BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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

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2009 DEPRECIATION AND DISMANTLEMENT STUDY BY FLORIDA POWER & LIGHT COMPANY. DOCKET NO. 090130-EI
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PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN MATTHEW M. CARTER, II COMMISSIONER LISA POLAK EDGAR COMMISSIONER KATRINA J. McMURRIAN COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
DATE:	Thursday, September 17, 2009
TIME:	Commenced at 2:30 p.m. Concluded at 4:50 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	RAY D. CONVERY Court Reporter (850) 222-5491
PARTICIPATING:	(As heretofore noted.)

ORIGINAL

I N D E X

WITNESS

P R O C E E D I N G S

(Transcript follows in sequence from Volume 37.)

CHAIRMAN CARTER: Okay. We are back on the record, and when we last left, Mr. Mendiola had finished his cross.

Mr. McGlothlin, you're recognized, sir.

MR. BUTLER: Excuse me, Mr. Chairman.

CHAIRMAN CARTER: Mr. Butler, one second.

MR. BUTLER: Sorry. Before we go on to cross, one preliminary matter I'd like to raise.

CHAIRMAN CARTER: You are recognized.

MR. BUTLER: Thank you.

Regarding scheduling, based on the schedule that you announced, at least the provisional schedule before the lunch break, we would like to make one change in our witness schedule. Right now we have Mr. Reed coming up after Mr. Pimentel finishes. We had moved him up substantially out of our original order as an accommodation to staff when we thought we were getting all of this done sort of in a setting, or a sitting, it would work pretty well, but that really is not going to work well for us. We would like to move him back to where he was originally, which would be after Mr. Davis and before Mr. Deason, and otherwise the order would stay as it was, but in view of the substantial break we're going to be having in the schedule for the hearing dates now, that would be much more appropriate for our schedule of witnesses.

CHAIRMAN CARTER: Well, at the rate we were going yesterday, we probably wouldn't get to him today anyway.

Mr. Wright, to be heard?

MR. WRIGHT: Things happened very quickly in the last three minutes. Could we stand down off the record for about three minutes so that I could confer with Mr. Butler?

CHAIRMAN CARTER: Okay, let's do this. We're off the record.

(Brief recess.)

CHAIRMAN CARTER: We are back on the record, and we had kind of taken a break there. I won't embarrass you on statewide TV, but we'll just go on and say we're working with our schedule, and what we'll do is we'll go ahead on with this witness that we have here, and after this we'll pick up Witness Slattery and see how far we can get with that.

With that, Mr. McGlothlin, you're recognized sir, for cross-examination. You may proceed.

MR. McGLOTHLIN: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. McGLOTHLIN:

Q Mr. Pimentel, my name is Joe McGlothlin and I'm with the Office of Public Counsel.

A Good afternoon.

Q Thank you.

For you, Mr. Pimentel, and also for the Commissioners, I'd like to say at the outset that I have a few lines of questions that are similar to but not identical to those that my colleague asked prior to the lunch break, and I will avoid as much duplication as I can, but there may be some overlap even though the points are not identical.

And to begin with, do you have available to you the document that was identified as Exhibit 507? The short title is S&P Ratings Direct, 2/12/09.

A Mr. McGlothlin, unfortunately I did not put numbers on the ones that were in front of me.

CHAIRMAN CARTER: Just show him which one it is. Mr. Wright, can you just walk over there and show him which one it is?

THE WITNESS: What was the date?

BY MR. McGLOTHLIN:

Q S&P Ratings Direct, 2/12/09.

A 2/12/09.

Q Yes.

A Yes.

CHAIRMAN CARTER: Thank you, Mr. Stewart.

MR. McGLOTHLIN: And I had planned to ask Mr. Mendiola to hand this out for me, but to my chagrin, he asked me to hand it out for him.

BY MR. McGLOTHLIN:

Q And I have several questions about this document as it relates to your testimony.

Now, in your testimony you referred to certain --

CHAIRMAN CARTER: Could we get some volume for Mr. McGlothlin? Can we get some more volume?

Okay, Mr. McGlothlin.

BY MR. McGLOTHLIN:

Q In your testimony you referred to certain risks, business risks of Florida Power & Light Company that in your view distinguished Florida Power & Light from other utilities, including TECO, and justify the return on equity that has been submitted on FPL's behalf by your witness, do you not?

A Yes.

Q If you will, look at the second paragraph, which is the rating for Florida Power & Light.

A Yes.

Q And you'll see the second sentence that says, "Business risk is portrayed in five categories, excellent, strong, satisfactory, weak and vulnerable." Do you see that?

A Yes.

Q And would you agree with me that according to this rating agency, FPL's business profile is excellent, the highest of the five categories?

A Yes, I would.

Q And that is due in large measure, according to this paragraph, to the company's electric utility operations in Florida which exhibit strength in almost every area of analysis, correct?

A Yes. This is the same couple of paragraphs we discussed -- I'm sorry, couple of sentences that we discussed before.

Q Now, if you would, look at the first paragraph and read to me the first sentence under the topic, "Rationale."

A "The ratings on Florida Power & Light are based on the consolidated credit profile of the parent FPL Group."

Q And the author used the shorthand FP&L for the utility and FPL for the parent group, correct?

A Yes.

Q And throughout this document that distinction is made between the parent group and the operating utility, correct?

A I would hope so.

Q Yes. Well, the ratings then are based upon the consolidated credit profile of FPL Group. That credit profile would include the capital structure of FPL Group, would it not?

A Yes.

Q And tell me, what is the equity ratio of FPL Group?

A The equity ratio, the, what I'll call the unadjusted equity ratio of FPL Group is approximately 45 percent equity and the rest would be long-term debt and short-term debt, but those ratios, you're probably aware, get adjusted for a number of items, including a large amount of third-party non-recourse debt at the unregulated subsidiary and also what we call hybrid securities which are long-term subordinated debt instruments.

Q You would agree with me, would you not, that FPL Group has more debt in its capital structure than does FP&L, the utility?

A It does -- that's what I was trying to -- yes, I would agree with you that on a GAAP basis, financial statement basis, that that is very apparent, and I was just trying to say that some of the debt that FPL Group has actually gets adjusted away because of the non-recourse nature of Next -- of some of the projects at NextEra Energy Resources and some of the long-term subordinated debt.

But yes, the FPL Group on a GAAP basis has a lower equity ratio than Florida Power & Light Company.

Q Okay. Now, turn to page 6 of your direct testimony.

A Okay.

Q At line 12 you say the company asks the Commission to do three things: First, maintain FPL's current 55.8 adjusted equity ratio; two, set rates with an allowed rate of return of 12.5 percent, which is the midpoint of Witness Avera's recommended rate of return on an equity range of 12 to 13 percent; and three, reestablish the annual accrual to the reserve at a level of $150 million. Do you see that statement?

A Yes.

Q Now turn to page of 30 of your direct.

A Yes.

Q And in response to the first question, "What is FPL's current equity ratio," you say at line 5 that on an adjusted basis, you've maintained at approximately

55.8 percent, correct?

A Yes.

Q And again, at line 10, in response to the question, "What is your recommendation for an equity ratio for FPL for regulatory purposes," you again say, "I recommend use of the actual adjusted equity ratio of 55.8 percent," correct?

A Yes.

Q And then you say, "The Commission on several occasions has stated that the capital structure used for ratemaking purposes should bear an appropriate relationship to the utility's actual sources of capital." And are you also referring there to the 55.8 percent equity ratio?

A Yes.

Q Now, returning to page 6, lines 11 through 15, I see that you asked the company to set rates with an allowed rate of return of 12.5 percent ROE, correct?

A Yes.

Q And does that mean that the company calculated its revenue requirements by incorporating a weighted cost of capital that included 12.5 percent return on equity?

A I want to answer yes, but could you repeat -- could you just repeat the question?

Q That's a good impulse, sir.

I take that statement to mean that in the course of calculating the company's revenue requirements in this case, the company applied a weighted cost of capital that included as one component a return on equity of 12.5 percent?

A Yes.

Q Now, I notice that with respect to the first item, you asked the company to maintain FPL's current 55 percent adjusted equity ratio. Is the capital structure that has the 55.8 percent adjusted equity ratio the same capital structure that was used to quantify the revenue requirements you're seeking in this case?

A Yes.

Q In other words, you applied the capital structure that employed the 59.1 percent equity and $949 million of imputed debt in calculating the revenue requirements?

A In -- no. So I apologize for the yes and for the no. Can we just turn to where we actually calculate the rate of return, if that's --

Q We can do that, but I want to pose a question and get an answer first.

Do I understand correctly, sir, that when FPL quantified the revenue requirements it's seeking in this case, it employed a capital structure other than the capital structure that includes the adjusted equity ratio and imputed debt?

A The capital --

Q Can you answer my question yes or no?

A I could if I remembered it.

Q Do I understand correctly that when FPL quantified the revenue requirements that it's seeking in this case, it employed a capital structure other than that which includes the imputed debt and results in an adjusted ratio of 55.8 percent?

A Yes. I think the answer to that is yes, if I understand your question correctly.

The capital structure that we've used in this rate case, the capital structure that supports the $17 billion of rate base, includes, in accordance with the schedule on D-2, MFR D-2, includes long-term debt, customer deposits, common equities, short-term debt, deferred income taxes and investment tax credits. That's what -- and it's -- if anybody wants to look, it's -- I'm sorry, I said D-2. It's D-1-A, page 1 of 1, for the year 2010. So the equity that's contained in there, the common equity that's in there for 12/31, 2010, is $8.178 billion, if you will. The equity ratio in D-1-A is 47.93 percent.

I think your question -- this is why I hesitated. I think your question is, is this the capital structure that we used in order to determine the revenue requirements. The answer is yes, that's the capital structure we used to determine the revenue requirement.

In addition to that, if you're -- if you want to understand, which I'm assuming will be the next question or at least the one after that, the 47.93 percent is -- equals 59 percent, approximately 59 percent when you remove the non-investor-owned sources of capital from D-1-A, so for regulatory purposes, it's 47.93 percent. That's the actual equity we have in the business. If you only look at the investor sources, it's 59, approximately 59 percent. If you then add the long-term obligations, the power purchase agreements that we discussed a little bit before lunch, that's how you adjust just the equity ratio -- we're just talking about ratios -- down to 55.8 percent. Was that --

Q You've covered a lot of ground, but I think that includes the answer to my question.

Now, at page 24 of your rebuttal testimony, you compare the company's filing with Dr. Woolridge's recommended equity ratio, and referring to him you say at line 6, "The difference between this equity ratio and the 59.1 percent included in FPL's filing results from the use of a two-point average rather than a 13-month average." Do you see that statement?

A Yes.

Q Now, the 59.1 percent equity ratio is the equity ratio that looks, as you said, to investor-supplied sources of capital, correct?

A Yes, it's the 47.93 that I just discussed, and then you remove the non-investor sources of capital and you get to the 59 percent.

Q And the capital structure that was used in quantifying the revenue requirements did not include the $949 million of imputed debt, correct?

A No.

Q And the capital structure that was used for quantifying revenue requirements result in revenue requirements higher than the revenue requirements that would result from using the adjusted equity ratio that includes imputed debt, correct?

A I'm sorry. Say that again.

Q Yes. Do I understand correctly that the capital structure used in quantifying the revenue requirements in your filing produces a higher revenue requirement than would be produced by a capital structure that reflects the imputed debt and that results in the adjusted equity ratio?

A I'm not sure that that's -- I'm not sure that that's true. You could help me walk through that.

Q Well, you would have a larger percentage of debt and a smaller percentage of equity in the overall capital structure, would you not?

A In other words, if we would have included the power purchase agreements on our balance sheet, is that the comment? Because we all -- just to be -- hopefully, to be clear, on our GAAP balance sheet today before any of the adjustments that we are required to make for regulatory purposes, we have an equity ratio of 55.6 percent. This is before -- sorry, before the adjustments.

The largest adjustment that's made to that in order to take it up to -- I'm going to skip over the 47.93 for a second -- in order to take it up to 59 percent -- so we're at 55.6. In order to go up to 59 percent, we actually removed a significant amount of debt from our books for these purposes, and that's the storm debt that we're talking about, right? That's how you get from our books the -- that's the actual equity we have in the business, you remove the storm debt. It's appropriate to remove the storm debt from the books because it's being recovered through this, you know, this additional recovery. That's what makes it go from 55 percent approximately to 59 percent, skipping the 47.93.

And to get to the 55.8 percent, all we do is we add the PPA obligations to the capital structure, so at least the way I look at it, I'm removing debt from my balance sheet that's recovered separately other than through the rate mechanisms that we have. That makes -- when you're removing debt, that just makes your equity as a percentage go up to 59 percent, and then I take the power purchase obligation debt and I add it on, because I believe that's what investors do, and that gets you back down to 55.6. But if you cut all through it, what we have on our balance sheet closely resembles the 55.8 that we also have in here.

I hope that helped.

Q Well, let me approach it from a slightly different direction.

In your rebuttal testimony you contrast the adjustment that Florida Power & Light Company makes on the basis of imputed debt to the adjustment that Tampa Electric Company made in its recent rate case, do you not?

A It's either in my rebuttal or in the deposition, but it's -- yes.

Q Now, in the case of Tampa Electric Company, is it true that Tampa Electric Company started with this actual equity ratio and then imputed some debt that it contends justified adding a layer of equity it had not issued so as to arrive at an equity ratio higher than its actual equity ratio, is that correct?

A That's my understanding. I mean, you hit on the exact difference. I think you and I have the same understanding, that is, that they added that imputed debt, but when they did that, the equity ratio that they were trying to get to, they didn't have that actual equity in business. They were asking to add that equity into the business.

Q And by contrast in the case of Florida Power & Light Company, Florida Power & Light Company starts with a 59 percent equity ratio, imputes $949 million of debt, and arrives at an equity ratio of 55.8 percent or lower than its actual, correct?

A Mr. McGlothlin, I want to agree with that and I will, but I don't want to forget the first part of that because we really -- we don't start with 59.6 percent. That's what I was just trying to explain. We start with 55.6 percent. That's what we start with, okay? You start with 55.6. That's what we actually have in the business. We remove debt. We remove the storm debt. When we remove the storm debt, you get up to 59 percent, but that's not where we started.

Q Okay.

A And then we add the PPA debt. We've had the capital structure with the PPA debt added in for well over ten years, and what that does is it brings it back down to 55.8.

Prior to 2007 when we issued the securitization bonds, we did not make an adjustment to take out the storm bonds so you didn't have this 55.6 from the financial statements, the 59.6 back down to 55.8. That middle part was eliminated.

Q You've said in your testimony that the request of the company is to maintain its existing adjusted equity ratio of 55.8, do you not?

A Yes.

Q And you've also calculated and imputed a quantity of debt that results in the 55.8 percent ratio, do you not?

A Yes.

Q Does the objective of maintaining an existing 55.8 percent adjusted ratio, equity ratio drive the amount of imputed debt that you included for that purpose?

A No. If I understand your question correctly, no. We go through a calculation every month on a 13-month average when we put our surveillance reports together for the Commission, for the staff and the Commission, where we obviously understand how much of the power purchase debt is in front of us. We also understand how much of the storm debt has been amortized, so on a monthly basis we try to get to that 55.8 percent number based on the 13-month average. So if the amount of storm debt was higher or lower than what we would have expected or the amount of PPA debt was higher or lower than what we would have expected, that would either require us as a company to push more equity down to Florida Power & Light Company or to send equity up to FPL Group.

Q Turn to page 16 of your rebuttal testimony.

A Yes.

Q At line 14 this question is posed: "Does FPL's recommended return on equity take into account the risk mitigation benefits of the generation-based rate adjustment?" And you answer, "While the generation-based rate adjustment does not reduce the significant execution risk associated with constructing and operating complex generation facilities, it does help to facilitate minimization of the regulatory lag typically associated with large construction projects."

Do you see that question and answer?

A Yes.

Q Now, Mr. Mendiola touched on this earlier when referring to a rating agency document, but here in your testimony you use the same term, "execution risk." Do I understand that correctly to refer to the risk, for instance, that a utility may not be able to complete a generation project on time and on budget?

A On time, on budget, have it actually work the way it's supposed to, and yeah, all of the risks associated with building a large generation project.

Q Excluding the potential risk of disallowances by regulators?

A Yes, the potential risk of disallowances by regulators, especially if we exceed the construction budget.

Q Would you agree with me that this execution risk, which includes the potential risk of disallowances, is a risk that can be transferred to a third party in a negotiated power purchase contract?

A Yes, it can, but if the other party isn't regulated, they get the potential benefit also. In other words, the construction project could cost more than the budget or the construction project could cost less than the budget, depending on the circumstance of that other entity. That could be a risk for them or it could be a potential benefit.

Q But in terms of the overall risk profile of FP&L or any utility, that risk profile can be affected in a favorable way by the terms of a power purchase agreement that transfers execution risk to the third-party generator, correct?

A Yes, you certainly do reduce execution risk of not getting -- of the project, as an example, costing more than what it was scheduled to cost. Unfortunately, you've also given up part of the execution risk which is, if you really need -- just as an example, if you really need load on December 1st and there are issues on the other side with getting you that power on December 1st, you may not have the provisions in that contract in order to cover whatever contingencies might come up, if I understand your question correctly.

Q Well, let's assume for purposes of the question that FPL has done a good job of negotiating its interest in such a power purchase agreement. My only point to you, and I think you've agreed with me, is that execution risk is an example of a risk that could be moved away from the regulated entity and onto the third-party generator.

A Yes.

Q That's the only thing I'm asking you to agree with.

A Yes.

Q Okay. And investors, including those that read rating agency documents, take into account all risks of the utility, do they not?

A Yes, they do.

Q Including execution risks?

A Yes, they do.

Q And so this is an example of an area in which a PPA could have a favorable impact on a utility's overall risk profile?

A Yeah. I'm not -- I can't disagree with that. I think an investor looking at a situation where an entity has entered into a power purchase agreement, I think they do take into account the fact that they've traded some risks for others, right. Your execution risk, your construction execution risk I think that you brought out, I think that's reasonable. They've taken on other risks, including they now have the risk of a long-term power purchase agreement, so they can't necessarily go in front of their own Commission and say, we need to shut the plan down for a while. I mean, there are contractual commitments now that they're committed to generally -- not generally, in most cases no matter happens to their load.

Q In your testimony you address what you describe as the risk associated with the long-term commitments of a PPA, but isn't this example -- doesn't this example demonstrate that with respect to the relationship between a regulated utility such as FP&L and those with whom the regulated utility contract, the risk can go in both directions?

A Yes, Mr. McGlothlin, I would agree with you that the risk can go in both directions, but I -- you know, what I'm focused on is the company signs a long-term power purchase agreement that becomes an obligation. That's done. Whatever risk it may have had during the previous nine months as to whether it should build the plant or not build the plant or enter into a power purchase agreement or not enter into a power purchase agreement, that's all done at that point. All the investor is looking at is the fact that the company now has entered into a long-term obligation that they're going to have to provide fixed and variable payments to.

So, although I would agree with you in theory that there is some execution risk that's eliminated, depending on which decision you make, once you've made the decision, an investor is going to look at the commitment that's in front of them and what the timeline for that commitment is.

Q Investors will look at the commitment and also any advantages associated with that relationship, correct?

A Any advantages -- yes, but not any advantages associated with that commitment as it relates to the decision as to whether they were going to build the plant or enter into a long-term commitment. That decision is -- that's done.

Q Understood.

Okay, let's move to page 30 of your rebuttal testimony.

A Yes.

Q At line 9 this question is posed: "Do you agree with the financial metrics presented by Mr. Lawton in his exhibit DJL-Supp-6. Do you see that question?

A Yes, I do.

Q Now, this question refers to the schedule sponsored by Mr. Lawton earlier in the case in which he assumed that all of the ratemaking proposals recommended by the Office of Public Counsel were in place and then proceeded to calculate the financial metrics that would result from that application, correct?

A Yes. I think I remember that schedule. I'm not sure where I have it but --

Q Well, I have it for you.

CHAIRMAN CARTER: Do you need a number or are you just using it for cross-examination?

MR. McGLOTHLIN: This is only cross-examination. This has been admitted into the record as 442 earlier in the case.

CHAIRMAN CARTER: Okay, great.

BY MR. McGLOTHLIN:

Q And it's been a while since Mr. Lawton was on the stand and since you wrote your testimony, but by way of quick recap, the OPC recommendations that he incorporated in his exhibit included the 9.5 percent ROE recommended by Dr. Woolridge, the 54 percent equity ratio recommended by Dr. Woolridge, the amortization of $1.25 billion of depreciation reserve excess over four years as recommended by Mr. Pous, and the other adjustments that resulted in a reduction in base rates of about $350 million, is that right?

A I think that is right.

Q Okay. Now, with respect to his schedule, you say you disagree and you cite about three bases on which you disagree with the metrics shown here. And looking at line 14, you say, "Mr. Lawton attempts to compare pre-tax ratio calculations with after-tax indicative ratios provided by S&P." Do you see that statement?

A Mr. McGlothlin, I was looking at the schedule and I lost the page in my rebuttal.

Q You're at page 30 of your rebuttal, line 14.

A Okay.

Q You say, "Mr. Lawton attempts to compare pre-tax ratio calculations with after-tax indicative ratios provided by S&P." Do you see that statement?

A Yes, I do.

Q Now, if you'll look at the far column under the caption "Description."

A Under --

Q On the left-hand column --

A -- "Description"?

Q Yes.

A Yes.

Q At line 17, Mr. Lawton has a caption called "Pre-tax Metrics." Do you see that?

A Yes.

Q But isn't it true that he also has at line 23 "After-tax Metrics"?

A Yes.

Q Now, your point in your testimony is that the S&P indicative ratios are based upon after-tax ratios, correct?

A Yes.

Q And would you agree that Mr. Lawton has presented both pre-tax and after-tax ratios?

A I would agree that he has. I'm not going to agree at this point that the after-tax ones are accurate, but yes.

Q Well, understanding that you may disagree, what does he show to be the interest coverage ratios for the after-tax basis?

A You're asking what the "Adjusted Per OPC" column says, is that what you're asking?

Q Yes, on an after-tax basis.

A All right. So the interest coverage ratios -- he shows a ratio of 4.3. Is that the number that you wanted me to read?

Q Yes.

A Okay.

Q Now, that interest coverage ratio, because this takes into effect the recommendation that $1.25 billion of depreciation reserve excess be amortized over four years, this resulting coverage ratio would take into account any impact of that recommendation on the company's cash flow, would it not?

A Yes, it does. What I'm -- what I recall, Mr. McGlothlin, from the schedule, is that the schedule did not take into account the approximately $700 million in equity distribution that would be required and therefore increase in debt by about $700 million that would be required by the adjustments that were proposed, and so I would agree that your number is 4.3. My comment about not agreeing to its accuracy is meant to say that if you would include that 700 -- additional $700 million of debt, that $700 million of debt obviously would have a significant amount of interest. In this calculation and in your other calculations, you would get different numbers.

Q Well, you've anticipated my next question, because let's move to the next item in your rebuttal testimony, and your statement at line 16 is that, "Mr. Lawton ignores the fact that Dr. Woolridge's recommended capital structure assumes that FPL will dividend approximately $700 million to FPL Group and issue a like amount of debt."

Now, would -- you would agree with me, would you not, that Dr. Woolridge said nothing in his testimony about a $700 million item that would result from his recommended capital structure?

A No, Dr. Woolridge did not specifically say that there needed to be a $700 million distribution. What Dr. Woolridge indicated was the capital structure that would be appropriate to him. In order to get to that capital structure, you would have to dividend $700 million of equity and increase debt by 700 million.

Q Isn't it true that Dr. Woolridge applied the actual equity ratio in his development of the capital structure?

A I think yes and no. It is true that he took our actual numbers from D-2, beginning of the year and end of the year, and divided by two. That's not what we do for regulatory purposes. We take 13-month averages, and if I remember correctly, during Dr. Woolridge's cross-examination we showed that his numbers essentially would equal our numbers if there was a 13-month average and if the required regulatory adjustments were made to debt.

So it's yes and no, but to get to his capital structure, which I'm having trouble remembering whether that was 50 or 52 percent, it would require us, based on what we're proposing, to reduce equity by $700 million.

Q Well, let's talk further about that.

I think one point in your testimony to which you referred a moment ago was that the company uses a 13-month average in developing its capital structure, whereas Dr. Woolridge used beginning and ending points, correct?

A Yes. And if I may, the reason we use a 13-

month average structure is because that's what we report to the Commission on a monthly basis for surveillance report purposes. We don't use just two-point averages. Two-point averages can be somewhat misleading, especially in a case where a company is growing. So that's why we use 13 months.

Q The difference between the calculation that results from a 13-month average on the one hand and the two-point calculation is not the consideration that leads you to contend that his capital structure would result in a $700 million dividend, correct?

A Well, that's actually part of it, yes. I'm -- let me rewind that.

What I just explained about the 13-month and the two-point is a -- that's how we reconcile what we have and what we've shown as our capital structure with what Dr. Woolridge has, and I've got an exhibit that walks through and does that. So you essentially get very similar, very similar numbers. What results in the $700 million adjustment is, in order for us to get to the equity ratio that Dr. Woolridge proposes, we would have to dividend approximately $700 million in equity to reduce our equity ratio, but since our assets, invested assets stay the same, we'd have to raise the same amount of debt. Is that --

Q Are you assuming in your answer the fact that FPL incorporates the imputed debt component of his capital structure, whereas Dr. Woolridge does not?

A No, I don't think that has anything to do with the imputed debt in our capital structure. Recall that, whether you have -- I don't like calling it imputed debt. I'm using your word, so -- but if you -- whether you have imputed debt or you don't have imputed debt, the amount of equity is the same; the amount of equity in our business is the same. All the imputed debt does is lower the -- starting at 55 percent, going up to 29 percent, it reduces the 59 percent to the 55 percent. The amount of equity is the same. To get to his amount of equity, we have to dividend equity out and we have to raise debt.

Q Would you agree with me that whatever capital structure the Commission employs for ratemaking purposes, including the quantification of revenue requirements, any discussion on the part of the company to adjust the amount of equity in its capital structure would be a decision it would make? It would be discretionary on the part of FPL whether to, in your words, dividend to FPL Group or not?

A I think I understand your question but it's maybe too simple, so if I don't answer it, you know, I apologize.

I assume you're not suggesting that if the Commission indicates that our equity ratio shouldn't be 55.8 percent, then it should be, let's say, 54.8 percent, that we would keep 55.8 percent in the business. I mean, we're only going to keep the amount of equity in the business that the Commission believes is appropriate for us to maintain our strong financial position.

Unfortunately, investors don't give us equity for free. So I think that was your question. Whatever the equity ratio is is the equity ratio we are going to employ in the business. We're not going to employ more equity than that in the business.

Q I want to move to your next item. At line 20, you say, "Mr. Lawton fails to recognize that when S&P imputes debt associated with purchase power obligations to FPL's capital structure, they also impute interest expense for purposes of calculating adjusted ratios." And you quantify $56 million in additional interest.

First of all, it's true, is it not, that S&P acknowledges and distinguishes those jurisdictions that enable utilities to recover payments made pursuant to PPAs through a cost recovery clause as opposed to those jurisdictions that do not?

A Yes.

Q And Florida has such a cost recovery mechanism through which FPL recovers its payments to generators who -- with whom it has entered PPAs, power purchase agreements?

A Yes, that's -- and that's why I -- that's one of the reasons S&P has different ratios, depending on the recovery.

Q Now, with respect to your contention that Mr. Lawton has omitted an interest consideration, first of all, you do recognize that in his metrics Mr. Lawton did acknowledge the S&P methodology of imputing some debt associated with PPAs?

A I'm not sure. Can I just check something?

Q Go ahead.

A The answer is I don't know. I just wanted to check something very quickly, and the reason that it's "I don't know" is, if you look at Mr. Lawton's exhibit that you've provided and you look at line 15, which is debt, it shows 5.377787. That's the jurisdictionally adjusted debt that shows up in D-1-A, 12/31/10. I don't know why that would be the starting point for, really for anything. That $5.3 billion includes a number of adjustments for items that are not recovered in -- are not part of this rate case.

In D-1-A we take a whole bunch of *pro rata* adjustments out for debt that's not related to anything in this rate case and assets that are not in this rate case. So I don't know the answer to your -- your question was, do you understand that Mr. Lawton makes an adjustment for some of the PPA debt? I think that was your question.

Q That's the question.

A Yes. And my answer is I don't know, because I can't agree with his starting point of 5.3. To me the starting point is, you know, much closer to the $7 billion.

Q Okay. I thought the fact that you recognized he had made some portion of the S&P methodology was implicit in the fact that the only criticism you make in that regard is that he didn't include the interest, but if your answer is I don't know, we'll to go to the next subject.

A Yeah. That is what I said in here, that, you know, he didn't make -- in here, in my rebuttal testimony, he didn't make the full adjustment. As I'm looking at these schedules now, I'm just looking at that 5.3 billion. It didn't register with me. So that's why I just went back and now I can't -- I would agree it seems like he did, but I think he may have started --

it's my impression he started at the wrong starting point.

Q In any event, your testimony is that he should have included interest on purchase power obligations, correct?

A Yes.

Q Now, isn't it true that with respect to Florida's cost recovery clause through which FPL collects payments made to parties to power purchase agreements, FPL projects the payments it's going to make and then collects those payments on a current basis?

A I believe that's correct.

Q Now, would you agree with me that if a payment is being collected simultaneously in real time with the time in which it is incurred, it would be inappropriate to apply interest to that payment?

A Theoretically, yes, if we're talking about this adjustment for this off-balance-sheet debt. That's not what this discussion is about. This discussion's about whether investors are looking at off-balance-sheet obligations, and in looking at those off-balance-sheet obligations, whether they in fact take some of those obligations and bring it back onto the balance sheet to determine the appropriate equity ratio. If they do that, it's an obligation of the entity, they are going to impute some interest on that obligation, but there is no --

Q Are you saying --

A Go ahead.

Q All right. Have you finished?

A Yes.

Q Are you saying that neither rating agencies nor investors will take into account the nature of the cost recovery mechanism pursuant to which there is no timing difference between the incurrence of the costs and the collections costs?

A No, I think they do. They obviously do. The adjustment factor for Florida Power & Light Company, the present value of the obligations is at 25 percent, so there's -- at least on the S&P methodology, there obviously is a lot of recognition that it shouldn't be the entire amount that's off-balance-sheet, it should be a reduced amount. And I understand that other investors do it different ways, they don't necessarily follow the same methodology.

My only point is that if someone is going to take an off-balance-sheet obligation and they're going to include it on the balance sheet, there's no free credit, and so they are going to impute a cost to that liability. It just so happens that S&P does it this way. Others may do it another way, but there is a cost to that credit that you have on the balance sheet.

Q Would you agree with me that interest represents the time value of money?

A Yes.

Q If I borrow $10 from you and pay it back immediately, is there any interest owed?

A No.

Q And would you agree that, based upon the questions and answers earlier today, that some rating agencies do not regard these PPA payments as -- do not remember them as liabilities but rather as a current operating expense?

A Yes. I think we talked about, at least for our specific company, because it's certainly not as clear for Fitch and for Moody's specifically what they do for others, and for Moody's it's not specifically clear what they do for us. But at least in the document that I was reading earlier provided to me by Mr. Mendiola, Fitch does indicate that they do not impute any of this power purchase agreement debt on our books.

Q When FPL files its financial statements with the SEC, would those imputed debt calculations appear on its 10-K?

A I'm -- are you saying the adjustments that we go through in our regulatory capital structure? Is that what you're referring to?

Q Specifically those related to the power purchase obligations.

A Well, all of the power purchase obligations appear in our financial statements. Is that your question?

Q No. Do the calculations of imputed debt appear in the financial statements that FPL files with the SEC?

A No. No, the calculations of -- this 25 percent of the present value of the cash flow calculation that S&P does, or maybe a similar calculation that other investors do, do not, and no other regulatory adjustments that we make here in this jurisdiction appear in our financial statements, either.

MR. McGLOTHLIN: That's all.

CHAIRMAN CARTER: Thank you, Mr. McGlothlin.

Ms. Bradley?

MS. BRADLEY: Thank you.

CROSS EXAMINATION

BY MS. BRADLEY:

Q I think I'll have some easier questions for you.

Do you still have your flight logs?

A No. I'm sure I can -- can I have the flight logs? That's my favorite thing to talk about, so --

Q I'm glad I asked you about them.

CHAIRMAN CARTER: Do you want the big stack or the one in the red folder?

MS. BRADLEY: He probably can do it without the red folder, but as long as he has one.

THE WITNESS: I have the red folder.

MS. BRADLEY: That's not going to cut it, I don't think.

CHAIRMAN CARTER: Mr. Butler, can you get him the big stack? Hang on a sec. Misery loves company. I've got my big stack, so he's going to have to have his, too.

BY MS. BRADLEY:

Q I'm looking at 160670 and I think you had some questions about that yesterday.

A One six --

Q Zero six seven zero.

A Yes.

Q And that looks like a trip that some of your top executives made with their wives to Louisville?

A Yes.

Q Looking at those dates, isn't that the date of the Kentucky Derby?

A I don't know.

Q Okay.

MS. BRADLEY: Well, guys, if you'll bear with me a minute?

CHAIRMAN CARTER: No problem. Take your time.

BY MS. BRADLEY:

Q The red stack is right under the big stack's information. Actually I can give you the line number first and then I'll find it.

I noticed on that particular one, though, that, you know, you've got two wives going. Do you ever charge the employee? Do they have to pay for those guests?

A Yes.

Q Okay. And how do you --

A Unless there's a business-related purpose for it, yes, we charge for guests.

Q Okay. And do you just charge for the -- I mean, it looks like there are a number -- well, I'll get to that in a minute.

Let me let you look at the 161376.

A Yes.

Q That looks like about seven employees went up to Green Bay, Wisconsin, the middle of January of '08. And you see the purpose given?

A No, I don't.

Q Oh, I'm sorry. That may have been redacted.

A Yes.

Q Do you have someone -- I mean, for people from Florida going to Green Bay in the middle of January, you kind of wonder if there was a football game going on. Do you have somebody in your office that goes through and looks for things like this to see if this is really a necessary trip, or is it a, you know, something that maybe was personally motivated?

A Yeah, I can't -- I don't -- I don't know what they were doing.

Q Well, do you have someone in your office that looks for that kind of thing or questions it before time?

A We do, a lot more just probably after early 2008 than maybe before, but I hate to speculate what the trip was about. I wasn't with the company yet. I don't remember what these folks may have been doing.

Q I just wanted to know if you have somebody that looks for that kind of thing --

A Yes.

Q -- and asks questions about what's going on and if it's really necessary.

A Yes.

Q Okay. And you said since early '08?

A Yeah, since early '08 we've -- you know, I think we've gotten better processes in place for trips, even though, you know, in this case in particular none of these expenses would have been charged to -- none of these expenses would have been charged to Florida Power & Light.

Q Well, initially they were charged to the Group, though?

ACTING CHAIRMAN EDGAR: Mr. Pimentel, are you saying that there are better processes in place since you started with the company?

THE WITNESS: I'd love to say, Commissioner Edgar, that --

ACTING CHAIRMAN EDGAR: I thought that's what I heard.

THE WITNESS: I'd love to say -- I heard something about babies and diapers yesterday, and that's really got me thinking, not about -- my wife is listening -- not about -- please -- about babies, and my attorney is shaking his head. No, it -- I believe we do have a better process, at least I've seen a better process in place as we go through these documents. I think it's just a general evolution. The company's getting bigger and some of these assets are being used more than before, and so that's my belief, that it's certainly a better process now than what it was.

BY MS. BRADLEY:

Q Well, my next question was going to be what caused that change, and have you answered that?

A Yes, I think it has. I think it's just, as the assets are used more, we're always trying to improve on what we do and how we do it. So that's my impression.

Q Let me get you to look at 161491 and 161497.

A Okay.

Q Looking at those, you've got two different documents here but it looks like the same trip, the same day, is that correct?

A Yes, it does.

Q Do you have any process in place to make sure that something like this doesn't get double-billed?

A Yes, but we probably don't have a process in place to make sure that it doesn't get double-printed.

Q As long as it doesn't get double-billed.

Now, this was for a press event?

A Yes.

Q And yet it looks like it was all charged to Florida Power & Light. Do you think it's appropriate to charge the customers for your press event?

A Without knowing more about what this specific trip was about, I can't -- I can't answer that question.

Q Is there anyone left on the list that would have a better understanding of that?

A Well, now that you've asked the question, we will make sure that we answer the question. I think Commissioner Skop also brought this one up yesterday.

Q He mentioned some of the people that were attending that, and I just wondered if --

A Maybe not this specific one, so we will add it to our list.

Q Okay, thank you.

Let me let you look at 161501 and 161527.

A Yes.

Q Now, the 161527 says "Personal," but the 161501 doesn't have any reason given for the trip, and it looks like a number of them were timeshare, under the activity charged, and the rest were charged to Group.

How would a person reviewing this know for sure what was going on there?

A I'm trying to see if I can figure out the activity by looking at the passengers, but I cannot. So we'll write this one down and make sure that we can get back to you as to what the reason for the trip was.

Q All right. In looking at these two, there's a number of other ones where it's indicated as personal and it looks like some of the higher executives particularly traveling with wives and children and this type of thing. Is some charge made for wear and tear on the plane? I'm sorry. I can't see you, either.

A Yes. And the way that happens is the, you know, ultimate residual value of the plane has wear and tear in it, and so the difference between the purchase and the ultimate residual value, so the fixed costs, if you will, the -- includes the fixed cost that we have to charge out is charged out based on the usage of the plane. So at this point through 2008 and in our test year, 2010, it's essentially 50-50, 50 percent to Florida Power & Light Company, 50 percent outside Florida Power & Light Company.

Q Now, when you say outside, would that -- I mean, you've got all these guests going and this type thing. Do they actually get charged a price that would cover wear and tear?

A Unless -- but if they don't, right, we charge -- it's approximately three or four times the first-class rate, standard industry fare L. I can't remember what the L stands for at this point right now. If that does not cover the actual costs of the flight, the fixed costs and the variable costs of the flight, those additional charges get charged to our non-regulated subsidiary. They don't get charged to Florida Power & Light Company.

Q Is it the policy to -- well, let me give you the numbers and then I'll ask you about that. It's 1614, and if I'm reading my writing correctly, it's 38, and 161471 is the other one.

A 438 and 471?

Q Yes.

A Okay, yes, I have them.

Q Now, you were previously asked some questions about that. The 161438, again, doesn't have a reason given. Is that pursuant to company policy? I mean, how does that happen?

A It doesn't get filled out correctly. The company policy is to include the reason for the trip.

Q And it also doesn't have any activity charge for other than the head guy there.

A Yes, and so we would have had to go back and determine after this process to figure out where the activity -- where these costs should have been charged, and these are clearly costs that should have been charged outside of Florida Power & Light Company, in other words, below the line.

Q Who's responsible for doing that?

A Which part?

Q For reviewing this type thing and making sure there's a legitimate reason and that they get charged properly.

A Yeah. Reviewing as to whether there's a legitimate reason to take the aircraft is really the subject of -- I believe it's five or six executive officers that have to sign off on when the aircraft is used beforehand, before it actually gets used, and has to sign off -- I'm explaining the process now.

Determining whether the appropriate company activity charged is after -- as I indicated yesterday, these records are our primary source document for accounting, and we hope that through the process -- not we hope, we have a process that, as these documents are used for the accounting records, that the appropriate questions are asked to determine whether in fact what's being charged on here -- I'm sorry, what's being shown on here is the appropriate charges. That's the process I feel more comfortable -- it can always be -- there can always be mistakes, and I'm sure there are mistakes, but I feel more comfortable with that process in 2008.

Q And you mentioned there were four or five executives that this has to go through?

A No, not that it has to go through.

Q I'm sorry.

A If I said four or five, I misspoke. I think it's five or six executives that have the ability to approve the use of our aircraft.

Q And who are those five or six?

A I thought you'd ask me that.

Q I'm glad you're ready.

A Let's see if I can come up with them. Let's start with the easy one, myself; Mr. Hay, who is our Chairman and CEO; Mr. Robo, who is your President and COO; Armando Olivera, who is President and CEO of Florida Power & Light Company; Chris Bennett, who has testified in front of the Commission before. I may be missing someone, but I think those are the people.

Q Luckily, today, as tired as we are, you can probably get by with that if you did miss anybody.

I am presuming, and you can correct me, that if Mr. Hay or Mr. Olivera or Mr. Robo wants to use the plane, they don't really have to get too much approval. Would that be correct?

A All -- I would expect them, that if it was a trip that was not totally for business purposes, that there's probably a discussion with one of the rest of us about the trip. There's lot of logs on here and -- but my expectation wouldn't be that if anyone believed that they were taking a trip that wasn't total business purpose, that they on their own would just call our pilots and have the plane ready. There's not a lot of personal -- what I'll call non-business usage in our flight logs as -- I think I remember the number of flight hours, about 14 hours or so in 2008, and even when you add the Board meetings, the travel for the Board meetings that our three executives have, it was maybe another 74 hours. So it's a manageable amount of time.

Q When the pilots fly one of the executives' families on a trip, do they fly them out and come back and wait to go pick them up, or how does that work? Or do they stay with them and --

A It depends. If the -- if the plane isn't needed for something else the next day or that same day, the plane and the crew might actually stay with our executive to fly them back, or in fact they could drop whoever is on the plane -- it has nothing to do with executives, really. They could drop them off and get right back on the airplane and go pick somebody else up and go deal with them.

Q And you have set policies to determine that, or is it more somebody makes the decision based upon their best judgment?

A I would say it's probably more of the latter, but I may be wrong on that. We may actually have a policy. I don't -- that would be a good question for Mr. Bennett if he was here.

Q Okay, I hear you.

Let me get you to look at 161388.

A Yes.

Q I'm still looking for mine, but let me go ahead and ask you a couple of questions about -- the pilots for these flights, are they employees, or how is that arranged?

A Yes, they are employees.

Q Do they get paid any overtime or is that a set, salaried thing?

A I don't know the answer to that.

Q Okay. Let me give you several numbers and -- 161801, 161829, 161695 --

A I'm sorry. Could you just --

Q Okay. 161 -- these are all 161s, so I'll just give you the last numbers. 801, 829 and 695.

A Okay.

Q It looks like those are all for attorneys and other employees coming up for various PSC type meetings, hearings, that type of thing, correct?

A Yes.

Q So I guess my question to you is, does anybody in your company drive or do they always take the plane every time they do go?

A No, we have plenty of people that -- we have plenty of people that drive and we have plenty of people that take commercial aircraft. I don't know the specifics of these that I'm looking at right now, but I can tell you we've got a few people up here right now, we had a few people up here a couple of weeks ago, and I would say that 99 percent of them either flew commercial or drove.

Q Is there someone at your company that looks at what is the best cost as far as, should we let these people take the plane, should we let these people fly commercial, should we ask them to drive?

A In order for the plane to be used, it's got to be approved by the five, potentially six people, and one of the things that that person does is try to determine whether it's an appropriate use of our airplane, no matter who it is that gets charged. Whether it's FPL Group or NextEra Energy Resources or so on, cost is part of the equation, schedule is part of the equation, and so on. So yes, it is something that we do take into account.

Q I know in our office we have to fill out a form if we're going to take a hybrid car justifying the cost and everything. Do your people have to fill out some type of form justifying how much it would cost if they drove versus how much if they took a commercial flight versus, you know, the company airplane?

A Not that I am aware of. That -- unfortunately Mr. Bennett's not here. That would be a good question for him, but not that I am aware of.

Q All right. I've got a bunch of numbers and I can give them to you, or if you're familiar enough with them, they're numbers where people from NextEra have taken the plane, and it looks like a number of times for various purposes, but is the same true for them, that if they take the plane, they've also got to pay an amount that's equal to the wear and tear?

A Yeah. Again, the -- it's fixed -- there's fixed costs and there's the variable costs, and the fixed costs ultimately do include the wear and tear on the plane because the residual value on the plane, if there's more wear and tear, is less, and so that goes into the calculation. And approximately half, 50 percent of the fixed cost gets charged to NextEra and 50 percent gets charged to Florida Power & Light.

Did that answer your question?

Q Well, it may, but let me ask you a question to make sure. So even though NextEra is taking the plane and using it for their business purposes, Florida Power & Light customers may also have to pay part of that?

A No. I hope that's not what I said.

Q All right, then I misunderstood your answer.

A No. The only thing that Florida Power & Light gets charged for is the business use of the aircraft for Florida Power & Light purposes, that's it, fixed costs and variable costs determined only for business use of Florida Power & Light. Everything else, or whatever else we see on these logs that's not business use of Florida Power & Light Company, should be charged outside of Florida Power & Light Company.

Q Well, what were you referring to when you said something about NextEra would be charged 50 percent and Florida Power & Light would be charged 50 percent?

A The fixed costs. So there are fixed costs to running aircraft and there variable costs, so the fixed costs of running aircraft. The plane is a fixed cost, right? The cost of the plane is a fixed cost. Whether you fly the plane a lot or fly the plane a little bit, it doesn't change the purchase price of the plane. But then there are variable costs to flying the plane. A variable cost, a pretty easy example is the fuel of the plane, right? And all I'm saying is that based on the usage pattern that we have seen, 50 percent of the fixed costs and 50 percent of the variable costs get charged to Florida Power & Light Company because that is the usage, the business usage that we've seen, and 50 percent gets charged outside of Florida Power & Light.

Q So are you referring to overall 50 percent or you're not talking about per trip?

A Overall.

Q Okay, let me get you to look at 161895.

A Okay.

Q Now, looking at the reason for the trip, I don't think this was in one of the confidential documents. Am I reading that right? What is the purpose of this trip? Is that "funeral"?

A I guess it could be.

Q Well, while it may be a good purpose, if it is, is there any reason that that should have been charged to Florida Power & Light customers?

A I was hoping that it would come to me what the purpose of the trip is, but it isn't. I can't answer the -- I can't answer the question. I don't know.

Q If it is funeral, that shouldn't have been charged to Florida Power & Light customers, should it?

A No.

Q Is that another one you can check on?

A Yes. I'm sure someone's written it down for me.

Q Okay, that's the end of my question on the flight logs. I hate to disappoint you.

A That's good.

Q But I do have a few others.

A Okay.

Q Now, did you attend any of the public service hearings?

A I did not.

Q Did you have any briefings or read any transcripts or anything?

A I did. I would get a daily summary of what happened in each one of the hearings.

Q Now, you make the comment in your -- I think it was your prefiled testimony on your direct. I don't know that you need to look at it, but it's page 23, line 3, but you were talking about we have experienced a slowdown, I believe you called it, in customer growth. Do you remember that?

A Yes.

Q Would it be important to increase your customer -- maybe I should say your customer base or your number of customers?

A Yes. I think it would be, you know, much more important for the state than for us. It would be certainly a nice thing for us, too, but -- and it would be a very nice thing for the state if we could increase the number of customers that we all have.

Q And those summaries that you reviewed, do they include the number of people, especially elderly people, that testified that they were at a point where they can't afford any more of an electrical increase on their rates?

A I remember reading some of those, yes.

Q And you remember some of the ones that said if this rate increase went through, that they were probably going to have leave the state to either move someplace where the rates were lower, or some of them were saying they would have to give up their independence and move in with families in other states?

A I don't recall those comments specifically, but I do recall a number of citizens, customers, essentially saying that they were having a difficult time in this economy.

Q Have you made any adjustments to your forecast and your -- how you plan to handle that since reviewing those summaries?

A In terms of -- I'm sorry. In terms of --

Q You said you reviewed these summaries that said people couldn't afford, and you didn't remember them saying that they probably would have to leave the state. But have you made any adjustments to your forecasts or your plans for the future of the company based upon that?

A Do you mean in terms of customer growth?

Q As far as your budgeting and your financial plans.

A Not that I recall specifically as a result of the service hearings, and again, I'm just -- I'm focused on one thing, but as a -- we used the University of Florida demographic information to project the number of -- or the population of Florida, the increase in the population of Florida. That population forecast or that demographic information, if I remember correctly, I think I do, decreased three times last year as opposed to I think they used to just update it on an annual basis, and so that information, which shows no growth in residents this year and very little next year, is what is in our forecast.

Q Well, have you made any -- have you looked at making any changes, though, that would keep those people from -- let me try starting over again. We're all tired.

Have you made any adjustments to your rate request or looked at making any adjustments to your rate request based upon the number of people that have indicated that they can't afford it here anymore if you increase your rates?

A Okay. I'm sorry. I think I do understand your question now.

Q Okay, good.

A No. No, we have not made any changes to our request. We believe our request is reasonable. You know, we're darned happy and excited about the fact that on average, if you live in our service territory, you're already saving about $340 a year compared to the average customer bill. So we're -- you know, we're pretty proud of that fact. We've got to make sure that for the rest of the customers that we have in our service area that we can continue to maintain what we believe is a pretty efficient system and a pretty effective system, and that means that we need to continue to build generation, the generation that this staff and Commission has supported in the past.

So as a specific result of the service hearings, I don't say that -- I can't say that we've made any specific adjustments, but I can say that as a result of the economic slowdown in Florida, which was one of the ways it was captured was the University of

Florida demographic information, that that's certainly reduced the amount of load growth that we would expect in 2009, which we're seeing in 2010 and 2011.

Q But your testimony is that you have not made any adjustments or looked at making any adjustments as a result of the customer service hearings?

A I think that's accurate, yes.

Q Okay. I forgot to ask you, how did get to Tallahassee for the hearing?

A Airplane, the company airplane.

CHAIRMAN CARTER: He probably approved his own travel. He is one of the five.

MS. BRADLEY: He is one of the five.

THE WITNESS: But I did not approve my own travel, just to be clear, and I was not the only one on the airplane.

CHAIRMAN CARTER: Just kidding.

BY MS. BRADLEY:

Q You are one of the people that -- whose salary or compensation package is listed in the proxy that's filed with the SEC?

A I'm one of the lucky five, yes.

Q I guess you can anticipate my next question. What was your compensation package for, let's go back to 2008.

A 2008, I believe the proxy information that we filed in March probably shows a total compensation of approximately $1.7 million.

Q And did it increase for 2009?

A We'll see. The base portion of -- the salary portion of my compensation did increase from approximately 525,000 to approximately 556,000. The rest of the -- excuse me. The rest of the compensation will -- incentive compensation and so on, we'll have to wait and see.

CHAIRMAN CARTER: Ms. Bradley, before you begin, let my kind of give you guys a heads-up. We'll be going with external court reporters, so at 5:00 we're going to take a break so we can change out on court reporters, okay?

MS. BRADLEY: I will try to be through before then.

CHAIRMAN CARTER: Okay.

MS. BRADLEY: Nothing dealing with the court reporters, but just I was hoping to be through before then.

CHAIRMAN CARTER: Yes, ma'am. You may proceed.

MS. BRADLEY: Thank you.

/ / / / /

BY MS. BRADLEY:

Q We had an exhibit, and I don't know whether you've seen it, but it lists your total compensation for 2009 as $2,048,323. Do you think there's an error in that?

A I don't know whether there is error in it. I'm assuming -- not I'm assuming. There must be some estimates as to the amount of the incentive compensation that I would receive at the end of the year, and that would have to include the fair value of the equity grants that were granted to me in February of 2009.

MS. BRADLEY: Mr. Chairman --

CHAIRMAN CARTER: Yes, ma'am.

MS. BRADLEY: -- I believe that FPL's attorneys have indicated that it's okay to show him this confidential document which shows 2008 through 2011, I believe -- and I'm sure they'll correct me if I'm wrong -- to have him look at his salary.

CHAIRMAN CARTER: Mr. Butler?

MR. BUTLER: That's okay. One thing that I would add is that -- or caution is that it remains confidential information. I'm not sure where the figure that Ms. Bradley mentioned a moment ago came from, but I just want to be sure that we're not revealing the information in a public way that's in the lines shown in the confidential document.

CHAIRMAN CARTER: Ms. Bradley?

MS. BRADLEY: Mr. Chairman, it was my understanding that he was one of the ones that this information has been provided to the SEC and is public record.

CHAIRMAN CARTER: On the 10-K.

Mr. Anderson, you're recognized.

MR. ANDERSON: Thank you. Just to be very clear, as I told counsel, Mr. Pimentel is one of the proxy officers whose information is public, and that's the public information which Mr. Pimentel referred to. In addition, we're okay with her showing him his line item, but that information remains confidential information.

You know, the projection type information of an individual like that is private information. It's not been disclosed and would not be disclosed for some years hence, and we're making a clear distinction between the 10-K, which is public information, and --

MS. BRADLEY: Well, I need some assistance, then. Are they saying 2008 and 2009 is public record, but 2010 and 2011 is not?

CHAIRMAN CARTER: Okay, guys, let's take a break. Let's take a break, because I thought we had this cleared up, but let's take a break and get with Ms. Bradley and let her know which ones that we need to deal with.

We're on recess.

(Brief recess at 4:50 p.m.)

(The transcript continues in sequence with Volume 39.)

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 22nd day of September, 2009, at Tallahassee, Leon County, Florida.

RAY D. CONVERY