formulating that opinion as to your conclusion that
6 you thought a two percent increase was appropriate?

7 A The reference material used for that comment
8 was the World At Work survey. At the time I prepared my
9 rebuttal testimony, there was approximately 2,600
10 companies that submitted information. Since then
11 they've completed that and there are now over 7,000
12 organizations providing data to that survey. Some of
13 those would be governmental.

14 The two percent that I referenced the range of
15 2.1 to -- two percent to 2.3 was the total, what we call
16 the total sample, so it would include every organization
17 providing information to the survey.

18 Q Do you know in the state of Florida how long
19 it's been since state government workers received a
20 raise?

21 A No, sir, I don't.

22 Q Just to wrap up, the -- you state on page 9,
23 line 4, and I quote, "Incentives ensure that individuals
24 have an element of," quote, "'at-risk compensation' that
25 allows FPL to align pay with performance." Do you see

1 that?

2 A Yes, I do.

3 Q And as we sit here today, you haven't reviewed
4 the goals or measures of how specifically pay is aligned
5 with performance of FPL's executives, correct?

6 A Not the specific calibration of the goals.

7 MR. MOYLE: Okay, that's all I have. Thank
8 you.

9 CHAIRMAN CARTER: Thank you, Mr. Moyle.
10 Mr. Wright?

11 COMMISSIONER ARGENZIANO: Mr. Chair?

12 CHAIRMAN CARTER: Commissioner Argenziano,
13 good morning. You're recognized.

14 COMMISSIONER ARGENZIANO: Thank you, and I
15 hate to jump in front of Mr. Wright, but I want to do a
16 follow-up to Mr. Moyle and then I'll just throw a couple
17 of questions in there really quick.

18 Mr. Moyle had asked you if any of the
19 companies you looked at were municipalities, and I think
20 you said that some were governmental entities. Were
21 there municipalities in the group?

22 THE WITNESS: Commissioner, I apologize, but
23 this not a survey conducted or administered by Towers
24 Perrin. It's the largest survey of its kind conducted,
25 as I indicated, by World At Work, and I can't answer

1 specifically whether municipalities or municipally owned
2 utilities participated in the survey.

3 COMMISSIONER ARGENZIANO: Okay, so you don't
4 know if they were in the survey, okay.

5 And then if I can just ask you, you described
6 that compensation is competitive within the peer
7 regulated industry groups, in that world, but have you
8 measured -- have you measured it in an unregulated
9 competitive environment?

10 THE WITNESS: Excuse me. There was a little
11 bit of background noise and I missed the second part of
12 your question.

13 COMMISSIONER ARGENZIANO: I'm trying to find
14 out if you have done any measurements or have you looked
15 at it in an unregulated competitive environment, because
16 your compensation, what you describe as compensation in
17 the competitive world within the peer regulated industry
18 groups, and I'm trying to see if you came outside of the
19 regulated industry to look at the unregulated
20 competitive environment, any comparisons there.

21 THE WITNESS: I did not do it as part of the
22 analysis for my testimony, but I work with a number of
23 unregulated entities, and, if anything, the prevalence
24 of incentives and the breadth of those, that is, the
25 number of employees covered by annual and long-term

1 incentives in the non-regulated side, would be higher
2 than you see in the regulated side but what you can see
3 in my testimony is quite high.

4 COMMISSIONER ARGENZIANO: Thank you very much.

5 CHAIRMAN CARTER: Okay. Mr. Wright?

6 MR. WRIGHT: Thank you, Mr. Chair. I just
7 have a few questions for Mr. Meischeid.

8 CROSS EXAMINATION

9 BY MR. WRIGHT:

10 Q Good morning, Mr. Meischeid. My name is
11 Scheff Wright, and I represent the Florida Retail
12 Federation in this proceeding.

13 A Good morning.

14 Q I just want to be clear what your testimony
15 does and does not do, and I think you may have covered
16 this with Mr. Moyle.

17 On page 8 you make the statement, "Based on
18 information provided by company witnesses, the overall
19 cost of FPL's total rewards program is reasonable." And
20 I understand that to be one of the principal conclusions
21 of your testimony, is that correct?

22 A Yes, as stated.

23 Q Thank you.

24 My question is, what sort of comparison did
25 you do when you looked at the comparison group? Did you

1 do it on a per -- an average total compensation per
2 employee basis, or some other basis?

3 A As I indicated, my testimony speaks to the
4 prevalence, the existing of the plans, and we looked at
5 annual and long-term incentives from two perspectives,
6 what I would call the breadth, that is, what percent of
7 the companies in FPL's 16-company peer group, and in our
8 larger Towers Perrin survey of 65 regulated utilities,
9 how many of them had annual and long-term incentives for
10 their executives, their exempt and their non-exempt
11 populations, and commented on the statistics relative to
12 the prevalence.

13 We then took another look, because it's
14 possible that you could look at prevalence but one
15 company may have a significant number of its workforce
16 included in those plans while another may have
17 relatively few, so we wanted to also understand and
18 comment in the testimony on the depth of that.

19 And so we looked at what percent of the
20 positions in each of those three categories of employees
21 were covered by incentives, again, using the 16-company
22 FPL peer group in our Florida sample. We did not look
23 at the specific levels of compensation by employee in
24 our analysis.

25 Q But my question then goes to what cost

1 information did you analyze, if any, that would support
2 your statement that the overall cost of FPL's total
3 rewards program is reasonable?

4 A The information I reviewed relative to the
5 reasonable, the common and reasonable cost was the
6 information provided by FPL witnesses and my
7 understanding that none of the other witnesses in the
8 case challenged the reasonableness of FPL's total
9 compensation and benefits cost.

10 Q So you looked at the total employee cost. Did
11 you review Ms. Brown's testimony?

12 A I did.

13 Q Didn't she challenge the reasonableness of
14 costs?

15 A My read of the testimony was that it was not a
16 challenge of the reasonableness, but she made reference
17 to the allocation of the cost between shareholders and
18 ratepayers.

19 Q Okay, so you looked at -- you did look at a
20 total bottom line cost value for total employee
21 compensation for FPL?

22 A No, sir, I looked at the information provided
23 and the conclusions provided in FPL's testimony around
24 the reasonableness of the total compensation spend and
25 their representation that that total spend was

1 reasonable.

2 Q You just referred to total compensation spend,
3 I think. What dollar amount are we talking about?

4 A That would include all of the costs that the
5 company has provided to the Commission relative to cash
6 compensation and the cost of their employee benefit
7 programs. That's what I refer to as total compensation
8 spend.

9 Q Okay. And can you tell us what that number is
10 today?

11 A No, sir, I can't. It's in the material
12 provided by FPL witnesses.

13 Q Did you compare that on any basis to the total
14 compensation spend in your comparison group of 16 peer
15 utilities?

16 A No, sir. As I indicated, we looked at the
17 prevalence and the existing of those plans, but not the
18 costs associated with those plans.

19 Q I think the answer to this question is fairly
20 obvious, but I'm going to ask it anyway. Do I
21 understand -- is it true that you performed no
22 evaluation of whether any individual employee's
23 compensation package was appropriate relative to that
24 employee's duties?

25 A We did -- in the initial stages of our work

1 with FPL's request, we did a preliminary benchmark
2 analysis of a number of senior level positions, and we
3 compared those specific positions to both -- to FPL's
4 16-company peer group.

5 Q What kind of positions were you just referring
6 to?

7 A We looked at basically the top 30 or so
8 positions in the organization.

9 Q Continuing on page 8, you make the statement
10 that, "If recovery for part or all of the compensation
11 incentive plans were denied, the company would be faced
12 with basing decisions on allocation of its rewards
13 programs," you say, "not on sound business judgments but
14 on allocation that maximizes their ability to recover
15 their costs." That's a fair characterization of your
16 testimony?

17 A Yes, sir.

18 Q My question is this: Wouldn't the company
19 also have the option of basing its decisions on
20 compensation on value that the employees provide to the
21 shareholders of the company?

22 A I'm not sure what you mean by the question.

23 Q Well, you made the statement that, if -- pick
24 a number. If the Commission agreed that part of the
25 incentive program should be disallowed for ratemaking

1 purposes --

2 A Yes.

3 Q -- that it would then, in your testimony,
4 cause the company to be faced with basing decisions not
5 on sound business judgments but on an allocation that
6 maximizes their ability to recover costs, and I assume
7 by that you mean on their ability to recover costs from
8 customers, correct?

9 A Yes.

10 Q My question is, wouldn't the company also have
11 the option of basing their compensation decisions on the
12 basis of value provided by the employees to the
13 company's shareholders?

14 A The company would have the decision.

15 The point of my statement is that if they --
16 if, as part of that judgment, they were forced to make
17 that determination on the allocation between costs that
18 will be recoverable and those that weren't, and assuming
19 that those total costs are reasonable, it would create
20 an artificial factor, it would introduce an artificial
21 factor into the determination of those allocations.

22 My view is that incentive plans in this
23 industry typically provide for a balance between
24 financial and operational metrics, and to try and
25 designate that one portion benefits one set of parties

1 and another set of metrics only benefit another is a
2 false fiction, and that the total cost needs to be
3 viewed totally, and as long as the total cost is
4 reasonable, it should be recoverable.

5 Q Thank you.

6 MR. WRIGHT: That's all I have.

7 CHAIRMAN CARTER: Thank you.

8 Commissioners, staff has a lot of cross, but
9 at any time if you have a question, just let me know and
10 we'll stop then.

11 Mr. Commissioner Skop, you're recognized.

12 COMMISSIONER SKOP: Thank you, Mr. Chairman.
13 Just one brief question to follow up on a question that
14 Mr. Wright asked.

15 You mentioned that the evaluation for
16 reasonableness was only based upon the 30 top employees,
17 is that correct?

18 THE WITNESS: No, Mr. Commissioner, it wasn't.
19 It was based -- my comment about total reasonableness
20 was based on the information provided by FPL witnesses.
21 The reference was to a preliminary benchmark analysis
22 that we performed that only included approximately 30
23 positions.

24 COMMISSIONER SKOP: Okay, so in terms of some
25 of the compensation data that's at issue -- and I'm not

1 going to get into that because you've not signed the
2 confidentiality agreement, but there were a significant
3 larger amount of employees in that data field, and if
4 the discussion or the benchmarking was only based on a
5 small subset of those employees, how can one determine
6 the reasonableness of overall compensation, if you will,
7 to the extent that if you're not drilling down into
8 functional groups -- and I'll use Communications, for
9 example -- and if that group is staffed excessively in
10 relation to the value they provide either to the
11 ratepayers or to the shareholders, then how can one make
12 a reasonableness determination upon that?

13 THE WITNESS: I did not -- I cannot make a
14 judgment around the reasonableness because, you're
15 exactly right, in order to do that, I would have to have
16 done a detailed analysis, drilling down.

17 The company does do that as part of their
18 compensation process. They have looked at, essentially,
19 all positions in the organization, and that's the
20 information that's been provided to the Commission.
21 That's the information that I referred to in my comment
22 about the overall total compensation costs being
23 reasonable as represented by the company, who has done
24 that analysis.

25 COMMISSIONER SKOP: Thank you.

1 CHAIRMAN CARTER: Thank you.

2 Again, Commissioners, I'm going to staff
3 because they do have questions, but again, as I said, if
4 you have any questions.

5 COMMISSIONER ARGENZIANO: Mr. Chair?

6 CHAIRMAN CARTER: Commissioner Argenziano,
7 you're recognized.

8 COMMISSIONER ARGENZIANO: I'm sorry, I just
9 have -- I forgot to ask a couple of questions and a
10 couple have come to mind.

11 CHAIRMAN CARTER: You're recognized.

12 COMMISSIONER ARGENZIANO: What I wanted to ask
13 in respect to -- let me see. I've jotted down a couple
14 of these.

15 If all the peer companies awarded bonuses of
16 50 percent -- let's just pull that number up -- would
17 that suggest that FPL should award incentives in the
18 range of 50 percent?

19 THE WITNESS: If the question is, if all of
20 the companies awarded an actual bonus of 50 percent,
21 would it be reasonable to assume that FPL should award a
22 bonus of 50 percent?

23 COMMISSIONER ARGENZIANO: Yes.

24 THE WITNESS: No, and -- unless the basis for
25 FPL's bonus was the same as those other companies, but

1 it is typically not the basis. The goals that we
2 referred to earlier are typically set by the company,
3 and the bonus is a function, the bonus actually paid is
4 a function of their results against those goals.

5 COMMISSIONER ARGENZIANO: Okay, I think I got
6 your answer.

7 How -- have you ever recommended that a
8 utility's compensation was unreasonable or exceeded the
9 market rate?

10 THE WITNESS: Because they, as I indicated in
11 response to the Commissioner's question a moment ago,
12 because the ability to comment on total reasonableness
13 requires drilling down, as we said a moment ago,
14 drilling down through all of the positions within the
15 organization, it's not effective for an outside party
16 who is not -- has not worked with the company to do that
17 analysis. So the -- I have not in most cases, in all
18 cases where I've testified, provided information on the
19 total reasonableness of the compensation program because
20 of the analysis required to do that. Most Commissions
21 rely on that information as provided by the company to
22 make that determination.

23 COMMISSIONER ARGENZIANO: Okay. And on
24 another question -- and I may have a follow-up on that,
25 but also are you saying that FPL has to structure their

1 compensation plan with short- and long-term incentives
2 to remain competitive, and -- what if they just wanted a
3 flat salary were no bonuses and incentives? Would that
4 be unreasonable?

5 THE WITNESS: If the total costs were
6 consistent with a reasonable level of total costs, it
7 would be; however, as I pointed out, doing so would deny
8 the company the opportunity to allocate costs within the
9 program both in response to market conditions as well as
10 specific financial operational goals, so in my view it
11 would be a missed opportunity. But from a
12 competitiveness standpoint, it would not, by definition,
13 place the company at a disadvantage, although I would
14 say that most companies, a selling point of their
15 incentive plans is that while you may not receive the
16 level of compensation you're expecting, there is the
17 opportunity in most incentive plans to receive more than
18 your, quote, expected award or target award.

19 So from a competitive standpoint, an employee
20 looking at FPL versus a company -- looking at a company
21 who was paying base salary only, assuming that that
22 matched the opportunity that another company may provide
23 through a variety of annual and long-term incentive
24 plans, might not necessarily be at a disadvantage in
25 terms of the economic value, but they may be at a

1 disadvantage in terms of an individual's choice as to
2 which kind of company they wanted to work for.

3 COMMISSIONER ARGENZIANO: Okay. I think
4 that's it. Thank you very much.

5 CHAIRMAN CARTER: Thank you, Commissioner.

6 Commissioner Skop?

7 COMMISSIONER SKOP: Thank you, Mr. Chairman.
8 This a follow-up question, then.

9 I guess in essence the scope of your testimony
10 is based only upon the data that the company chose to
11 give you to review, is that correct?

12 THE WITNESS: Actually it was based on the
13 information that I provided to the company relative to
14 the annual and -- the prevalence of the annual and long-
15 term incentive plans and then the information the
16 company gave me on the fact that their 2009 merit budget
17 was two percent.

18 COMMISSIONER SKOP: Thank you.

19 CHAIRMAN CARTER: Thank you.

20 Staff?

21 CROSS EXAMINATION

22 BY MS. BENNETT:

23 Q Good morning, Mr. Meischeid, my -- oh, good
24 afternoon, Mr. Meischeid. My name is Lisa Bennett. I'm
25 a staff attorney.

1 I want to back up a little bit. Your firm,
2 Tower & Perrin, provides human resource -- it's a human
3 resource consulting firm, but I think I understand you
4 said you've got some staff that just deal with utility
5 and energy companies, is that correct?

6 A I wouldn't represent that they spend 100
7 percent of their time working for utilities, including
8 myself, but the majority of their time is spent working
9 with regulated utilities.

10 Q I'm curious. There's 67, I think, utilities
11 that you used in -- are they -- do they subscribe to
12 Tower & Perrin's service, or is that -- how do you get
13 that survey information? How does Tower & Perrin get
14 that survey information?

15 A It's actually 65 in the 2008 survey, and
16 participation in the survey is voluntary. The
17 organizations choose to participate in the survey. The
18 fact that we have 65 companies speaks to the, we
19 believe, the quality of that survey. It is the -- it's
20 the largest and we believe the most complete survey of
21 regulated utility practices.

22 The companies do not have to be clients of
23 Towers Perrin. It's a service we provide to companies
24 who choose to participate.

25 Q So then Florida Power & Light Company

1 contracted with you specifically for the review of their
2 2009, '10 and '11 compensation packages, is that
3 correct?

4 A No, that's not correct.

5 Q Can you explain your contractual relationship
6 with FPL?

7 A The majority of the relationship between
8 Towers Perrin and FPL is through the purchase of the
9 compensation surveys that we were referring to, that I
10 referred to a moment ago, and there is also a small
11 amount of consulting around the use of the surveys, but
12 the use of that data and some of the information that
13 Company Witness Slattery will provide later during her
14 testimony will indicate how the information coming
15 through the Towers Perrin survey is used by the company
16 in structuring their compensation programs.

17 Q Has Florida Power & Light contracted with
18 Towers & Perrin in the past?

19 A Yes, we have had Florida Power & Light as a
20 client for a number of years.

21 Q Can you describe your prior tasks for Florida
22 Power & Light?

23 A What period would you be referring to?

24 Q Well, let's start with the 2000 -- let's start
25 from 2000 to 2009.

1 A Over that period the primary relationship
2 between Towers Perrin and Florida Power & Light has been
3 through the provision of surveys, compensation and
4 benefits surveys, and the consulting around that. The
5 exception would be the work I performed in support of
6 the rate case. We've also, over that period of time of
7 2000 to 2009, provided consulting related to the
8 company's broad-based employee benefit plans and
9 retirement plan.

10 Q I think you've answered this, but let me make
11 sure. Do you look at a company's overall financial
12 position when determining incentives and merit
13 increases?

14 A We don't make recommendations on either actual
15 incentives or on merit increases. The information that
16 I referenced in the World At Work survey is provided to
17 the company, and then the determination as to what that
18 level should be would typically involve a review of
19 their financial situation and a judgment as to the
20 balancing the market, market movement and compensation
21 with basically their ability to support that.

22 Q To Commissioner Argenziano's question, would
23 it be within your purview to recommend to a company not
24 to give merit increases or not to give bonuses?

25 A No, we would not have the detailed

1 information, particularly as you reference on the
2 company's financial situation, to make a recommendation
3 of that nature.

4 Q So you wouldn't be looking -- would it be
5 within your purview to look at the economy and determine
6 that the unemployment is rate is high and so a company
7 is more likely to attract and retain quality employees
8 at a lower salary or lower incentive plans? Would that
9 be within the scope of your recommendation to a company?

10 A No, it wouldn't, because we -- as we just
11 discussed, that determination would and should involve
12 information relative to both the company's immediate and
13 longer-term financial condition that we wouldn't have
14 information on.

15 CHAIRMAN CARTER: Commissioner Skop?

16 COMMISSIONER SKOP: Thank you, Mr. Chair, just
17 an intervening question, to go back to a prior response.

18 You mentioned the data you reviewed was based
19 in part upon a merit increase percentage that was
20 provided by FPL. Can you refresh my memory as to what
21 your response was to the proposed merit increase?

22 THE WITNESS: To the two percent merit budget
23 for 2009?

24 COMMISSIONER SKOP: Yes, was that it?

25 THE WITNESS: Yes, that's what I referred to,

1 and my comment was that in the survey available to us at
2 the time, which included information on about 2,500
3 companies, that the range of increases -- and the reason
4 that there is a range is that it, there's slight
5 variations depending on the employee category -- was two
6 percent to 2.3 percent, and therefore FPL's budget of
7 two percent was at the low end of that two percent to
8 2.3.

9 COMMISSIONER SKOP: So a hypothetical
10 question: If they projected or told you it would be two
11 percent and they subsequently, within MFR filings,
12 increased that percentage through the proposed test
13 years, could that change your analysis in terms of the
14 reasonableness if the percentages were higher, for
15 example?

16 THE WITNESS: If in the future years those
17 percentages would be higher?

18 COMMISSIONER SKOP: Yes.

19 THE WITNESS: It would depend. Again, we do
20 have information on 2010 at this point, and that
21 information is available to FPL and presumably will be
22 part of the information they use in making the decision
23 for 2010.

24 COMMISSIONER SKOP: Okay, thank you.

25 CHAIRMAN CARTER: Ms. Bennett?

1 BY MS. BENNETT:

2 Q On page 3 of your testimony, you list the
3 services upon which -- or the surveys, I should say, on
4 which you relied. I think it was Towers Perrin's 2008
5 energy services executive compensation database, the
6 middle management database and the 2008 energy/
7 technical/craft/clerical survey. Did you bring those
8 with you today?

9 A No, I did not.

10 Q What type of documents are those?

11 A They would vary. The two -- the Towers Perrin
12 survey would have -- I believe the executive survey has
13 data on 107 separate positions, so there would be
14 information displayed in a variety of descriptive
15 statistics and statistical analyses showing compensation
16 for each of those 107 positions.

17 Q I guess I was being more specific. Is that a
18 computer printout, so that when -- or is it a book or --

19 A It's actually both. We provide a hard copy to
20 all participants in the survey, all 65 companies, but
21 there is a -- companies have the option of working with
22 an electronic version of that as well.

23 Q So the 65 companies that are in your database
24 you provide as a subscription or a service to them at a
25 price, is that correct?

1 A Yes, ma'am.

2 Q A cost?

3 A There's an annual fee for participating in the
4 survey.

5 Q Okay. So if Lisa Bennett from the Commission
6 staff wanted to look at that survey, would I need to be
7 -- subscribe to that survey?

8 A The staff couldn't subscribe, under the rules
9 of the survey. There are requirements, for example, on
10 the number of positions that you would need to submit in
11 order to make -- be considered a participant. The
12 information in it is proprietary and only available to
13 the participants in the survey.

14 Q And the participants in the survey are utility
15 companies, is that correct?

16 A That's correct.

17 CHAIRMAN CARTER: Commissioner Skop?

18 COMMISSIONER SKOP: Thank you, Mr. Chairman.
19 I just had one question to that point.

20 When companies subscribe and, I guess, give
21 you reciprocal compensation data, is that data generally
22 presented by position title and total compensation?

23 THE WITNESS: Yes, sir, it's presented by each
24 of those 107 titles and would be provided by each
25 component of compensation individually, so if they

1 provided a salary, an annual bonus in any form of
2 long-term incentives, they would provide each of those
3 components individually and in aggregate.

4 COMMISSIONER SKOP: Thank you.

5 CHAIRMAN CARTER: Ms. Bennett?

6 BY MS. BENNETT:

7 Q In the information in your data that you list
8 on page 3, it says that the databases reflect
9 compensation in effect as of March 1, 2008, and the
10 EAPDIS is April 1, 2008. Is that historical data or
11 projected data?

12 A That's actual data at the time the surveys
13 were collected -- I'm sorry, at the times the surveys
14 were, the data was submitted to the survey. At the time
15 of the testimony, that was the most recent. We do now
16 have versions of each of these surveys for 2009, but
17 that was the most recent at the time that I constructed
18 the testimony.

19 Q As memory serves me, the -- that's the low
20 point in the economic market. Does your data reflect
21 from your report, from your testimony, how the companies
22 have responded in 2009 and 2010 to the downturn in the
23 economy? In other words, are companies lowering or not
24 giving merit increases?

25 A Let me -- I'll give you a longer answer than

1 you perhaps want, but if I haven't fully answered your
2 question, I'm sure you'll follow up.

3 To compare the response of companies between
4 2008 and 2009, as I just mentioned, we have the 2009
5 survey, so the specific survey is mentioned on page 3 of
6 my testimony. You can do a comparison now between 2008
7 and 2009.

8 The second part of your question I think
9 referred -- did reference 2010. We have survey
10 information, as I mentioned a moment ago, from the World
11 At Work survey that was -- became available since I did
12 my rebuttal testimony that provides information on over
13 -- close to 7,000 companies for what they're planning to
14 do with respect to their compensation programs for 2010,
15 as well as the information I did provide in the
16 testimony from what they actually did in 2009, and it
17 shows that the projections for 2010 are higher than the
18 projections for 2009, so we're starting to see an
19 increase, at least at this point, as reported to the
20 surveys. Companies are expecting that their
21 compensation expense, through their salary programs at
22 least, will be increasing in 2010 over 2009.

23 Q I'm going to turn to page -- and thank you for
24 the answer. That -- I'm trying to move fast. To page 4
25 of your testimony, on line 5, you state, "FPL's peer

1 group of utilities developed by the company for purposes
2 of determining the appropriateness of its pay." When you
3 say, "by the company," was that FPL that determined its
4 peer group?

5 A The 16 companies that I referred to is the
6 peer group created by FPL, yes, and those are the
7 companies listed following that comment.

8 COMMISSIONER ARGENZIANO: Excuse me, Mr.
9 Chair.

10 CHAIRMAN CARTER: Commissioner Argenziano?

11 COMMISSIONER ARGENZIANO: Yes. Did you say
12 the 16 peer groups were created by FPL, and can you now
13 tell me -- or chosen by FPL, can you tell me who they
14 were?

15 THE WITNESS: Yes, they were. These are the
16 16 companies selected by FPL as part of their utility
17 peer group, and they are identified on page 4 of my
18 testimony beginning on line 7 through line 12.

19 COMMISSIONER ARGENZIANO: Okay. And that is
20 all of them, right? I have that page. That is the
21 total amount that they have chosen?

22 THE WITNESS: That's correct.

23 COMMISSIONER ARGENZIANO: Okay, thank you.

24 THE WITNESS: And in addition, as I pointed
25 out, our analysis is based on the 65 companies in the

1 Towers Perrin database, which includes I believe all of
2 these 16 plus an additional number of companies not
3 included.

4 CHAIRMAN CARTER: Ms. Bennett?

5 BY MS. BENNETT:

6 Q When you look at the database for annual
7 incentive programs, do you compare what an employee is
8 paid base salary with the incentive programs? In other
9 words, maybe Allegheny Energy pays its nuclear engineers
10 \$500 a year plus it gives a huge incentive, but FPL pays
11 their nuclear engineer a thousand and has a smaller
12 increase. Do you do that comparison?

13 A As part of the work for clients that request
14 that information, yes, we absolutely do. As I mentioned
15 in response to the question about the data submitted to
16 the survey, we collect information from each of those
17 companies on their program, so in some cases limited, as
18 you saw, from the analysis on what I call the depth of
19 incentives. Most of the companies are providing both --
20 at least an annual incentive to almost all of their
21 employees, but for the very few number of companies that
22 don't, that would essentially be a zero when we do the
23 calculation.

24 So we do, yes. The answer to your question is
25 we do look at how companies construct their program,

1 whether it's salary, salary plus bonus, salary plus
2 annual bonus and long-term.

3 Q Did you do that for FPL for the purposes of
4 this rate case?

5 A No, I did not.

6 Q You talked about the World At Work survey that
7 you used to compare the two percent merit increase.
8 Tell me how that program works. Is that a subscription
9 also?

10 A No. That's a -- World At Work is the --
11 formerly known as the American Compensation Association,
12 and while individual firms can still elect to construct
13 their surveys, several years ago it was decided that it
14 would be more efficient to have a central database for
15 this information rather than having companies submit
16 information to Towers Perrin and a variety of other
17 human resource consulting firms, so it is not a
18 subscription, it's companies put the information in,
19 it's available to the public, and it's not -- unlike our
20 surveys where there's lot of detailed data required by
21 position, this does not require a subscription.

22 Q So then Lisa Bennett, Commission staff, can
23 look at World At Work to determine two percent increases
24 is or is not appropriate?

25 A Yes, can look to see what the -- what

1 information was reported for the companies providing the
2 survey, and there's a significant amount of information
3 provided to make that determination.

4 Q So how would I go about reviewing the
5 information that you looked at to make your decision
6 that two percent was an appropriate increase when I went
7 to World At Work?

8 A If you like, I could point you to the specific
9 fields within the World At Work survey that we use to
10 construct the range of -- or report the range of two
11 percent to 2.3 percent, but it's, as I say, available to
12 the public.

13 Q Point me to the fields.

14 A I don't believe you have the information in
15 front of you. You'd have to go to the World At Work
16 website or contact World At Work to get the survey.

17 CHAIRMAN CARTER: Ms. Clark, is there a way to
18 get that as a late-filed exhibit so when she goes to
19 World At Work she can go to and look at the different
20 categories that he looked at?

21 MS. CLARK: I'm thinking that they may have it
22 and I need to check on that.

23 CHAIRMAN CARTER: Okay.

24 MR. MOYLE: This kind of gets me back to my
25 standing hearsay point as well. I mean, I don't know

1 that this guy -- this gentleman has independent
2 knowledge that two percent is the right number. I think
3 he's just simply saying, I found it on this World At
4 Work, you know, website. I don't know anything about
5 how it was compiled, who compiled it, you know, as I
6 understand it. So I understand I don't have to object
7 *per se* on hearsay, but --

8 CHAIRMAN CARTER: I just think staff -- if the
9 staff needs to see that, I think that would be
10 appropriate.

11 MS. HELTON: Could I speak to Mr. Moyle's
12 objection on what experts rely or don't rely on with
13 respect to forming their opinion testimony?

14 CHAIRMAN CARTER: Yes, ma'am, you may.

15 MS. HELTON: In Section 90.704 of the Florida
16 Evidence Code, the Basis of Opinion Testimony by
17 Experts: "The facts or data upon which an expert bases
18 an opinion or inference may be those perceived by or
19 made known to the expert at or before the trial. If the
20 facts or data are of a type reasonably relied upon by
21 experts in the subject to support the opinion expressed,
22 the facts or data need not be admissible in evidence."

23 CHAIRMAN CARTER: Okay, that's fine. Show it
24 done.

25 Commissioner Skop?

1 COMMISSIONER SKOP: Thank you, Mr. Chair.

2 I guess one of my concerns, I guess based on
3 the witness's testimony, and it's probably due to
4 something I'm not understanding, but at least in terms
5 of his testimony it was based upon a two percent
6 increase or a merit increase, and I'm trying to compare
7 and contrast with what was filed in MFR C-35, because
8 there seems to be a little bit of a disconnect in terms
9 of the percentages that are used. I mean, his testimony
10 is based on two percent, yet the MFR percentage was
11 higher, so I'm trying to understand who might be the
12 best witness to flesh out that difference.

13 MS. BENNETT: Perhaps he can answer it, but I
14 imagine either Ms. Ousdahl or Ms. Slattery will be able
15 to answer that question.

16 COMMISSIONER SKOP: Thank you. If the witness
17 can answer it, fine. If not, I'll defer to Ms. Ousdahl.

18 THE WITNESS: I think Witness Slattery will be
19 prepared to answer that question.

20 CHAIRMAN CARTER: Ms. Bradley?

21 MS. BRADLEY: Can I join in Mr. Moyle's
22 objection? Because, while he may rely it, the
23 introduction, though -- it cannot be used as a ruse to
24 otherwise get in inadmissible evidence. So the fact
25 that this is hearsay and unless it's rebutted -- I mean,

1 unless it's supported by something else, we would object
2 to it being admitted.

3 CHAIRMAN CARTER: I think that staff's
4 perspective is to look at the data where it came from.
5 It's not so much to say we don't want it entered into
6 evidence or anything like that; they wanted to look at
7 the data. And I think that's appropriate if that's what
8 staff wants to do to be able to quantify or to qualify
9 based upon the representations that he made in order to
10 -- that he relied on to come to his conclusions. I
11 think that's fairly consistent with what Ms. Helton just
12 told us.

13 So, Ms. Bennett, you may proceed.

14 Wait a minute, do we need to get that? I
15 think we got off track there. We were talking about a
16 late-filed. Do we need that, or not?

17 MS. BENNETT: My understanding is Ms. Slattery
18 has that information.

19 CHAIRMAN CARTER: Well, let's get that with
20 Ms. Slattery, then. You may proceed.

21 BY MS. BENNETT:

22 Q Well, one more question. Other than your
23 testimony, do you have an analysis that you prepared and
24 provided to FPL about their compensation, and did you
25 bring that with you today?

1 A No, there isn't any other additional
2 information.

3 Q Thank you.

4 CHAIRMAN CARTER: Also, Mr. Moyle, when we get
5 to Ms. Slattery and those kinds of things come up where
6 we can talk to her about that, I think that part of what
7 you wanted to talk to her about the red folders as well,
8 is that correct? Ms. Clark, is that right for Witness
9 Slattery, or who is with the red folders, Pimentel?

10 MS. CLARK: No, I believe that one is a
11 Slattery red folder.

12 CHAIRMAN CARTER: Okay.

13 MS. CLARK: And we did provide that
14 information to staff.

15 CHAIRMAN CARTER: Okay. All right, ma'am.
16 Commissioners, before I go back to redirect, any further
17 questions?

18 Redirect?

19 MS. CLARK: Mr. Chairman, if I can have just
20 two minutes?

21 CHAIRMAN CARTER: Take a moment. Yes, ma'am.
22 Yeah, it's getting close to lunchtime.

23 Oh, by the way, speaking of lunchtime, we're
24 going to do our normal 1:00 to 2:15. Also, Mr. Kelly,
25 I'm glad to see you. A question about tomorrow: DMS

1 assures me that they'll have the doors open by, right
2 after 7:00 a.m. in the morning, so that way if you -- I
3 know you've got staff and you want be here early, but
4 DMS said they'll have the doors open by 7:00 a.m. in the
5 morning, and again, everyone, we're going to start at
6 9:30 and we're going to go to 1:00 tomorrow.

7 MR. MOYLE: I was just wanting to make sure
8 that the 7:00 a.m. door-opening was not to be confused
9 with the start times.

10 CHAIRMAN CARTER: No, no. Mr. Kelly had some
11 staff that needed to get here early to take care of some
12 things, and also --

13 COMMISSIONER EDGAR: Mr. Chairman, just a
14 clarification, are we starting at 9:00 or 9:30 tomorrow?

15 CHAIRMAN CARTER: We're starting at 9:00.
16 Sorry. We're starting at 9:00 but we're going to 1:00.
17 I got thrown off because Mr. Kelly asked me about the
18 early start time.

19 Commissioner Skop?

20 COMMISSIONER SKOP: Thank you. To that point,
21 with respect to Saturday, is there any way that we will
22 go past one o'clock?

23 CHAIRMAN CARTER: No. No, I've made
24 representations to the parties and they've made
25 preparations and arrangements based upon that, so I want

1 to stick with that representation that I made three days
2 ago.

3 Staff, anything further?

4 MS. BENNETT: Nothing further. Thank you.

5 CHAIRMAN CARTER: Redirect, Ms. Clark?

6 MS. CLARK: Yes, just a couple.

7 REDIRECT EXAMINATION

8 BY MS. CLARK:

9 Q Mr. Meischeid, you might remember a line of
10 questions from Mr. Moyle about what was not included in
11 your testimony. Would you help us in clarifying what
12 was included in your testimony and what you looked at?

13 A My testimony --

14 CHAIRMAN CARTER: Hang on a second.

15 Commissioner Argenziano?

16 COMMISSIONER ARGENZIANO: Yes, I'm sorry.

17 CHAIRMAN CARTER: Did you have a question?

18 COMMISSIONER ARGENZIANO: Yes, I will, but in
19 a minute.

20 CHAIRMAN CARTER: Okay. Ms. Clark, you may
21 proceed.

22 THE WITNESS: My rebuttal testimony covered
23 three areas. It covered the prevalence of annual
24 incentive plans and the prevalence of long-term
25 incentive plans, and it covered the two percent merit

1 increase budget for 2009 for FPL.

2 BY MS. CLARK:

3 Q And what were your conclusions with regard to
4 those items?

5 A My conclusion on the prevalence of annual and
6 long-term incentive plans is that it was -- that it is a
7 near-universal practice among both FPL's 16-company peer
8 group and the broader sample of 65 companies, 65
9 utilities in the Towers Perrin survey, that almost all
10 of those companies provide for a significant number of
11 employees at their executive, their exempt and their
12 non-exempt level, provide an annual and/or a long-term
13 incentive plan to those employees.

14 Q Let me ask you, you were asked questions by
15 Commissioner Argenziano with regard to the peer groups
16 mentioned on page 4. Why would these companies be a
17 relevant peer group?

18 A Well, first, they are -- there are 16
19 regulated, largely regulated utilities that would have a
20 portfolio of assets similar to FPL. They represent a
21 range of size from larger to FPL to considerably
22 smaller. In fact, relative to the 16 companies, FPL is
23 at the 81st percentile, that is to say, the 81st
24 percentile in terms of size relative to the 16 companies
25 and just slightly larger in terms of megawatt hours. So

1 it represents a set of companies that the company can
2 look at for purposes of judging competitiveness and
3 reasonableness of compensation because of a common
4 business platform.

5 Q So in your opinion, is that a relevant peer
6 group?

7 A Yes. Based on the statistics and
8 acknowledging that FPL is relatively large compared to
9 these companies, yes, it is. It's a relevant peer
10 group.

11 Q You mentioned in, I think, response to some
12 questions from Mr. Wright that you did some preliminary
13 looking at some executive level jobs. Do you recall
14 those questions?

15 A Yes, I do.

16 Q And what conclusions did you draw with regard
17 to the reasonableness?

18 MR. MOYLE: I'm going to object. This is
19 getting into areas that's beyond his direct.

20 MS. CLARK: It is not beyond his cross. The
21 door was opened to ask this question, Mr. Chairman.

22 CHAIRMAN CARTER: Ms. Helton, you know it
23 happens every day around lunchtime.

24 MS. HELTON: I was just thinking the same
25 thing, Mr. Chairman.

1 Could I get Ms. Clark to repeat her question
2 again?

3 CHAIRMAN CARTER: Ms. Clark, just repeat the
4 question.

5 BY MS. CLARK:

6 Q Mr. Wright asked you some questions with
7 regard to your looking at the 30 executive jobs and you
8 indicated you did some -- a preliminary look at that,
9 and my question is, what conclusions did you draw with
10 respect to that preliminary analysis?

11 MR. MOYLE: And my objection is that, number
12 one, it's beyond, you know, his direct. I mean, if he
13 has a study, it ought to be attached to the rebuttal
14 and, you know, people can be able to look at it. I
15 think all of a sudden for him to stay, well, here's what
16 I did on the study and I concluded X, and nobody's seen
17 it, nobody's had an opportunity, I think it's a due
18 process issue.

19 CHAIRMAN CARTER: Okay. Ms. Helton?

20 MS. HELTON: Mr. Chairman, I do remember Mr.
21 Wright asking some questions along that line, so it
22 seems to me that Mr. Wright has opened the door on the
23 30 executives that the witness preliminarily looked at,
24 and I do think it's a fair question for Ms. Clark to ask
25 what conclusions he's reached.

1 CHAIRMAN CARTER: Overruled. You may proceed.

2 THE WITNESS: The results of the analysis that
3 we did for, as I said, 30 executive positions at FPL
4 relative to their 16-company peer group show that the
5 total direct compensation, but, in fact, each of the
6 individual components, but if you look at the sum of all
7 of the compensation provided through salary, annual
8 incentives and long-term incentives actually paid, was
9 consistent with FPL's philosophy, with the size of the
10 company relative to the peer group -- as I said, they're
11 considerably larger than most -- and the company's
12 performance.

13 COMMISSIONER SKOP: Mr. Chair?

14 CHAIRMAN CARTER: Commissioner Skop.

15 COMMISSIONER SKOP: Can I get the witness to
16 clarify his last answer? I guess there's a lot of words
17 put in there, but if I understood what you said in your
18 response, that you didn't test the reasonableness based
19 upon each individual employee's total compensation and
20 the elements thereof, but the aggregated as a whole of
21 the 30 in comparison to the peer group, is that correct?

22 THE WITNESS: I did test each of the 30
23 positions individually. The comment I made was relative
24 to the overall result for the 30 positions, that it --
25 in terms of consistent with the philosophy, size of

1 company and performance. It's based on the aggregated
2 results for those 30 individual market references.

3 COMMISSIONER SKOP: And to that point, if
4 those 30 were not aggregated and you had to test each
5 individual member of that group and subgroup of 30 on an
6 individual basis, would you draw the same conclusion
7 that each of those 30 respective employees' compensation
8 was reasonable?

9 THE WITNESS: I did test all 30 individually,
10 and -- to get to the summary conclusion, yes, certain
11 positions are above and below, to get to that overall
12 result. So you'd have to look at each of the positions
13 individually, but for any given population of
14 individuals you would expect to find that result, that
15 some will be above and some will be below the policy
16 line that the company sets.

17 COMMISSIONER SKOP: Thank you.

18 CHAIRMAN CARTER: Ms. Clark?

19 BY MS. CLARK:

20 Q Yes, one final question with regard to -- as I
21 understand it, you did look at the overall
22 reasonableness of the salary and compensation -- rather,
23 the compensation of benefits as I understand it, is that
24 correct?

25 A The information provided by the company, yes.

1 Q And was it your conclusion that it was
2 reasonable?

3 A It was.

4 MS. CLARK: I have no further questions.

5 CHAIRMAN CARTER: Okay. We don't have any
6 exhibits with this witness, and he's only -- this was
7 only -- the only time we're going to have this witness
8 before us?

9 Okay. You may be excused. And with that,
10 we're on lunch. See you at 2:15.

11 (Hearing adjourned at 12:53 p.m.)

12 (The transcript continues in sequence with
13 Volume 29.)

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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 9th day of September, 2009, at Tallahassee, Leon County, Florida.



RAY D. CONVERY