BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES BY FLORIDA POWER & LIGHT COMPANY.	DOCKET NO. 080677-EI
2009 DEPRECIATION AND DISMANTLEMENT STUDY BY FLORIDA POWER & LIGHT COMPANY.	DOCKET NO. 090130-EI

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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 9:30 a.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR (850) 413-6732
PARTICIPATING:	(As heretofore noted.)

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P R O C E E D I N G S

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CONTINUED CROSS EXAMINATION

BY MR. MOYLE:

Q. Did you suggest that a 30 -- I mean, a 60 or 70 percent increase would possibly be a rate cliff when you answered Commissioner Skop's question?

A. I'm not sure that I suggested it. I did mention what I recall was the case either in Maryland or Pennsylvania, where there was a very large amount, I believe it was around 60 percent, and I did indicate that it had nothing to do with a theoretical depreciation credit. It actually had to do with the transition to market rates and that investors were having a very difficult time during the preceding years before that happened as to what would actually get passed through to customers.

Q. You would agree that a 60 percent rate increase is a significant rate increase, correct?

A. I would, but I wasn't referring to my belief. I was making a comment about investors and the situation that they had seen in other states.

Q. Are you aware how much of a percentage increase, if FPL's proposed rates are approved and rate design is approved, will be experienced by industrial customers?

A. I am not.

Q. A final couple of questions, if I can. I want to refer you to some of the handouts that counsel for South Florida used with you, and this is discussing the creditworthiness and financial aspects of the company. If you would first look at, it's 507, the S&P ratings direct, 2/12/09. Tell me when you have it.

A. Yes.

Q. The first paragraph, the last sentence, and I'll read it into the record. "Detracting from credit quality are the company's increasing exposure to wholesale energy activities, its willingness to expand through acquisitions and increase its risk profile, the fluctuating cash flows from FPL Energy Inc.'s portfolio of merchant generation, and the utility's significant exposure to natural gas." Do you see that?

A. Yes, I do.

Q. You would agree with me, would you not, that the wholesale energy activities referenced in here are energy activities that are being conducted by NextEra?

A. Yes.

Q. And with respect to expansion through acquisitions and increase in risk profile, you would also agree that that is related to NextEra?

A. No, that's not necessarily relating to NextEra. It certainly could be NextEra, it could be FPL Group, it could be a transaction that Florida Power & Light would enter into, but it's likely all three of those.

Q. Well. Let's just take it step-by-step. Expand through acquisitions. FP&L doesn't presently have plans to expand through acquisitions in the state of Florida, does it?

A. None of the FPL Group companies have any plans to expand through acquisition at this point.

Q. Say that again.

A. None of the FPL Group companies have a plan to expand through acquisitions at this point. This is talking about corporate -- my interpretation is that this is talking about corporate acquisitions, and we don't plan for corporate acquisitions.

Q. Do you have plans to expand at NextEra?

A. Yes. We have plans to expand in all of our companies, including NextEra, yes.

Q. So I guess the rating agencies got this wrong with respect to expansion through acquisitions, because there are no plans to acquire; is that right?

A. I'm not saying they got it wrong. What it looks like to me is that one of their concerns is a willingness or its willingness to expand through acquisitions.

Q. You said on Document 504, your FPL investor presentation, on Page 37, 113004, under Key Assumptions, do you have that?

A. 11 --

Q. 3004.

A. Yes.

Q. Now, one of the key assumptions is, I quote, "Continued expansion of NextEra energy resources non-wind activities."

A. That's correct. And two bullets up from the bottom it says "no acquisitions."

Q. The expansion plans of FPL, the regulated utility, they're driven by customer growth as we've talked about in this proceeding, correct?

A. They're driven by customer growth, but they're also driven by our desire to make our fleet much for efficient than it is today, and therefore save customers money. The last bullet point that you'll notice on that list is Continued Constructive Regulatory Framework in Florida.

Q. And the next reason set forth in this rationale is Fluctuating Cash Flows from FPL Energy

Inc.'s Portfolio of Merchant Generation. That's a NextEra issue, is it not? Do you see that?

A. I don't see it, because I already put it away. Fluctuating Cash Flows from FPL Energy Inc.'s Portfolio of Merchant Generation. Yes. Is that what you read? I'm sorry.

Q. Yes, sir.

A. Yes. Can we read the rest?

Q. I just want to ask, that parenthetical there, that's NextEra that's being referenced there, correct?

A. Mr. Moyle, I don't see a parenthetical.

Q. I'm sorry.

A. It says cash flows from FPL Energy. These are the things detracting from credit quality. Is that where you're at?

Q. Yes, sir. It's set forth by commas. I said parenthetical. My bad. The Fluctuating Cash Flows from FPL Energy Inc.'s Portfolio of Merchant Generation. Is it your understanding that the rating agencies are talking about a risk associated with NextEra or FPL in that phrase?

A. NextEra in that phrase and FPL in the next one, which is any utility's significant exposure to natural gas.

Q. Okay. And you would agree also NextEra has some natural gas facilities, correct?

A. Yes, they do. The concern of the rating agencies is the availability of that gas and the exposure, the percentage of the generation associated with natural gas, which is a significant concentration at Florida Power & Light Company, but not at NextEra.

Q. And, you're aware that FPL filed its test letter for this rate case in November of 2008, correct?

A. I don't recall the date. We did file a test letter late in the year last year, yes.

Q. And if you look on the first page of this, this is dated February 12th, 2009, correct?

A. I don't -- I just said I didn't have -- I don't know the date and I don't have the letter.

Q. I'm sorry. 507, the Standard & Poor's document. What's the date of it?

A. The 2/12/09 document?

Q. Yes.

A. What's the date of it?

Q. Yes.

A. I assume it's 2/12/09.

Q. Who's buried in Grant's tomb? All right. Listen. The point is, you would agree with me, would you not, that in the first paragraph of the Standard & Poor's rationale in its summary of Florida Power & Light

Company, the things that they view as detracting from credit quality, that the rate case is not mentioned in here, correct?

A. It's not mentioned in the first paragraph, Mr. Moyle. It's mentioned in the fourth paragraph.

Q. And with respect to the things that are mentioned specifically as detracting from credit quality, the wholesale energy activities and the fluctuating cash flows are both NextEra issues, correct?

A. Yes, they are. But as I indicated again in the fourth paragraph, the financial profile of FPL in which all ratings are based is characterized by very healthy credit metrics, adequate liquidity, and management and regulatory commitment to credit quality that supports ratings. And so, this Commission, the regulatory environment that we have in Florida that investors and rating agencies have become accustomed to, is also important to the ratings that FPL gets.

Q. Okay. But I feel Mr. Mendiola's pain there. But the rate case is not mentioned in that paragraph either, is it?

A. The rate case is not mentioned, no.

Q. Are you familiar with the term "wants versus needs"? Have you ever heard people talk about what somebody wants as compared to what they need?

A. Yes. I'm very familiar with it. I have two children.

Q. And I do, as well, and that will give us some context to have this conversation. Would you agree, wouldn't you agree with me that while FPL wants 150 million in storm accrual, that it really doesn't need it, given the fact that it has 200 million in the kitty, if you will, a billion dollars on a line of credit that's available, securitization and the ability to impose a surcharge? Wouldn't you agree that that is more of a want than a need?

A. Mr. Moyle, sometimes a want can become a need or a need can become a want. So I don't know that I can say yes or no, but I think maybe it's a maybe answer. The thing that strikes me about the position that we're in is that if we were here today -- I'm going to make an assumption, you might disagree with me. But if we were here today, and what we were discussing was including in base rates an appropriate amount of an insurance premium in order to ensure our transmission and distribution system, I'm not sure that we would have spent so much time on the issue. It would have been an appropriate amount with appropriate insurance companies, and that amount would be passed on to ratepayers as an appropriate cost of doing business in Florida.

That insurance is not available to us. We've done our best job to try to determine what those annual losses would be to Florida Power & Light Company, and we've treated those in a manner that I believe is similar to the way we would have treated insurance had it been available.

Q. And I think, sir, in response to that, you would probably -- I would ask you to comment and indicate, wouldn't you agree you probably would not find intervenors raising such an issue if that insurance was procured through a competitive process in which market forces were brought to bear on the price for the insurance?

A. I believe that's true. Unfortunately, neither one of us can rely on that competitive process because it doesn't exist.

Q. And you're aware that your witness that talked about the hurricane, when asked about where he came up with the $150 million number and the line of credit, he said that was provided to him by FP&L; you're aware of that, correct?

A. No. The $150 million number was not provided to him by Florida Power & Light. That's incorrect.

Q. All right. Well, we'll just let the record speak for that. That was my recollection as to what Mr.

Harris said when asked about where he got the 150 million.

Let me ask you this question about a want versus a need. Isn't it true that while FP&L wants a 12.5 return on equity, that it needs something really that is in the 10 range, starts with 1-0?

A. No, I would not agree with that. I didn't -- I gave you your no answer.

Q. I wasn't finished with my question.

A. I thought that would make you happy.

Q. I hadn't finished with my question. And I asked you the 12.5 or something in the 10, considering the fact that on this chart all the companies on this chart with three exceptions are in the 10s, and by your own words you indicated that they are BBB rated, and given our discussion about the riskier companies need a higher return on equity, given the fact that FPL had a settlement agreement where it was satisfied with a 10 percent ROE, and given the fact that your 2008 ROE was in the 10 range, wouldn't it be correct that your 12.5 is a want, but it's not really a need, that your need is something in the 10s?

A. No.

Q. And the GBRA, that also is a want and not a need, correct? Given the fact that you can come back in and file a rate case and given the fact that if it's granted it's going to forestall, prolong, and may make any kind of ultimate true-up rate case something that would be far into the future?

A. No. I think we've talked about the GBRA quite a bit already today, and I've indicated that the reason that we're requesting the GBRA, first and foremost, is as we build generation that's been approved by this Commission in need determinations, we're trying to match the customer savings and fuel efficiency with the actual capital that we are putting into the business. That's what we're trying to do.

Q. So just so I'm clear, your answer with respect to the GBRA as a want, you say it's not a want, it's a need, correct?

A. You know, those are simple words when we're using them with our children, not simple words in this proceeding. My testimony and others' testimony indicate that the -- actually, my testimony doesn't even describe the GBRA mechanism, but that the GBRA mechanism is an appropriate mechanism for this Commission once they've spent the time in a need determination determining whether, in fact, it's something that we should be building, how we should be building it, where we should be building it, how much it should cost, what the return should be. But when, in fact, we put that plan in place, that the capital structure that supports that and the revenue requirements that support that should be recovered by us, since at the same time we're passing on very good benefits to our customers.

Q. Assuming natural gas prices stay low, correct?

A. Well, even if natural gas prices go up, right, I mean, if you buy a car that gets 40 miles a gallon and you trade one in that gets 20 miles a gallon, whether gas prices go up or not in the future, you will be paying less for gas.

Q. Let me go back to my wants versus needs question. 2011, with respect to your jet aircraft costs, I thought you said that in determining those costs you do a retrospective look at the costs; isn't that correct?

A. We looked at -- for 2010 we went and looked at 2008, we looked at how the charges were in 2008, we believed that was a reasonable assumption as to how the aircraft was used in 2008, and that's what we forecasted in our rate case.

Q. And the chart, 462, you would agree that that chart reflects that most utilities that have been in for rate cases in 2008 and 2009, I mean, there doesn't appear to be any that are showing up for a two-year test year, correct?

A. I can't answer that question based on this chart.

Q. Do you see 462?

A. Yes, I do.

Q. You don't see any, you know, any indication that any of these have two-year test years, correct?

A. What column are you looking at?

Q. Test Year End.

A. Yes, there's only one date per company, if that's -- I think that's your question.

Q. The 2010/2011 test year, that's something that you want, you would like, but you don't really need it, correct?

A. We have -- we do need it, so, yes, we do need it. I don't remember exactly how you started your question. The reason why we need it and support it in others' testimony, not my testimony, is because our forecast for 2010 shows actual, what we believe to be actual costs in -- I'm sorry, 2011. I said 2010. Which shows what the forecasted costs are for 2011. We feel comfortable with those forecasted costs in 2011, and that would show if we did not get an additional rate increase for 2011, we would be significantly underearning in 2011. We thought it would be an efficient process to get both of those done at the same time.

Q. And in all of your years of accounting, you would look at actual data to perform accounting, correct? You go audit somebody's books, you look at actual data?

A. Yes. Accountants actually have the benefit of looking at historical data and have no requirements to look, or little requirements to look at forward data.

Q. And you're aware that this Commission, or you could file a rate case based on historical data, correct?

A. I believe so.

Q. The final question I want to ask you about is on this depreciation issue that you and Commissioner Skop talked about. You used the term "estimate." Would you agree to the extent that it is possible that given these tough economic times facing Floridians, that this Commission if it's able ought to try to do whatever it can to return monies to ratepayers sooner rather than later?

A. No. However, if there is a determination by this Commission that something different than what we have proposed is the right answer, I asked yesterday for the Commission to consider the three points that I raised, and I'm not going to repeat those at this time.

MR. MOYLE: That's all I have. Thank you, Mr. Chairman.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just briefly, and I just want to extend my apologies because oftentimes I do make mistakes. It was very hard to find, but I did find SDL is Scottsdale Airport, although it shares that code with the international city. So, again, very, very hard. I had to look very hard to find that. So, again, I make mistakes. I'm man enough to admit I made a mistake, but that was a very hard code to find for the domestic airport location. So, my apologies.

CHAIRMAN CARTER: I think he would have rather been in Sweden.

Mr. Wright.

MR. WRIGHT: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. WRIGHT:

Q. Good evening, Mr. Pimentel.

A. Good evening.

Q. We've introduced ourselves to each other earlier today. I'm Schef Wright and I represent the Florida Retail Federation in this proceeding. I have four lines of questions. You'll be happy to know I don't intend to ask you about airplanes, flight logs, or depreciation.

A. Okay. Good.

Q. I do have a couple of follow-ups to a couple of questions that Mr. Moyle asked you and then a few others.

With respect to the GBRA, would you agree that if the Public Service Commission does not approve the company's request for a GBRA, the generation base rate adjustment, you have recourse, and that is to file another rate case?

A. Yes.

Q. I have a follow-up question about Exhibit 507, which is the S&P ratings direct 2/12/09 exhibit.

A. Yes.

Q. I think this is a fairly brief clarifying question, just so that I understand what this report is saying. If I could ask you to look at the second paragraph and then read what I believe are the third and fourth sentences, beginning with the phrase "business risk" and ending "with reliability and customer satisfaction are high." If you would just take a minute to read those, I want to ask you one particular question. You don't have to read them out loud.

A. It's "the business risk is anchored."

Q. Yes, sir.

A. That sentence?

Q. That one and the following one.

A. Yes.

Q. When I read this, it seems to be speaking favorably about the company's business risk. So far so good?

A. Yes.

Q. And it goes on to say, the second sentence makes some statements that seem to me to expound upon the proposition that the business risk is healthy; is that generally your understanding of this?

A. Yes. The sentence "the service territory is healthy"?

Q. Correct. Right. And my specific question just goes to this. The second clause in the second sentence says "the customer mix is mostly residential and commercial." I read that as indicating that having a customer mix predominately residential and commercial, as FPL's is, is favorable from the perspective of the company's business profile. Is that an accurate reading of that?

A. Yes.

Q. Thank you. Do you have a copy of, I'm sure you do, Exhibit 504, which is the FPL investor presentation, April 2009, handy?

A. Yes.

Q. If I could ask you to look at what is apparently FPL's Page 14 or Bates Page 112981.

A. Yes.

Q. I just have just a follow-up question about that. The estimated cost for FPL generation expansion projects shown on this page indicate $6.9 billion over, apparently over the five years ending with 2014; is that correct?

A. Yes, that is correct.

Q. Okay. My question goes to this. Other witnesses have testified, and I think you have too, that FPL has total planned investment or needs to raise -- FPL asserts that it needs to raise some $16 billion in capital over the next five years, correct?

A. Yes.

Q. We're talking about the same time period, are we not, 2010 through 2014?

A. No. I believe we're talking about, in the $16 billion number that's in -- that I've discussed in our rate case, I believe is 2009 through 2013. Is that important to your question? Because if it is --

Q. I don't think it's especially important to my question, but why don't you nail it down for us.

A. It's 2009 through 2013.

Q. Thank you. My question really goes to, well, say if we take the 1.3 billion for Riviera off the 6.9 billion shown on the page we were just discussing in the investor presentation document, that leaves about $5.6 billion for generation, correct, through 2013?

A. Yes.

Q. My question is, where's the other $10-1/2 billion? What is your expectation as to what that is to be spent on?

A. It's mostly transmission and distribution, although I also -- I know we provided the $16 billion in detail in the -- by asset in response, I believe, to a request from one of the intervenors. I have it in a different manner. Mr. Barrett has the details of the 16. I don't have it by asset.

Q. If your answer is that -- well, let me ask you this. Is any of the rest of it generation?

A. Is any of the rest of it generation?

Q. That's my question.

A. No.

Q. Is any of it early construction costs for the Turkey Point 6 and 7?

A. No.

Q. So as far as you know the rest of it's T&D and maybe some general plant?

A. Yes. It's primarily T&D. I just don't have more detail than that.

Q. That's sufficient for my understanding. Thank you.

Following up on a couple of questions that Mr. Moyle asked you about clauses. He asked you whether FPL favors clauses. I think your answer was generally yes; is that accurate?

A. I think that's what my response was, generally yes, because a clause, the reason we have a clause is because it mitigates a specific, a specific risk.

Q. Okay. Just a couple of follow-up questions. You're familiar with the environmental cost recovery statute? I'm not going to ask you detailed questions.

A. Not detailed.

Q. You know it exists?

A. Yes.

Q. Do you know whether FPL supported that legislation when it was enacted?

A. I do not know.

Q. Did FPL support the nuclear cost recovery legislation in 2006?

A. Yes.

Q. FPL took advantage of a provision in the 2008 energy bill that provided for the availability of certain funding for exactly 110 megawatts of solar projects?

A. Yes.

Q. I would bet you that FPL supported that legislation, didn't you?

A. I would think that we did, yes.

Q. Thanks. Now, I'm going to proceed on to what I claimed originally were four lines of questions. Some of these may seem redundant, if so, I apologize. I promise I'm trying to be really focused and clarify a few things.

The first line of questions I have for you regards the power purchase agreements that you talked about, and you talked about investors being concerned with long-term obligations that are included in the footnotes in the back of the financial statements; is that about right?

A. Yes.

Q. I want to ask you some about the nature of those obligations. I know I saw in one of these exhibits that FPL has power purchase agreements with the Southern Company and JEA, formerly Jacksonville Electric Authority, that are take or pay for around 1,300 megawatts. Are you familiar with those?

A. That's about right.

Q. Okay. Some specific questions. Do you know whether the PSC, the Florida Public Service Commission, approved those contracts *a priori*, as it does for QF or other IPP contracts?

A. I do not know the answer to that question.

Q. Do you know whether FPL has to pay, I do understand those are take or pay, we have nailed that down, I think. Does FPL have to pay if either the Southern Company or JEA was unable to perform?

A. I don't know the detail of the contracts and whether those contracts have capacity provisions that if the capacity isn't available a certain percent of the time then the capacity payment is not due.

Q. My understanding of take or pay means that if the putative seller, JEA or Southern in this case, is able to perform and FPL can make the decision whether to take the energy and capacity or not, but if they're able to perform you have to pay for it. That's what take or pay means generally, correct?

A. As a general rule that's correct, but there are contracts in this industry where the provisions that you just mentioned are less favorable. I just don't, I don't know.

Q. And you don't know whether these are less favorable in the way you just used that term?

A. I do not.

Q. Does FPL recover its payments to Southern and JEA through the fuel clause, or the capacity cost recovery clause, or both?

A. Yes.

Q. With respect to the imputed debt methodology, you have said that FPL's method is consistent with the Standard & Poor methodology, correct?

A. Yes.

Q. I think this is clear, but I just want to nail it down. Does Fitch impute debt for FPL in its ratings analysis?

A. No. We read something from Fitch earlier on today.

Q. Thank you. We also read something from Moody's. It appeared to me that Moody's does not impute debt for FPL. Is that your understanding?

A. No, that's not my understanding. We don't know whether, in fact -- Moody's now has provided some information to help with the clarity of its ratings, as we saw earlier. And although I haven't gotten through that entire document yet myself, it does not appear -- we don't know. We don't know whether, in fact, Moody's adds this PPA debt to our capital structure or not.

Q. Okay. You said in response to some questions, I believe, by Mr. Mendiola, that larger investors are sophisticated and that they do all of their work in-house. Do you recall making that statement?

A. Yes.

Q. In that context, I understood you to mean, when you said they do all their work in-house, that they do their analysis of FPL's long-term obligations relative to PPAs and whatever else they're looking at in-house. Was that what you meant?

A. It is, since you added "and everything else in-house."

Q. If you know, do larger investors actually review the PPAs themselves?

A. The contracts themselves?

Q. Yes.

A. I do not know that they review the contracts themselves.

Q. Do you know whether, to the extent such orders exist, the investors would review the Public Service Commission's orders approving the contracts?

A. I don't know, but it wouldn't, they review a lot more things than I would have thought, and call with questions about orders or other information that this

Commission or this staff is looking at, but I don't know. None of them specifically have indicated that to me.

Q. Do you know whether they review the Commission's orders issued in the fuel cost recovery clause docket and the capacity cost recovery charge docket?

A. I assume that some do, because I have gotten questions on those dockets.

Q. What sort of questions?

A. Even though you're over your 10 percent threshold range, can the Commission not give you recovery this year, can they push it back two or three years; if you go under the 10 percent range, do you have to go in immediately; how quickly do you have to give the potential savings back. Those types of questions.

Q. Okay. So in that context, when you mentioned a 10 percent threshold, you're talking about the 10 percent over/under trigger for having to at least make a midcourse filing?

A. Yes.

Q. Do you know whether they review the -- let me ask it this way. Do you get any questions about their treatment of PPAs and recovery of payments pursuant to PPAs in the fuel or CCR dockets?

A. I don't recall getting a specific question on PPAs in the capacity clause.

Q. Do you know whether, or do you know whether the investors review the Public Service Commission's orders articulating their cost recovery policy with respect to power purchase agreements?

A. I do not know.

Q. Do you know whether a large investor has ever obtained a legal opinion or a regulatory legal opinion as to the Public Service Commission's treatment of cost recovery for PPAs?

A. I do not know.

Q. A couple of questions about the other PPAs. We talked about Southern and JEA. Your other PPAs, I believe, are -- would you agree that pretty much all of them are pay for performance contracts?

A. Yes. Did you say most?

Q. I said pretty much all. Do you agree with that?

A. Yes.

Q. You don't know of any, besides Southern and JEA, that are take or pay, do you?

A. I don't, but those are the largest contracts. I'm not familiar with many of the small ones.

Q. Okay. The pay for performance contracts are not leases, are they?

A. They're not -- they're not leases under the current accounting definition that is likely subject to change in the near future.

Q. Are the other contracts, other than Southern and JEA, generally approved by the Florida Public Service Commission?

A. I do not know.

Q. As pay for performance contracts, wouldn't it be true that at least generally FPL does not have to pay if the vendor supplier, IPP, whatever, doesn't perform?

A. That's correct.

Q. So if the project blows up, FPL is not obligated to make long-term payments under those contracts, is it?

A. I don't believe so. I do recall -- I do recall some sort of litigation regarding one of our power purchase agreements a while back, and I don't recall the specific situations regarding that litigation as to what -- I don't think a plant blew up, at least I hope it didn't, but I do recall there was some issue as to whether we should make the payments or not, even though they were not performing up to the contract.

Q. And I'll bet you're thinking of the same project that I'm thinking of, and that would be the

Okeelanta project, correct?

A. That sounds familiar, but another name would probably sound familiar, also.

Q. Thanks. My recollection of that litigation is that FPL was not liable to make payments because the QF did not perform. Is that your recollection?

A. That's actually not my recollection, but we can -- we will have another witness I'm sure that comes up after me, including our chief accounting officer, that can give you the right answer.

Q. And these other PPAs, it's true, is it not, that FPL recovers its payments for these other PPAs through either the fuel clause charge, or the capacity cost recovery charge, or both?

A. Yes.

Q. Mr. Moyle asked you a question which you answered, and I just want to make sure I'm clear as to the scope of your answer. He asked whether you are aware of any instance where the Florida PSC has disallowed recovery of any PPA payments. I thought the question was payments made by FPL, and you said you were not aware of any. Is that correct so far?

A. Yes.

Q. Are you aware of any instance where the Florida Public Service Commission disallowed recovery of any payments under a PPA previously approved by the Commission for any other Florida investor-owned electric utility?

A. I'm not aware of one actually one way or the other.

Q. Okay. NextEra has power purchase agreements with utilities to which it sells, does it not?

A. Yes.

Q. Are those pay for performance contracts, generally?

A. Generally, but not all.

Q. Do those contracts have what we call regulatory out clauses in them?

A. What do you mean by a regulatory out clause?

Q. A clause whereby the utility purchasing power from NextEra in this instance would not be required to make payments to NextEra if the regulatory authority under whose jurisdiction the purchasing utility operated denied or disallowed cost recovery. That's what I mean by a reg-out clause.

A. I'm not -- if we do have some, it's not a significant proportion of our contracts.

Q. Okay. Are you aware of any instance where cost recovery for payments made by a purchasing utility to NextEra or a NextEra subsidiary were disallowed for recovery by the utility?

MR. ANDERSON: Chairman Carter, we're going down a line of questions about the specifics of NextEra's business, which is not at issue here and it's not relevant. It's also not within the scope of the witness's testimony.

CHAIRMAN CARTER: Mr. Wright, to the objection.

MR. WRIGHT: Chairman Carter, I'm addressing the general treatment of power purchase agreements as that treatment relates to investors' views of power purchase agreements and cost recovery.

CHAIRMAN CARTER: Overruled.

BY MR. WRIGHT:

Q. The question was, are you aware -- do you remember?

A. No, go ahead.

Q. The question was, are you aware of any instance where a public utility regulatory authority has disallowed cost recovery by a purchasing utility of payments made by that utility to NextEra or an affiliate or subsidiary of NextEra?

A. No, I'm not aware.

Q. Have any of the large sophisticated investors to whom you referred told you, Armando Pimentel, that they believe that they view FPL's power purchase agreements as debt equivalents?

A. No, I don't -- I wouldn't say that any of them have told me that they look at them as debt equivalents. What they've told me is that, something I already know, as a utility, Florida Power & Light has the -- if you look at some of the S&P reports, and I don't recall the dates, but on an imputed debt basis or on a present value of future obligations basis, FPL has a significant amount of power purchase agreements, and maybe in S&P terms fourth or fifth largest debt adjustment that S&P makes to their capital structure. So what I do hear from them is that we have significant off balance sheet commitments as they relate to power purchase agreements, which is something we already know.

Q. Now, you fully expect to get 100 percent cost recovery for payments you make under these from the Florida Public Service Commission, or the authority to recover from the PSC, don't you?

A. Yes, that would be my expectation.

Q. Okay. And would I be correct that you impart that belief to investors?

A. Absolutely I impart that belief to investors. As we've discussed and as Doctor Avera discussed, investors are their own lot. I mean, their concern isn't what happened yesterday or last year, their concern is what's going to happen in years to come. And at least on this specific topic, one of the things that is concerning to them is potential changes in the accounting rules that's going to get all of these commitments onto the balance sheet and shock, if you will, to some extent, the capital structure that the companies actually show in their financial statements.

But it's clear that they know it's there, they've seen the S&P reports, they know we've got a lot of it, and off balance sheet commitments that are whole are a concern.

Q. Would they have also seen the Fitch's and Moody's evaluations of FPL's balance sheet?

A. I would think that they would read those. Again, they've got their own way of doing things, and for many more items than these PPA adjustments.

Q. So, back to the question from which we took off on this brief line. Other than their telling you what you already know, that S&P identifies these long-term obligations, have they told you that they view them as long-term debt equivalents, based on their in-house research?

A. No, I do not recall that they have ever used those exact words that you're using, long-term debt equivalents. What I do recall is exactly what I said, that conversations about you've got a lot of -- Florida Power & Light has some of the largest imputed debt by S&P, you've got a lot of power purchase agreements, it is approximately 14 percent of your generation, those are significant commitments. Those discussions are generally followed by what do you know about the accounting rules and are these things coming on balance sheet?

Q. Well, that invites this question. Are there proposed accounting rules that would put them on the balance sheet at this time?

A. It's subject to some debate, but the concern is that the international financial reporting standards, which the SEC has indicated that we're all moving towards that stage, that the interpretation of those standards would require that most off balance sheet obligations similar to this would actually be recorded on the balance sheet.

Q. What body would impose those, that sort of requirement on utilities in the United States?

A. Well, if we understand the way that accounting standard setting is going in the globe, most countries today actually adopt and follow international accounting standards. The United States is one of the very few that has not yet jumped on ship. But last year the SEC laid out a road map to try to get the United States to also adopt international financial reporting standards. We'll see where that gets us over the next several years. But most people have indicated that, one way or another, we're all going to one set of global accounting standards.

Q. Is there presently pending a proposal to incorporate long-term debt obligation -- long-term PPA obligations as debt equivalents on balance sheets pursuant to the FERC uniform system of accounts?

A. I do not know.

Q. I'm going to change lines now and talk with you hopefully not for too long about return on equity. You spoke with Mr. Mendiola about an optimal range of the equity ratio. Do you remember that?

A. Yes.

Q. Define optimal as you understood the term or as you understand the term in that context.

A. The optimum range would be where your weighted average cost of capital would be the least.

Q. Great. Is there a difference between the optimal range from FPL's perspective as opposed to customers' perspective?

A. No.

Q. I'm sure we would agree that in the short run FPL wants a higher equity ratio and customers want a lower equity ratio, correct? It's only a question as to who wants what, not anything else?

A. It's not a -- it may seem like a simple answer, but it's not a simple answer. I would hope that our customers, and I don't know, I mean, I haven't had a direct discussion with 500 in the room, so I have the ability to explain to them why a strong financial position for a very long period of time makes a lot of sense for our customers for a very long period of time, and why short-term changes in our capital structure would affect the financial position of the company and therefore customer rates in the longer term.

So, your question of would FPL prefer one and customers prefer the other, I don't know. I would hope that customers would also prefer what we believe is the optimal capital structure, because ultimately that will result in the lowest bill.

Q. Well, before I move on a little bit, you would agree that the customer intervenor parties in this case are advocating generally for a lower equity ratio, correct?

A. Yes.

Q. Okay. Now, you've talked about longer term and the long-term, and I want to ask you a few questions about that. What is the long-term as you use the term here? I'm really -- as with Doctor Avera yesterday, I'm looking more for some idea in terms of years what you're talking about. If you can answer in those terms, that's fine, and if you want to go further than that, that's your prerogative.

A. Yes. Longer term to me as I've used it, at least today, and maybe I used it yesterday, also, but longer term to me is a mid-term. It's eight to ten years out. And it's a relatively long term in this industry because capital decisions take a long period of time. I mean, every year we're filing ten-year studies to determine what it is that we're going to do over the next ten years, generation and so on, so it's a long period of time.

Q. And, again, this is really just a clarifying question, I think, as a predicate to what we're going to go on to. But you would agree that if the Public Service Commission in this case sets FPL's rates based on a lower ROE as opposed to a higher ROE, rates will be lower for the period of time from the new effective date of rates until the time they're changed, correct?

A. If that's the -- is that the toggle --

Q. Pardon?

A. That's the only toggle in your --

Q. That's the only variable, all other things being equal.

A. Yes.

Q. Now, you are not testifying, are you, that FPL's bond rating would be at any particular level if the Commission were to set FPL's authorized ROE for ratemaking purposes at any particular level?

A. I'm not --

Q. I'll be more specific if you like.

A. Go ahead.

Q. Mr. Baudino has advocated a return on equity of 10.4 percent. You're not testifying to the PSC that FPL's bond rating would fall to A minus or BBB plus if the Commission set rates based on an ROE at 10.4 percent, other things equal, are you?

A. No, because I can't speak for the rating agencies, but such a return based on the risks as I perceive them and the financial position as I perceive them would very likely result in a credit downgrade and may actually result in equity investors also taking some action on our company.

Q. I'm going to ask you a few questions about two exhibits, one of which came in earlier, and that's good old Exhibit 462, the S&L chart.

A. Yes.

Q. And then also Exhibit 503, which is the two-page -- well, one page of exhibit and the cover sheet, titled Fitch Ratings 12/22/08.

A. Yes.

Q. Let's start with Exhibit 462. First, as a predicate, is it your understanding that this purports to be a listing of the rate cases where decisions have been rendered since January 1, 2009 in the United States?

A. Mr. Wright, I don't think anybody actually asked me that question before. I just -- it certainly looks to me that if you look at the date column, those appear all to be in 2009.

Q. Okay. Do you have any opinion as to whether the rates of return on equity authorized in the right-hand block of columns there shown in Exhibit 462 are unreasonably low?

A. Well, it's not possible for me to answer that question without understanding specifically the risks of these organizations and the expectation of the investors.

Q. So, would I be correct, your answer is you don't have an opinion and that you just don't -- your testimony is you don't have enough information to render an opinion, because you want to know more about the companies?

A. Right. I would need to know more about the risks of these entities to form a conclusion as to, you know, this ROE. I believe I mentioned before, maybe I didn't, I certainly recognize a lot of these entities, and these are not -- many of these entities are not highly rated entities, at least compared to FPL, so I would need a lot of information to understand whether, in fact, the ROEs here were, I think your words, too low.

Q. Okay. I would like to ask you if you would hang on to 462, but if you could look at the business page of 503. That's the listing that has this list of ratings for three groups relative to the segment median. I'm just looking at the above segment median rating group. FPL's in that group, correct?

A. Yes.

Q. And so are Southern -- if you read down a ways, Southern Cal Edison and Union Electric are also in that group, are they not?

A. Yes.

Q. If you look back at 462, I think you see the second line on that table, Southern Cal Edison is the second company on 462?

A. Yes.

Q. And then further down, there are four Missouri orders indicating the fourth company listed there is Union Electric, correct?

A. Yes.

Q. The answer to this question I think is implied by an earlier answer, but I want to ask it in this way. Do you have any evidence that any of the companies listed on Exhibit 462 are unable to raise equity or debt capital?

A. No, I don't.

Q. In response to a question by Mr. Moyle, you said that the 12.5 percent return on equity requested by FPL in this case is consistent with what investors are requiring. Do you recall making that statement?

A. Yes.

Q. I would like to ask you to look at sort of the center block of columns on Exhibit 462, which has the overall heading Increase Requested?

A. Yes.

Q. If you look down the Return on Equity column, which is really about smack in the middle of the page.

A. Yes.

Q. I don't see any request, requested return on equity there higher than 12.25 percent. Do you?

A. I do not.

Q. And I see, I think, only two that are above 12, and then a couple that are at, maybe, one that's at 12. Is that accurate, also? Two that are at 12, sorry.

A. Yes.

Q. Also, if we could look at the next column to the right, the requested return on equity percentage, the common equity, the total, total capital column. Do you know whether the numbers in that column would be comparable to FPL's 59 percent, or comparable to FPL's 55.2, or 8 percent, whatever it is?

A. I can only go by the one that I'm most familiar with. I would think that these common equity numbers would be most closely associated with our 47.9 percent. If you look at Tampa Electric, which is five from the top, the return on equity that was granted is 47.49 percent. That's not -- that 47.49 percent I know is consistent with our 47.9 percent, and so I would imagine the rest of these are also consistent with that.

CHAIRMAN CARTER: Mr. Wright, before we go on.

Okay. Let's give her a break since she's going to be with us for the duration.

MR. WRIGHT: Thank you, Mr. Chairman.

CHAIRMAN CARTER: Ten minutes, everybody.

(Recess.)

CHAIRMAN CARTER: We're back on the record. And when we left, Mr. Wright, cross-examination. You are recognized, sir.

MR. WRIGHT: Thank you, Mr. Chairman. I have one more question on ROE. I'm just trying to formulate it.

BY MR. WRIGHT:

Q. In general, and I think you covered -- I think you covered part of this with Mr. Moyle, and let me see if I can get it right quickly. In general, a less risky company should -- investors should require a lower ROE from a less risky company, correct?

A. Broadly speaking, an entity that has less perceived risks by equity investors would command less of an ROE.

Q. And broadly speaking, the bond ratings would generally correspond to the corresponding riskiness of equity investments, wouldn't they?

A. Yes and no. The bond ratings are one of the things that I believe equity investors take into account in order to determine what their desired or required return on equity should be for the equity. But it's not the only thing that they look at. As I indicated earlier, credit investors generally look at the balance sheet and the liquidity, and equity investors generally look at what the perceived risks to the entity are in the future to determine their required return.

Q. Well, let me ask you a very pointed question. Do you consider FPL to be riskier than Tampa Electric?

A. If we're talking about debt ratings, if we're talking about debt ratings, Florida Power & Light has less risk to debt holders, because Florida Power & Light actually issues mortgage bonds, debt that is collateralized by the assets of Florida Power & Light. Tampa Electric does not. They're not collateralized. So to a debt investor I would believe that Florida Power & Light would be deemed less risky.

To an equity investor, I think the reverse is true. An equity investor is going to focus on the specific risks of their investment. We have talked about some of those in the past. We've talked about new nuclear ownership, we've talked about CAPEX and building generation, we've talked about natural gas volatility. So we've talked about a number of those before, including the fact that Florida Power & Light Company has much more of the coastline of Florida that is subject to hurricanes than Tampa Electric. So, I firmly believe that equity investors view Florida Power & Light to be more risky than Tampa Electric.

Q. And when you meet with rating agency folks or investors, do you tell them about all the risks you just articulated?

A. I do. And, again, we're talking about debt investors and equity investors. Debt investors are focused on the balance sheet, focused on liquidity. Debt investors as an example hate dividends. Equity investors love dividends. It's just two different folks and two different ways of looking at the investment.

Q. Thank you. You mentioned a couple of points in your response just now that relate to the last two lines of questioning that I have for you this evening. You mentioned hurricanes and I want to talk to you a little bit about the storm reserve.

First off, when Mr. Harris was on the stand, he told us that he obtained some assumptions for his work from risk management, and I believe he told me on cross-examination that risk management is under your bailiwick; is that true?

A. Yes.

Q. The assumptions that he used in his analyses were that the storm reserve would have a $215 million starting balance at the start of his analysis period. Is that your understanding?

A. I believe that's correct, yes.

Q. Now, I think that if you look at the detail, the company has something closer to like $200 million as a balance in the storm reserve, 228.1 today. Does that sound about right to you?

A. I'm sorry, did you say a little bit less or a little bit more?

Q. I thought I said right about.

A. I think --

Q. If anything, I think it's slightly less than $200 million.

A. It is. The number that I recall is about $191 million, and it was -- hopefully I'll get this name right. I believe it was Tropical Storm Fay during the third quarter of last year that accounts for most of that difference.

Q. Okay. For purposes of continuing our conversation, would it be okay if we -- forget that. I'll go with 191. That'll be great.

Two other assumptions that Mr. Harris used in his analysis are that the company would earn on the balance 3.5 percent per year. Does that sound right to you?

A. Yes.

Q. And he also assumed that in the event that storm damages occurred that caused the company to incur costs greater than 191 million, that the company would have an unlimited line of credit available to it at 4 percent. Is that correct?

A. Yes.

Q. And it seems like an obvious question to me, but I want to ask you, you would agree that these are reasonable assumptions, would you not?

A. They're reasonable assumptions for purposes of his model. But they're just that, they're assumptions. If I could just take them one at a time. The first assumption, the 3.5 percent earnings rate, that's likely high at this point to be earning on investments that have to be fairly liquid and available immediately, but we're in a lower environment today than we were when he first started his study. And so the effect of that 3.5 percent, the higher the number you use, the potentially more earnings that you get into the fund, and, therefore, the quicker that you might get up to a theoretical $650 million reserve balance, which we asked for.

And the second one was this unlimited, this unlimited line of credit. You need to -- for his model, you need to make an assumption as to whether the amounts that would be spent in a storm you would be able to recover fairly quickly, or you'd have to, excuse me, you would have to finance in an outside environment. And so the assumption that he made was that sufficient funds would be available and they would be funded. I think it was around 4 percent, if I remember correctly, the line.

So they are assumptions based on the model, and, again, the real -- where the rubber hits the road, if you will, is depending on which assumptions you put in, you can get to this theoretical $650 million reserve balance that we've asked for sooner or later.

Q. Okay. I just really wanted to focus on the assumptions. The line of credit that we're talking about would be a short-term -- would be generally considered to be a short-term borrowing, would it not?

A. It would. Just to clarify, it has nothing -- it's an assumption for model purposes to determine the reserve. It doesn't have anything to do with the actual credit facilities that we have available for the company.

Q. Okay. I'm sure that you would agree that FPL's projected cost rate for short-term debt for 2010 is 2.96 percent, would you not? I'm reading from your position statement in the prehearing order.

A. That sounds about right.

Q. Okay. I hoped that it would. Okay. I would like to talk about your testimony. This would be your rebuttal testimony, Mr. Pimentel.

I would like to ask you first, if you would, to look at Page 46 of your rebuttal testimony. At Line 6 and 7 you make the statement, "FPL and the Commission must implement rates that allow FPL to begin to replenish the reserve." And you go on. You would agree that FPL's reserve is already replenished to the level of $191 million, would you not?

A. Yes.

Q. And in the preceding lines, you make the statement that the current financial environment would be limited if not completely unsupportive of securitization, correct?

A. The current financial environment, is that what you're reading?

Q. Beginning at Line 4, yes,sir.

A. "Second, due to the economic downturn and financial market crisis, the current financial environment would be limited, if not completely unsupportive of securitization."

Q. Right. You had a conversation with Mr. Mendiola that I do not intend to beleaguer or belabor about a couple of orders in Texas.

MR. WRIGHT: Mr. Chairman, I would like to ask simply that I can give you the order numbers and I have a couple of copies of these, but --

CHAIRMAN CARTER: You can do that. Just put it on for the record.

MR. WRIGHT: Yes, I will do that.

CHAIRMAN CARTER: And that way the parties can get it if they want it.

MR. WRIGHT: Yes. I'm simply going to ask for briefing purposes that the Commission take recognition of the orders of the Public Utility Commission of Texas. There is an order of August 14, 2009, in Docket Number 36918. The Texas commission does not number its orders as does this Commission, so that's the information I have on that one.

CHAIRMAN CARTER: Okay.

MR. MENDIOLA: For the record, it is really quite bit a nicer to have the orders numbered as you do here.

MR. WRIGHT: It works for me in my linear numeric mind, but --

CHAIRMAN CARTER: It works for the court reporter, too.

MR. WRIGHT: -- who am I to say. The next order is the -- oh, that order was in a docket styled Application of CenterPoint Energy, Houston Electric LLC, for Determination of Hurricane Restoration Costs.

The next order is also an order of the Public

Utility Commission of Texas, dated August 9 -- I'm sorry. August 27, 2009, in Docket Number 37200, Application of CenterPoint Energy, Houston Electric LLC for a Financing Order.

The next is a Public Utility Commission of Texas order dated August 18, 2009, in Docket Number 36931, Application of Entergy Texas for Determination of 2008 System Restoration Costs.

And the final order is the financing order associated with that docket. This is dated September --

CHAIRMAN CARTER: When you say "that docket."

MR. WRIGHT: The Entergy Texas proceeding.

CHAIRMAN CARTER: Because, remember she's transcribing, so when you say that --

MR. WRIGHT: I'm sorry. I was going to actually go on to give the number. For reasons unbeknownst to me, Mr. Chairman, the Texas commission assigns different docket numbers to the application for approval of the costs and separate numbers -- a separate number to the financing order dockets. So this is in Docket Number 37247. I believe it's dated September 11th, 2009. It's either the 1st or the 11th. There's a slight ambiguity because of the way it shows up on the page. But it is what it is.

CHAIRMAN CARTER: For the record.

MR. WRIGHT: And it is Application of Entergy Texas Incorporated for a Financing Order.

And I'll simply aver to you that these show that the Texas commission has issued two financing orders for securitization, and I'll cite them in the brief accordingly.

CHAIRMAN CARTER: Okay. No problem.

MR. WRIGHT: And I'm really not going to bug you about securitization anymore.

BY MR. WRIGHT:

Q. If I could, I would like to ask you to look at Page 42 of your testimony. These are simple little predicate questions here. But at Page 42, Line 15 and 16, you say that FPL gave consideration to several factors, including at Line 16, Commission policy from past orders, correct?

A. Yes.

Q. And then you essentially say the same thing over at Page 45, Line 8, when you say, "Consistent with prior Commission orders, FPL believes that a reserve balance is appropriate." And you go on from there. Okay?

A. Yes.

Q. As I said, those are really just predicate type questions. Now, when I look through your testimony, I see on Page 41, I think, that you have cited to one order of the Florida Public Service Commission, Order Number 95-0264-FOF-EI, at Line 21 on Page 41, correct?

A. Yes.

Q. I did not see any other citations to Florida Public Service Commission orders in your testimony. Did you have any that you know of? Apparently you did. Sorry. It was in your direct testimony that you cited to Order 06-0464.

A. That's what it is.

Q. I want to ask you a few questions about that order, and I have a -- in particular I have a copy of Page 25 from that order that I want to show you.

MR. WRIGHT: If I could approach? It's an order of the Commission. It's just for cross purposes.

CHAIRMAN CARTER: You may approach.

MR. WRIGHT: Thank you.

CHAIRMAN CARTER: You may proceed.

MR. WRIGHT: Mr. Chair, I was simply -- the witness seems to be looking --

THE WITNESS: Mr. Wright, which order did you just --

BY MR. WRIGHT:

Q. Public Service Commission Order

PSC-06-0464-FOF-EI.

A. Okay. So not on the '95 one?

Q. Not the '95 one. No, sir.

A. Yes. Okay.

Q. The one from three years ago, not 14 years ago.

A. Okay.

Q. And you have the page I just gave you?

A. Yes.

Q. Okay. Now, as a general proposition, FPL asked for a $650 million reserve in that case, correct?

A. Yes.

Q. And the Commission rejected that, correct?

A. Yes. That's where we got to the understanding with the securitization, yes. If you're asking whether this $650 million reserve that we were asking for back then was rejected, yes. We were able to fund approximately $200 million of the reserve through securitization proceeds.

Q. Right. Now, there is a sentence, actually the third sentence of Paragraph 57 reads as follows, "The record clearly establishes that the level of FPL's reserve has no impact on FPL's exposure to storms." That's what the PSC said in 2006, correct?

A. Yes.

Q. Is there any evidence in your testimony that would demonstrate that that statement is untrue as of today?

A. No.

Q. The next sentence following that, and I'll paraphrase -- or why don't I just read the whole thing. It's long.

CHAIRMAN CARTER: You've got a streak going, ride with it.

BY MR. WRIGHT:

Q. "Further, under the current approach to the recovery of storm restoration costs, the risks associated with the lower reserve level (i.e., the possibility of storm restoration costs exceeding the reserve, leading to subsequent customer charges), and the risk associated with a higher reserve level (i.e., paying charges now for storm restoration costs that do not materialize), is completely borne by FPL's customers." I read that accurately, yes?

A. Yes.

Q. And that's what the Public Service Commission found in 2006, correct?

A. Yes.

Q. I want to ask you the same question I just asked you. Is there any evidence in your testimony or exhibits in this case that would demonstrate that that statement is untrue as of today?

A. No. That's not the -- that's not the basis for the ask in my direct testimony. The basis for the ask in the direct testimony is exposure that we have under storms and the Harris study, the ABS Consulting study that concludes that on average we should expect $150 million of damage from most storms to our system.

So I would agree with you on the reading of this '06 order, but what my testimony lays out is that we have a real risk today, and we have no insurance for that risk, and we should not be relying solely on mechanisms that are not associated with base rates.

Q. Well, you've got $191 million in the fund, right?

A. Yes, we do have $191 million in the fund today.

Q. I apologize if you were not finished. I did not mean to interrupt. I apologize.

A. Go ahead.

Q. Okay. And Mr. Harris used a value of, I think it was $153.3 million a year as the estimated annual storm damage?

A. Yes, that's correct.

Q. Was that calculated based on FPL's experience over the last 15 years?

A. No. That was actually calculated based on a simulation of storms over a 100-year period that could hit at different ten-mile intervals within the state of Florida.

Q. Thank you. Now, in 2006, FPL experienced very little if any storm damage, correct?

A. Yes, that's true.

Q. 2007, same result?

A. I think we have experienced a little bit every year, but certainly not the significant damage that we saw during the 2004 and 2005 storm season.

Q. Well, I think algebraically or arithmetically it would work out that you started with $200 million after the securitization in 2007, right?

A. It was a little bit higher than that, yes, and so there's been earnings to that.

Q. There has been earnings, and then you described some expenses associated with Fay?

A. Yes.

Q. And now we're down to $191 million, right?

A. Yes.

Q. Okay. Do you recall -- I believe you were not with the company at the time, but do you know approximately how much total storm cost recovery expense

FPL incurred in the 2004 and 2005 storm seasons?

A. It was -- I don't recall the exact amount. I've got it in my papers here, but it was somewhere over a billion dollars.

Q. The number I remember between the two years is about 1.8 billion. Does that sound about right to you?

A. Yes.

Q. Now, you would agree that FPL --

A. I'm sorry, Mr. Wright, what was the number that you had?

Q. 1.8 billion, approximately, for the two years.

A. My number right now is less than $1.8 billion. I would like to check that.

Q. Okay. What number do you have?

A. I'm trying to reconcile a couple of numbers here, but I've got a number that for the 2004 and -- actually, this page just shows me 2004 storms, which was about a billion dollars, and so I'm missing the 2005 storms right now.

Q. I promise you it's not a trick question. I think we could agree the total number for the two years is somewhere between a billion and a half and maybe a 1.8 billion, couldn't we?

A. My recollection was that the number was north of 1-1/2 billion, but I would like to check that. But if you're okay that range, let's move on.

Q. I'm okay with that range. We would all agree that the 2004 and 2005 storm seasons were the worst ever experienced in recorded history in Florida, yes?

A. I would -- as far as affecting the FPL service territory, yes, I would agree with that.

Q. I guess we could talk about '26 and '34, but we don't need to today.

A. In the -- well, yes.

Q. Okay. You would agree that a substantial part of FPL's storm recovery costs from 2004 and, depending on how you count, 2004 or 2004 and '05 together were recovered through a storm recovery charge before the securitization financing order was issued and FPL obtained money that way, correct?

A. That is correct.

Q. In fact, you would agree that FPL was fully able to cover its storm restoration costs from 2004 and 2005 using the storm restoration charge and the securitization mechanisms?

A. Well, we didn't recover all of our costs associated with those storms. There were a number of costs that were not deemed recoverable by this Commission, but all of those that were deemed recoverable by the Commission we did recover.

Q. Okay. And those that were deemed -- well, let me put it this way. Those that were deemed nonrecoverable were thus deemed by the Commission as not having been reasonable and prudent, correct?

A. Yes.

Q. We'll talk a little bit about the $650 million reserve that you asked for in 2006 and, again, you're asking this year for a $650 million reserve. Is it just coincidence that the two numbers came out that way?

A. Well, I wasn't involved with the study in the past. I can't answer whether it was coincidence or not. I can tell you at least what I was looking at in order to determine whether, in fact, the $650 million was reasonable.

Once Mr. Harris provided his study to us to show us that it was $150 million on average loss for the storms, we asked him to run some sensitivity analysis regarding the amount that would be funded into a reserve, and the $650 million is probably more an art than a science.

What I was concerned with was funding. If we chose to fund at a $100 million level, or a $150 million level, or a $200 million level, what would be the probability that the reserve would more or less than $650 million in approximately five years? Based on that, at a $150 million level, which I believed was reasonable since that was the actual expected storm damage, funding at a $150 million level got me to the conclusion, and I believe it is in Mr. Harris's report, that, on average, there was a 33 percent probability, so a one-in-three chance probability that that reserve funded at that amount would be less than zero in five years. And on the high side, the $650 million, it was about a 42 percent probability that it would be more than $650 million. So as I looked at those numbers and I looked at potential other funding levels, the $650 million potential reserve number looked reasonable to me.

Q. Okay. I have a few questions for you about some statements you make regarding impact on customers, in particular your assertion that using a storm restoration charge would create volatility in bills. For example, at Page 43, Line 6 and 7, you make the statement, "Emergency relief mechanisms such as a special customer assessment create volatility in customer bills." Right?

A. Yes, I do make that statement. It's an accurate statement. What we're trying to prevent here, what we're trying to do here is we're trying to get a charge in our base rates very similar to what we would do if we just had insurance. And what we would like to stay away from as much as possible is additional one off type charges that are not included as part of base rates, which when a storm hits, and a storm, a large storm is going to hit, it would have the effect of increasing the customer bill at one shot rather significantly, as opposed to a funding mechanism over a period of time where the company would have the reserve balances to be able to deal with the storm costs directly.

Q. Okay. You make a similar statement over on Page 45 at Lines 8 through 11. You also say basically you want a reserve balance, and you say that's better than special customer assessments, since they create volatility in customer bills, right?

A. That's correct.

Q. And then over on Page -- back on Page 44, you make the assertion that FPL's customers are clearly better off when their utility has on hand a substantial dedicated cash reserve to deal with unexpected exigent circumstances.

A. Yes.

Q. Okay. Now, you're an accountant, but I bet you know a pretty good amount about finance, and I bet that you understand opportunity costs, don't you?

A. Yes.

Q. And you're familiar that the customers and the consumer representatives in this docket would rather have a lower reserve, correct?

A. A lower reserve balance?

Q. A lower reserve balance.

A. Yes.

Q. And that was our position also in the 06-0038 docket that led to Order 06-0464, correct?

A. Yes.

Q. Okay. Here's the opportunity cost question. We assume borrowing, if it's in 2010 it's something like 3 percent, or in the assumption you gave to Mr. Harris at 4 percent. If a customer has outstanding debt with an interest rate greater than 4 percent, wouldn't the customer be better off from the customer's perspective paying off his or her debt now and paying the 4 percent later if and when the hurricane happened to hit?

A. Maybe. I can't answer yes or no to that question. However, this doesn't strike me as a particularly difficult concept to understand. The company is not a bank. The company is in the business of providing safe reliable electric service for a reasonable fee, and I will go back to what I said before. If insurance was available for the transmission and distribution system, we would not be spending this amount of time trying to determine whether it was an appropriate cost to add in rates or not.

The company is isn't a bank, the company isn't in the business to prefund costs and then later receive reimbursements. It certainly appreciates what this Commission has done in the past with storm securitization, and the reserve, the $150 million reserve that we're asking for in this proceeding is to cover most, but not all storms.

In the unfortunate event -- if we were to get this entire $150 million, which I believe is the right answer, in the unfortunate event that a major storm would hit the FPL service territory, it is very likely that there would not be a sufficient amount in the reserve and Florida Power & Light would have to come back to this Commission and ask for either a one off base surcharge or securitization of funds. We are trying to prevent that as much as possible by getting a small fee into customer bills based on a study that I believe is reasonable.

Q. I will agree with you that FPL is not a bank. We don't expect FPL to be a bank. But, isn't it true that FPL would go to the bank, i.e., to the credit market, to borrow money if it needed it above the reserve level, whatever that might be?

A. Yes. And if the opportunity was there to do so, FPL would do it. With a strong financial position we do have, we do have some leverage. We do have the leverage of not having to go into the financial markets at their worst times, but we don't have unlimited leverage. We were very concerned as a company. I was very concerned as a CFO during October last year, because I believed that if a significant hurricane would have hit our area, a significant hurricane, we would have trouble accessing the capital markets immediately at a reasonable cost. That's a concern to me. We don't want to be in that position. Our strong financial position does a lot for us, but it doesn't give us -- it doesn't give us access to the markets whenever we want at any time.

Q. I understand and frankly appreciate your concern, but the truth is you do have substantial access, at least a billion dollars in credit facility, plus 191 million in the reserve fund that customers are already paying for, right?

A. We do, Mr. Wright, today. Okay? There is the opportunity, as we saw last year, for natural gas prices unfortunately to go in a direction where we have to provide additional collateral, where the $600 million in tax exempt debt could be put back to us. You know, I don't have to make up the situation; we saw the situation. It was the third and fourth quarter of last year. We don't even have to come up with a hypothetical except to say that a hurricane were to hit at that moment in time.

Q. And we saw the situation in 2004 and in 2005, did we not?

A. A much different set of circumstances as it relates to the capital markets than we had last year.

Q. You said that FPL is not in the business to prefund costs. Aren't you simply asking that the customers prefund costs?

A. No. We're not asking the customers to prefund the costs. I will go back to my insurance analogy. If insurance was available in this T&D situation, we would be collecting these funds from the customers as insurance proceeds. Whether or not we had a storm we would be collecting those.

We have a study, we agree with the study that indicates that on average we'll have $150 million of annual losses. And so all that we're asking for, that I'm asking for here, is to recover that potential annual loss, estimated annual loss, on an annual basis.

Q. If you spend money on storm restoration from the reserve fund outside a test year, isn't it true that ordinarily there would be no prudency review of those expenditures since they wouldn't show up in a test year for a rate case?

A. I don't think there is any specific prudency review. I don't think that stops either the Commission from looking at it or the Commission's auditors, who we have in our building all the time, from taking a look at whatever it is that they would like to take a look at.

Q. Well, if you have to ask at need, as you did in 2004 and 2005, there would be a prudency review, as there was in those years, correct?

A. Yes.

Q. At Paragraph 58 of Order 06-0464, the Commission makes the statement, "We find that funding FPL's reserve to a level of 200 million is appropriate and will, ii, provide more critical review of FPL's charges to its reserve." That's a true statement, isn't it?

A. It has to be true. It's in this order.

Q. Good.

A. That does not stop the Commission from at any time taking a look at our storm reserve on an annual basis, along with the filing that we provide the Commission talking about whether T&D insurance is available to our service territory. We have to provide this Commission with a reconciliation of that account balances, increases and decreases to that account balance.

Q. Well, the reality is that insurance isn't available, right?

A. Cost-effective insurance is not available.

Q. Okay. In your testimony, and I'm sure I could find it for you. At Page 41 of your testimony, you make the statement, which apparently also you made in your direct testimony, "There is no single correct level, either for the annual accrual or the reserve." Right?

A. That's correct. That's why just a couple of minutes ago I went through the process that I personally went through when Mr. Harris indicated that the study indicated that there was a $150 million annual reserve. I don't think I need to repeat that.

Q. We agree on that, also.

If the Public Service Commission were to go the consumers' way, as advocated by our witnesses in this case, and if FPL experiences a storm, FPL has recourse based on the PSC's precedence to either seek a storm recovery charge or securitization, right?

A. Yes, we do. In my testimony it indicates why we don't believe that's the best course of action, but certainly we do have the right to come in here and ask for the Commission for those items that you just discussed.

Q. We talk a lot about whether something is reasonable in this regulatory context, and I hope to conclude this line of my cross examination with this question. In light of your testimony that there is no single correct level for reserve or an accrual, wouldn't it be reasonable to go with what FPL already has, a reserve level of $191 billion in the bank, in the fund today, and use the ratemaking tools available to it in the event that there were a storm. Wouldn't that be reasonable?

A. It wouldn't be the most reasonable based on my testimony, and I think I've outlined in at least the last 20 minutes as to why I believe a different mechanism should be in place.

Q. You mentioned in response -- in our conversation about the storm charge, natural gas prices, and that's the last line of cross that I want to pose to you this evening.

In your testimony you talk about -- and various of these exhibits also talk about the risk FPL faces because of its fuel mix, correct?

A. Yes.

Q. Y'all use a lot of natural gas, don't you?

A. Excuse me. Do we use a lot of natural gas?

Q. Yes. As an electric generating fuel.

A. Yes. But we're not the only ones that say that the use -- the supply and the use of natural gas is a risk, or I'm not the only one. A couple of the rating agency reports that we talked about today, I was -- I made sure that I pointed that out for you.

Q. And so you did, and there was no trick in that question. It was more of a predicate than anything else. Do I understand correctly, and it more or less was implied by your previous responses, that the risk to FPL of being so dependent on natural gas is that if there were to be a price runup you would have to go to the market and borrow money in the short-term?

A. That's only half of it.

Q. The other half?

A. Go ahead.

Q. I apologize. Please continue.

A. The other half of our natural gas issue is the supply constraints into Florida. So, investors, both equity investors and debt investors, are concerned with both pieces of that. They're concerned with the fact that 60 percent of our generation is natural gas generation. They're concerned with the volatility of that, one. We don't get, we don't get an equity return on natural gas fuel bills if you will. It's only a commercial paper rate return.

But the second issue and just as important is that there is constrained supply into the state of Florida and their concern should something happen to that constrained supply into the state.

Q. Would you agree that FPL's dependence on natural gas as a generating fuel also imposes significant risk to customers?

A. Yes.

Q. And specifically I'm talking about the risk that rates can increase a lot if natural gas prices increase a lot, correct?

A. Yes. The price side of that has two parts, right. It could go up or it could go down. But, yes, if you're talking about the first risk, which I believe you are, which is the price volatility risk, you know, our customers have that same price risk that we do, whether prices go up or they go down.

Q. Right. And in 2008, the price of natural gas for FPL went from something in the range of $8 per million Btu in January to something in the range of 12 or $13, maybe a little more, by June of 2008. Is that about right?

A. That's about right. It was more than that, and it lasted a little longer, the first week of July, or so.

Q. That's fine. Thanks for the clarification. And FPL's response to that was to come to the Commission and ask for a midcourse correction, correct?

A. I don't know whether it was in July of 2008, right, but the agreement that we have is, should there be more than a 10 percent change from our original estimate to what we are experiencing in the year, and that's either up or down, we have the ability to come in to the Commission and ask for a midcourse correction.

Q. And you're certainly welcome to check this, but would you agree, subject to check, that FPL came and asked for a midcourse correction to cover its projected underrecovery for calendar 2008 of about $746 million?

A. Yes, that's correct.

Q. And the Commission, in a vote that it took on July 1st of last year, gave the company basically half what it asked for; is that correct?

A. Half of what it asked for to recover over the first period, yes.

Q. And the amount you sought to recover was the projected amount for the entire calendar year, correct?

A. Yes.

Q. If you know, did FPL argue that it needed to do this in order to match cost incurrence with cost recovery for 2008?

A. I'm sorry. Did FPL do what?

Q. Are you familiar with the term generational equity or intergenerational equity?

A. Yes.

Q. My recollection from last year's fuel docket is that FPL argued that it needed to recover the whole 746 million over the last five months of 2008 because it needed to do that to match cost incurrence in 2008 with customers using the fuel in 2008. Does that ring any bells with you?

A. I don't remember the exact argument, but I think that's a reasonable -- that's a reasonable argument on our part. If, in fact, natural gas prices were affecting the generation that we were actually, that we were -- well, it was affecting our actual generation, then we would believe that those natural gas prices should be a price indicator for our customers.

Q. For 2009, FPL has a projected overrecovery a bit north of $400 million, does it not?

A. That number sounds a bit high to me. The last number I think I saw was somewhere in the 300 range.

Q. Well, we could check that by looking at the company's testimony in the fuel docket, but whether it's 300 or 400 million, it's a pretty good chunk of dollars, is it not?

A. It's a pretty good pitch of what?

Q. A pretty good chunk of money. 300 or $400 million is a substantial amount of money, yes?

A. I mean, whatever it is, whether we're underrecovered or overrecovered, we've got obviously to put that in in the fuel docket once a year and true that up within the next year.

Q. Okay. Now, you haven't come to the Commission this year asking to lower customer fuel charges this year to reflect current 2009 costs, have you?

A. No, we haven't. We're not through the 10 percent threshold, and just like in previous years, when natural gas prices were going up and we didn't get above the 10 percent threshold, we're not coming in to ask -- we weren't coming in to ask the Commission to increase those bills. And for the same reason, we are following the policy that's in place.

Q. You would have had the discretion to come ask the Commission for a midcourse correction, even though you didn't hit the 10 percent threshold, would you not? Do you have the discretion to ask for a midcourse correction if you don't hit the 10 --

A. Yes, I believe we have the discretion to come in to ask the Commission. I don't know whether that's necessarily provided as part of the fuel clause, but I believe we would have the ability to come ask the Commission to look at our fuel rates.

Q. Was it FPL's intent to use the 2009 fuel overrecovery to offset its base rate increase in January 2010, in the perception of its customers?

A. Was it our intent to use the --

Q. The fuel cost overrecovery --

A. To do what with?

Q. To pull down the bottom line bill increase in January in light of your requested base rate increase?

A. No.

Q. In response to some questions from Mr. Mendiola, I thought I heard you say that you didn't tell customers that their bills would go down; is that true?

A. I think what we've said is that it is our expectation that bills will go down based on several factors. One, natural gas prices in 2010, forward prices, those prices that we have not locked in in 2010, and the amount of natural gas that we have locked in through a hedging program for 2010.

Q. I want to hand to you what I aver to you is a copy of Page 14 from Mr. Olivera's rebuttal testimony.

MR. WRIGHT: May I?

CHAIRMAN CARTER: You may approach.

BY MR. WRIGHT:

Q. I would like to ask you to read the sentence beginning at Line 16, "FPL is mindful," through the end of Line 20.

A. "FPL is mindful of the scope of the projected base rate increase. However, we also have the responsibility for making prudent long lead time investments in our infrastructure, and it is in our customers' long-term best interests to implement this base rate increase now, at a time when the result will be lower overall bills for most customers."

Q. Now, FPL does not mean to imply that the base rate increase is going to result in lower bills, do you?

A. That the base rate increase will result in lower bills? No.

Q. Thank you.

A. But that's not what Mr. Olivera was talking about here. Mr. Olivera is talking about here that the lower fuel bills for 2010, as we filed in our fuel clause hearings in 2009, should result in a total reduction in the overall bill in January of 2010. I believe that, also.

Q. I hear you and I believe you, but when I read the words, "It's in the customers' long-term best interests to implement this base rate increase now, at a time when the result will be lower overall bills for most customers," it sounds like he's saying the base rate increase is going to result in lower overall bills. I don't see fuel charges in that sentence. Do you?

A. No. We didn't read anything about fuel charges, but Mr. Olivera spent the better part of two days up here with a big chart in the back of him showing exactly what the different components of the bill were, and so I would hope that that hasn't been lost on anybody's memory.

MR. WRIGHT: Thank you. That's all the cross I have.

Thank you, Mr. Chairman.

CHAIRMAN CARTER: Thank you, Mr. Wright.

Mr. Stewart.

MR. STEWART: Mr. Chairman, are we going to have a dinner break?

CHAIRMAN CARTER: You're kidding me, right?

MR. STEWART: Thank you, Mr. Chairman.

CHAIRMAN CARTER: One second.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just so I can go back briefly. We appear to be getting towards the ending point. But I want to go back to a prior comment that I made this morning, and also based on some of the statements the witness stated. So I'm going to address it to Mr. Butler.

Mr. Pimentel previously stated that your independent auditor would not generally look at aviation operations because of materiality considerations. And in the instant case, FPL is asking for approval of aviation-related expenses in this rate case. And given the fact that such costs would be sought to be recovered from FPL ratepayers, the burden is on the company to prove that the aviation cost allocations are accurate and that the expenses are prudently incurred.

Now, review of the historical flight logs that we've spent a considerable amount of time on raises significant concerns as to whether aviation-related costs are being accurately collected and properly allocated to ensure that FPL ratepayers are not being charging for expenses that provide no benefit to the ratepayers. And I don't know about you, but I'm tired of looking at the flight logs. And given the fact that I came across numerous duplicate copies in the stack that was provided, I'm not sure that I actually have all the logs.

So, I know that you were going to provide a copy of something to be filed this morning, and I'll get to that in a moment, but I guess where I'm at is to avoid the disallowance of any aviation-related expenses, at least for me, I need to have sufficient confidence that appropriate cost accounting controls are in place to protect the FPL ratepayers. And to that point, I would note that the next hearing date, as indicated by the Chairman, will be in October with a tentative special agenda date in December.

So, based on the above, I guess I would take this opportunity to reiterate a prior request that I made earlier today to have both your independent auditor and your board of director audit committee for FPL Group jointly certified, or jointly certify as a late-filed exhibit that, one, the appropriate internal cost accounting controls are in place for aviation-related expenses, to ensure that all costs are accurately collected and properly allocated, to ensure that FPL ratepayers are not being charged for aviation-related expenses that provide no benefit to the FPL ratepayers.

And, secondly, while they're doing that, I would ask them to further certify that no Commission member or Commission employee flew on FPL owned aircraft from January 1, 2006 through the present date.

With respect to this request, in talking to staff, it would also be helpful to see documentation showing that the allocation basis for aviation-related expenses comports with internal cost accounting controls and procedures, and which addresses both the fixed costs and the variable costs of aviation-related expenses.

It would also be helpful if the calculation of aviation-related expenses allocated to FPL for 2008, with all supporting workpapers, and I know those may be deemed confidential or proprietary, but we have ways for dealing with that. If those aviation-related expenses that are allocated to FPL for 2008 could be provided prior to the October hearing.

So I know I mentioned that earlier, it's getting late in the day, but, again, I just want to move on from that issue, but there is a lot of concerns. We're, you know, pressed for time, but there is a significant amount that's being requested for recovery in rates. It's somewhat small in relation to the big picture, but it's still an important issue. And based upon at least what I've seen and the discussion held, I don't have a whole lot of confidence. I need some independent assurances to put me in a position where I'm comfortable approving any costs that have been requested to be included in rates.

So, I guess I would like to get FPL's

commitment and response to file a late-filed exhibit on those two specific issues, and also too if they could also address that.

CHAIRMAN CARTER: Mr. Butler.

MR. BUTLER: Just one moment, please, Mr. Chairman.

CHAIRMAN CARTER: Yes, sir. Take a moment.

MR. BUTLER: We will commit to file a late-filed exhibit. I think that it will be substantially along the lines that Commissioner Skop has outlined. The one thing that is a little bit of a source of concern or that we need to sort of do some further evaluating on how the best way to address it is going to be the involvement of outside auditors.

I mean, I understand Commissioner Skop's interest in having something independent of the company involved in providing the review, but the precise nature of how that will work is something we're going to have to look into the best way in the time available to meet that need.

COMMISSIONER SKOP: And, Mr. Butler, to that point, I respect that. I'm not comfortable, again, having -- I think Commissioner Argenziano earlier today mentioned a similar point about, you know, internal audit versus external independent auditors. I guess, you know, my understanding, based on the testimony of Mr. Pimentel, that FPL Group as well as the various affiliates use Deloitte, and, according to Mr. Pimentel's testimony, just due to materiality considerations, they've never really looked at, you know, aviation-related expenses in the grand scheme of things.

But, again, I think having that quick look audit to certify jointly with the audit committee gives me a lot of comfort in terms of some of the things that have been pointed out. And given the commingled nature of both Group and NextEra and FPL expenses, again, I need some assurances that those costs are being properly allocated and burdened, and I don't have that right now. And, you know, I went through a whole line of 2008 related issues, you know, four pages of them that I read into the record.

There are some concerns. I'm not saying that there's something that I'm not seeing behind the scenes, but I don't feel that it's worth the time in the big picture of things to stop the show and dwell on that. We need to move forward.

So, again, handing off to your independent auditor and your audit committee or your board and having them certify would give me tremendous comfort in terms of making a decision as to how to treat the request for recovery, because otherwise, I think we're looking at some disallowances at this point.

MR. BUTLER: Understood.

THE WITNESS: Mr. Butler. It's over here.

MR. BUTLER: Yes.

THE WITNESS: Can I just -- thank you.

Just a couple of points, Commissioner Skop. I indicated that I did not know what the current auditors do. For various reasons, for good reasons they don't tell me what they look at. I only find out whether it's a problem, unfortunately. I was referring to the time back when I was associated with the account.

And the second point is auditors as a whole don't have a mechanism for providing what I'll call certification audits or audits of specific areas, and I think that's why Mr. Butler's response is wholly adequate in this instance.

In other words, we will do what we can to ask our auditors to prepare something, but there may not actually be a mechanism under their professional rules to allow them to do something like this. I think that's where Mr. Butler was going.

COMMISSIONER SKOP: And I appreciate that clarification. Again, I'm pretty confident, based on the request and the resources and the comments you made in response that somehow between the independent auditor and the audit committee that they can find a way to at least do something to give some concern -- I mean, some support to address the concerns that have been expressed, not only from the bench but from the intervenors on that point. I think that will go a long way in making that whole issue go away. Otherwise it lingers. And I'm trying to put it away and deal with the bigger dollar value issues.

MR. BUTLER: Understood. Thank you.

CHAIRMAN CARTER: Thank you.

Ever so briefly, Mr. Moyle. Ever so briefly. Mr. Stewart has been very patient. This is the time for him to do his cross-examination.

MR. MOYLE: Sure. And I'm making this statement more for the record than any other reason. But I just -- we had this discussion earlier when Commissioner Skop asked for the flight logs. FIPUG would like to object to the introduction of a late-filed exhibit. And, you know, until we see the information, particularly given the nature of the concerns and comments.

This is FPL's case. It's their burden to move forward. They haven't met their burden at this point in time. It's not going to help my client to allow them to introduce an audit with a seal on it that says everything's good to go.

CHAIRMAN CARTER: For the record. And also Ms. Bradley has made a standing objection to that. And for the record, I have not forgotten that. Ms. Bradley.

MS. BRADLEY: I don't know if any clarification is needed, but I think the certification you're looking for as to Commission staff maybe needs to be clarified that it's limited to Florida staff and Commission, because otherwise I think there may be a problem.

COMMISSIONER SKOP: Yes. FPSC, Florida Public Service Commission members or employees.

CHAIRMAN CARTER: Okay. All right. Anything further?

Can Mr. Stewart begin his cross-examination now? Mr. Stewart, you're recognized, sir.

MR. STEWART: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. STEWART:

Q. Good evening, Mr. Pimentel. How are you?

A. Good evening. Good.

Q. A couple of quick questions. Mr. Wright was talking to you about the storm reserve, and I just have one quick question to close that area out. In reference to the '06 docket, Mr. Harris provided the same type of analysis in that case that he's providing in this case; is that correct?

A. In terms of the '06 storm docket?

Q. Yes.

A. I did not go back to look at his analysis in 2006, but we will have -- we will answer that question for you from another witness.

Q. Do you know if he was a witness -- do you know that he was a witness in the 2006 case?

A. Yes, he was.

Q. That'll be fine. Isn't it true that FP&L's 2.75 billion credit facility expires in 2012?

A. No. It actually expires -- a portion, a small portion expires in 2012. The much larger portion expires in 2013.

Q. Thank you. I'm referring to your testimony on the bottom of Page 3. If you could look over the last three lines and then the first three lines on Page 4.

A. Was that the direct or the rebuttal?

Q. That was the direct.

A. Page 3, Line --

Q. Just read over. You don't have to read them to me. I just want you to become familiar with them.

Twenty through 22 and 1 through 5 on Page 4.

Mr. Pimentel, would you agree that the overall theme of FP&L's case is that FP&L needs its relief due to the financial crisis, pending capital investment, and the challenges in the capital markets?

A. No, I would not agree. From my view, you know, this rate case proceeding is about maintaining our company's strong financial position now and in the future, which will allow us to do all of the things that we have in the past regarding efficiency and effectiveness, but also to keep our customer bills low. So that's how I summarize it at least.

Q. Were you in the room when Doctor Avera testified yesterday?

A. I'm sorry, did I leave the room?

Q. No. Were you in the room when Doctor Avera testified yesterday? Did you hear his testimony?

A. Yes. Most of it, yes.

Q. Did you hear him say that he viewed that as the theme of the rate case?

A. I don't, I don't recall that, no.

Q. Referring back to Page 3 and 4 in your summary, you do state that you have the challenges that are presented to FP&L are the significant infrastructure investment, the cost of capital significantly increased, and then you also talk about the serious events in the economic area, correct?

A. Yes.

Q. And so, again, and I'm being repetitive here, but is that not a theme that is present in the testimony of other witnesses in this case?

A. Yes. If you're asking whether, in fact, in my testimony and in Doctor Avera's testimony we talk about the market and credit events of the third and fourth quarter of last year, we do. And, at least from my perspective, they're important because those events started sort of a chain reaction, unfortunately, that even today exists. Not to the same extent that it did in the third and fourth quarter of last year, but, as I mentioned earlier, a comment on a question, credit spreads, which are a significant, something that I spend lot of time looking at. And that's the amount in excess of the risk-free rates.

Let's say the 30 year Treasury rate is 3.7 percent and the credit spread is 200 basis points. That means that we should be able to issue debt at 5.7 percent on a long-term basis. Those credit spreads today, although they've come down from where they were in the third and fourth quarter of last year, are still about on average twice as high as they've been over the last five years.

And so, at least in my testimony, I thought it was important to lay out exactly how this whole chain of events started and the fact that I believe we're looking at a much higher cost of capital going forward.

Q. I think you discussed earlier that, subject to check, you agreed that FPL filed their test year letter in November?

A. Yes, that's --

Q. When did you start working on your testimony?

A. I think I started working on probably outlines of my testimony sometime in December of 2008.

Q. Do you recall when you had your first draft completed?

A. I do not recall that, no.

Q. And are you familiar when the testimony was filed?

A. It was filed on or about March 18th of 2009.

Q. Okay.

A. That's the direct testimony.

Q. Right. Between your first draft or when you started working on your testimony and the filing date of March 18th, 2009, did you present your testimony or portions of your testimony in a venue outside the structure of this proceeding?

A. Could you just repeat that?

Q. Between the time that you started your testimony --

A. Right.

Q. -- and when you filed your testimony on March 18th, 2009 --

A. Right.

Q. -- did you present your testimony or portions of your testimony in a venue outside the structure of this proceeding?

MR. ANDERSON: Chairman Carter, is there -- we object on the basis of relevance. I just don't see how this is related to any issue in the proceeding.

CHAIRMAN CARTER: Mr. Stewart, to the objection.

MR. STEWART: I'm trying to determine if the witness drafted testimony and provided it to any other parties or people who were making decisions in this case outside the structure of the proceeding before it was filed.

CHAIRMAN CARTER: Ms. Cibula.

MS. CIBULA: I think we're kind of going outside his direct testimony and maybe he should stick to the direct testimony and rebuttal testimony.

CHAIRMAN CARTER: Okay. Objection sustained.

Move on.

MR. STEWART: I'm not sure what to do.

CHAIRMAN CARTER: Do something different.

BY MR. STEWART:

Q. Mr. Pimentel, did you provide your testimony or portions of your testimony at the PURC conference on February 4th, 2009?

MR. ANDERSON: It would be the same objection.

CHAIRMAN CARTER: To the objection.

MR. STEWART: I'm responding to his direct testimony. I'm asking if he has provided his direct testimony outside of the structure of this hearing.

CHAIRMAN CARTER: Ms. Cibula.

MS. CIBULA: Again, I think he's going outside the direct and rebuttal testimony.

CHAIRMAN CARTER: Objection sustained. Move on, Mr. Stewart.

MR. STEWART: I have no further questions.

CHAIRMAN CARTER: Thank you.

Staff.

MS. BENNETT: Thank you, Mr. Chairman. The first thing I would like to do is we've got a packet of information we passed out.

CHAIRMAN CARTER: Do you want to mark it?

MS. BENNETT: Yes. I need a number.

CHAIRMAN CARTER: 510. 510.

MS. BENNETT: And the document title is -- I'm sorry. Discovery Responses, Pimentel Direct.

THE WITNESS: I'm sorry, Ms. Bennett. Am I supposed to be looking at something?

MS. BENNETT: I believe we passed out a stack of discovery responses. You're about to get a new stack in case it's not there. Yes. It's Pimentel Discovery Responses, Direct.

(Exhibit Number 510 marked for identification.)

CROSS EXAMINATION

BY MS. BENNETT:

Q. Good evening, Mr. Pimentel. I'm Lisa Bennett. I'm one of the staff attorneys here. I think the last time we spoke was in your deposition.

A. Yes.

Q. I was afraid I was going to get to say good morning, Mr. Pimentel. You are the Chief Financial Officer --

A. Let's try to prevent that, Ms. Bennett.

Q. Okay. You're the Chief Financial Officer for both FPL Group and FPL, and as such you're familiar with how each entity raises capital; is that correct?

A. Yes.

Q. And you're recommending the Commission adopt the middle of the range of the return on equity recommended by Doctor Avera, right?

A. Yes.

Q. But you did not personally do any independent analysis of the appropriate return on equity for FPL for purposes of this proceeding, did you?

A. I did not do my own fundamental model analysis similar to what Doctor Avera performed. My analysis actually considered reviewing a summary of rate cases, as I've discussed before in this proceeding, having discussions with investors as to what the requirements are, and understanding, getting a little bit better understanding of what our risks are, and then taking a look at Doctor Avera's fundamental analysis. All of that helped me come up with my point estimate of 12-1/2 percent.

Q. Okay. I'm going to ask for you to refer to the discovery responses that we just handed to you.

A. Yes.

Q. And we'll kind of walk through those one at a time. But first I want to make sure, most of these interrogatories were sponsored by Kathy Beilhart, who is not a witness in this proceeding; is that correct?

A. That is correct.

Q. And due to the fact that she's not appearing in this proceeding, you're the appropriate witness to discuss the company's responses to staff interrogatories regarding finance-related responses from Ms. Beilhart, correct?

A. That's correct.

Q. Very good. Then, do you have your D schedules with you?

A. Yes.

Q. I'm also going to ask you some questions from your -- actually your MFR Schedule D-2 in the 2010 MFR book.

MR. MOYLE: Mr. Chairman, just for the record, I'll go ahead and --

CHAIRMAN CARTER: Yes, sir.

MR. MOYLE: -- just note an objection. I mean, to the extent that all this is coming in as hearsay with a witness who is not here. I just want to preserve that for the record.

CHAIRMAN CARTER: Okay.

You may proceed, Ms. Bennett.

BY MS. BENNETT:

Q. Let me back up. Is Ms. Beilhart one of your employees, Mr. Pimentel?

A. Yes.

Q. And as one of your employees, did you review the interrogatory responses and POD responses prepared by Ms. Beilhart?

A. Yes.

Q. Thank you. And you also sponsored the D-2 schedules filed in this proceeding, correct?

A. Yes.

Q. The D-2 in the 2010 MFR book, have you got that in front of you now?

A. Yes.

Q. This schedule shows the relative capitalization as a percentage of investor capital for FPL and related companies from 2006 to 2010; is that correct?

A. Yes.

Q. Okay. And I want you to turn to the company's response to Staff's Interrogatory Number 101. It's in the packet.

A. The first one is 165. Go by that one?

Q. Give me a minute to find out what's -- my organization is a little different than yours. Yes, flip to --

MR. ANDERSON: It's about 11 pages down.

THE WITNESS: I've got 101.

BY MS. BENNETT:

Q. Okay. We're going to start in the packet with 101 and move through that, through it from that point on.

A. So we don't the need the top ones?

Q. I don't believe so. Just set them aside.

Okay. And you're familiar with that response to Number 101, correct?

A. Yes.

Q. This response shows the relative capitalization as a percentage of investor capital for FPL and related companies from 1999 to 2005; is that correct?

A. Yes.

Q. Referring to both the D-2 schedule from the MFRs and this schedule from the company's response to Interrogatory Number 101, you'll see that FPL's reliance on short-term debt as a percentage of investor capital has varied from year to year from a low of 1.3 percent in 1999 to a high of 10.3 percent in 2005; is this correct?

A. Yes.

Q. Would you agree with me that over this 12-year period from 1999 through 2010 that short-term capital debt, or short-term debt represented an annual average of 5.4 percent as a percentage of the investor-supplied capital?

A. I can't do that in my head.

Q. Can we agree subject to check, then?

A. Sure.

Q. Okay. Has anything changed since the time of your response to interrogatory -- or Ms. Beilhart's response to Interrogatory Number 101? I'm sorry. Let me try this again.

Has anything changed since the time the response to Interrogatory Number 101 was prepared that would changes FPL's response to the interrogatory?

A. No. The response to the interrogatory is just this table, correct?

Q. Correct.

A. Nothing has changed in relation to this table.

Q. Now I want you to refer back to the MFR Schedule D-1A in the 2010 MFR book.

A. Yes.

Q. Please refer to the third page, and you should be looking at the 13-month average capital structure for 2008.

A. Yes.

Q. According to this schedule, FPL relied on 323 million of short-term debt to find a portion of its

14.8 billion in total capital for actual 2008; is that correct?

A. I'm sorry, Ms. Bennett. You asked me to go to D-1A, third page, which is 2010. That's our capital structure for this proceeding. The $17 billion rate base. 2008 historical?

Q. Are you there?

A. I've got D-1A, 2008.

Q. Okay. And I'll ask the question again, then.

According to this schedule, FPL relied on 323 million of short-term debt to find a portion of its 14.8 billion in total capital for actual 2008; is that correct?

A. Yes. Those are the 13-month average numbers after going through the pro rata adjustments. So, yes, that's --

Q. Okay. I'm going to ask you to turn to the 2011 MFR book D-1A for the next question.

A. Okay.

Q. And you should be looking at the 13-month average capital structure for 2011.

A. Yes.

Q. Okay. According to this schedule, FPL relied on only 70 million of short-term debt to fund a portion of its 17.9 billion in total capital for projected 2011;

is that correct?

A. Yes, that's correct. That's consistent with where we want to go as an organization, which really started last year in 2008, which was to have minimal commercial paper balances. That's what you see down there in short-term debt. It's becoming a bigger issue for the rating agencies to have a significant amount of short-term debt. And so for the first half of 2008, we actually had short-term balances very close to zero, and then when the financial turmoil happened in the third and fourth quarter of 2008, we actually had very significant short-term debt for commercial paper balances. And so what we see throughout these schedules from 2008 through 2011 is our attempt to continue to reduce those short-term debt balances down to what I would consider to be reasonable levels.

Q. Okay. Thank you. And the next thing I want you to do is to turn to the company's supplemental response to Staff Interrogatory Number 121. It should be the next item in your packet.

A. Yes, it is.

COMMISSIONER McMURRIAN: Ms. Bennett, what's the Bates stamp number?

MS. BENNETT: The Bates stamp number? There's not a Bates stamp number for 121. If you have found

101, it should be the next -- did you find it? Okay.

THE WITNESS: I have it.

BY MS. BENNETT:

Q. Okay. And this item discusses the commitment fee of approximately 1.5 million as a fixed fee; is that correct?

A. Yes, it does.

Q. Would you agree that this fixed commitment fee is the same for 2009, '10, and '11?

A. Yes.

Q. Would you agree that if FPL had projected a relative amount of short-term debt for 2010 and 2011 that was more in line with the level of short-term debt the company actually employed on average over the past decade, that by operation of math the relative impact the commitment fee would have on the effective cost rate of short-term debt would be less?

A. The relative impact on the weighted average cost, is that what you said, Ms. Bennett?

Q. Yes. I'm sorry, yes, it is.

A. Yes. By virtue of math that would be correct. If you increase the balance of short-term debt, you therefore increase the amount of interest expense, and since the $1,536,000 that you pointed out is a fixed amount, then the relative percentage of that 1.536

million to the entire amount would be lower. I think that's your question.

Q. I think it is, too.

A. That's what I was trying to answer.

Q. Okay. I would like for you to turn next to Staff's Interrogatory Number 122 and FPL's response to that.

A. Yes.

Q. This response discusses the basis for the cost rate for short-term debt for 2011; is that correct?

A. Yes, it does.

Q. And has anything changed since the time of either of FPL's responses to either Interrogatory 121 or 122 that would change FPL's responses to these interrogatories?

A. There is nothing that's happened since the time that we put the responses together that would change our response as of the date that we made the response. I don't know whether that's your question. In other words, would we have said something different back when we answered these questions. Or if your question is have rates changed since the time that you made the response, and, therefore, you would have answered this question differently.

Q. It's the first, the former. I want to know if that interrogatory was valid at the time.

A. So, yes, there would be no changes.

Q. And then let's go to the second question. Have there been changes since that time that would now change your answer?

A. There have been no changes that would change my answer to this response. In other words, I would continue to use -- for 2010 and for 2011, I would continue to use the forward LIBOR rates that we indicated in these responses, but the forward LIBOR rates themselves, which aren't a part of the response, would be different because rates have changed.

Q. At the time you prepared the filing in this proceeding, FPL was borrowing commercial paper very close to the 75 basis points under the expected LIBOR rate, correct?

A. At the time we made these filings?

Q. At the time you made this -- at the time you gave the responses to those interrogatories. Oh, I'm sorry. At the time -- it's getting late. At the time of the filings in the proceedings.

A. At the time of my rebuttal testimony?

Q. Yes.

A. I'm sorry. Rates have changed quite a bit. I want to try to be accurate.

Q. Okay.

A. We would have been borrowing -- I'm not sure. I would think that at the time that we filed the rebuttal testimony we would have been borrowing commercial paper at something less than 75 basis points. Did you get your 75 basis points from something I've written?

Q. Do you have a copy of your deposition, by any chance?

A. I do, yes.

Q. How about on Page 30 of your deposition? I think if you'll start on Page 30 at about Line 10.

A. Right.

Q. Where I was asking you about why you reduced the 75 basis points.

A. Right. I've got it, Ms. Bennett. I wasn't in this response -- in the deposition, I wasn't referring to what we were borrowing at. I was referring to what was included in our 2009 numbers in the MFRs. I don't know whether you recall, but we did make a change to the 2009 numbers. For 2010 and for 2011 we used the LIBOR rates.

For 2009, because we were seeing that the market was allowing us to borrow on a short-term basis less than at LIBOR, we actually reduced the LIBOR rates that are in our estimates for 2009. So for the first quarter, again, in our MFRs we assumed that we would be borrowing at LIBOR minus 75 basis points, second quarter LIBOR minus 50 basis points, third quarter LIBOR minus 25 basis points, and in the fourth quarter we would be borrowing at LIBOR again.

Q. I do recall seeing that now that I've read your deposition responses again. When we say expected LIBOR rate, we're talking about the 30-day forward LIBOR rate; is that correct?

A. Yes, we're talking about the 30-day LIBOR rate, the forward 30-day LIBOR rate, yes.

Q. Okay. I'm going to switch our discussion now a little bit to long-term debt. And I'm going to ask you to assume for the moment you're evaluating forecasted interest rates from single A rated utility bonds. In general, would you have a higher degree of confidence in the forecasted interest rate for the fourth quarter of 2009, or the forecasted interest rate for the first quarter of 2011?

A. I guess neither or both. It would depend on the -- it would depend on what was going on in the market. The market at times has more uncertainty in the short-term and some more risk when you get sort of in an inverted yield, where as crazy as it sounds, it's more expensive to borrow on the short-term basis than it is on a long-term basis. That tells us that there's more certainty, there's more buyers on the long-term basis than there is on a short-term basis.

So, you know, depending on the time period, and you use fourth quarter of '09, first quarter of '11, depending on when I was looking at that information, I may have believed that I felt more comfortable with the first quarter of '11 than the fourth quarter of 2009.

Q. How about today?

A. I would say today I would feel fairly comfortable with both of those today. I'm not sure that would have been the case two, three, or four months ago, when in fact there was a lot more concern in the market about the potential for inflation a little bit later out. And when that's the case, you start feeling more comfortable about the short-term than you do about the long-term.

I think we're now seeing some analysis that says that the government is going to keep most of its stimulus provisions, not to be confused with the stimulus package, in place long enough to actually be able to tame inflation. So if I had to answer it today, I would say I feel the same about either one of those.

Q. Okay. I'm going to ask you now to turn to --

there's two sets of interrogatory responses, 124 and 123, in your packet. I would like to have you looking at those two at the same time. We're going to do a little comparison there.

A. Okay.

Q. Do you see the line item on the bottom of the schedule on Interrogatory Number 123?

A. Yes.

Q. And this line item shows that FPL was able to issue 500 million of 30-year bonds at a coupon rate of 5.96 percent in March of 2009; is that correct?

A. That was the coupon, yes, and the yield was 5.965 percent, yes.

Q. And do you see the second line item near the top of the schedule on Interrogatory Number 124, Page 1 of 1?

A. Page 1 of 1. Did you say second line from the top?

Q. Yes, the second line item near the top of the schedule.

A. Yes.

Q. FPL projects that it will issue 400 million of 30-year bonds at a coupon rate of 7.11 percent in October 2009; is that correct?

A. Yes. That's what it says on the schedule.

October 2009 isn't that far away. That may get -- that may get pushed back a little bit based on the overrecovery of the fuel charges, but I don't know whether that was -- whether timing was your question or you had another question.

Q. I have another question involving another interrogatory, Number 127, which is the next one in the packet.

A. Yes.

Q. Would you agree that, according to this interrogatory, FPL issued 500 million of bonds in March 2009, that the amount of bonds to be issued in October of 2009 and December of 2009 will be reduced because of that?

A. Yes. Just to be clear, the $500 million that we issued in March of 2009 replaced the 300 -- maybe this won't be clear. Maybe this will just confuse things. But I think it's important. Replaced the $300 million of short-term bonds that we were expected to issue in January of that year. So since we issued $200 million more than what we expected, then the other issuances that we have for the year to get to the billion dollars that we expect to issue this year decreased. But it's also important to note our MFRs contain what we see in Interrogatory 124 that you pointed me to, and therefore, since we didn't issue the $300 million in January of 2009 at a variable rate, which we expected to be low, unfortunately, although we got a great rate I think on the 30-year bond, the cost of funding in the MFRs, if you were to do it again, has actually gone up.

Q. Okay, thank you. I'm ready for you to turn to the exhibits, and now I have Bates stamp numbers for you, Commissioner McMurrian. It's a two-page exhibit with Bates stamp number FPL 157252 and 157253 at the top of the pages.

A. So those are not the next thing I have, correct? I don't see any numbers on --

Q. They should be responses to --

A. 157252, did you say that?

Q. Correct, 157252 and 157253, and they were responses to Staff PODs Number 39 and 40 to FPL.

A. Okay. I have those.

COMMISSIONER McMURRIAN: It seems to be after the stapled.

MS. BENNETT: Can I have just a minute to figure out what's going on with my copying?

COMMISSIONER McMURRIAN: Sure. We'll go off the record for just a minute.

(Off the record.)

COMMISSIONER McMURRIAN: I guess we need to go back on the record. And let me just ask, Mr. Pimentel, are you okay? Did you need any kind of break?

THE WITNESS: No. I just need to be done.

COMMISSIONER McMURRIAN: Okay. I hear you.

Go ahead, Ms. Bennett.

BY MS. BENNETT:

Q. Okay. The two pages that were the response to Staff PODs Number 39 and 40 bear the Bates stamps page 157252 and 253; is that correct?

A. Yes.

Q. These two pages are the revised MFR Schedules D-4A for the 2011 and 2010 test years; is that correct?

A. Yes.

Q. And these revised MFR Schedules D-4A reflect the issuance of the 500 million in bonds in March 2009, and the change in the amounts of the bonds to be issued in October and December of 2009 that we've just been discussing; is that correct?

A. Yes.

Q. And to your knowledge, do these revised MFR schedules for D-4A accurately reflect FPL's projected long-term debt issuance for 2010 and 2011?

A. So for 2010 we've got the 1.4 billion and for 2011 -- for 2011 we have 500 million.

Q. Did you say 1.4 billion in 2010?

A. I believe so; 800 million in June of 2010 and 600 million in December of 2010.

Q. All right.

A. I'm sorry. Could I just -- I didn't answer the 2011 question. 500 million for 2011. That's what I have.

Q. Okay. I think we're suffering from a product of being tired over here. Thank you. And I'm going to turn now to purchased power. A couple of questions about that. You didn't conduct any independent analysis of the reasonableness of the capital structure FPL has proposed the Commission recognize for the purposes of this proceeding, did you?

A. I heard the question, Ms. Bennett. I did the same analysis that we talked about before. So, just to be clear, I didn't do any independent analysis similar to what Doctor Avera performed in his work where he's got the proxy group and he's got the ROEs for each one of the members, nonutility, utility, and he's also got some capital ratios and equity ratios. So, the same thing I did before would have been I do have a monthly analysis of what happens in other rate cases in the U.S., I do have a lot of discussions with investors, as I indicated before, based on our specific risks and their expectations. And, I'm sorry, the third thing was reviewing Doctor Avera's work. I just wanted to be complete there.

Q. Okay. And I think your response was regarding ROE, but what about for capital structure? Is it the same response?

A. Yes, it's the same response.

Q. Okay.

A. I think it's important here, because I don't know whether you're going to ask me another capital structure question or not, it's important that although it wasn't in the analysis, per se, the fact that we've maintained the same capital structure for over ten years and that investors are comfortable with it, and we're comfortable with it, and that we believe it's gotten us a tremendous amount of benefit being able to access capital. Which in the end, as I've discussed before, what should happen is if you should be able to access capital inexpensively, as we have, that should produce lower customer bills. I mean, that's the reason you want the right access to capital and you want a low cost of capital.

And so, although it's not analysis, it certainly was important to me that we be consistent with what we have in the past, and that at the end of the day, if we do believe we can raise cheap capital, that that transforms to our bills.

Q. In your deposition, and I'm going to ask you to turn to Page 53 of your deposition --

A. Yes.

Q. -- if you don't mind.

A. Yes.

Q. We talked a little bit about whether or not, in your deposition, whether you conducted an independent analysis of the reasonableness of the capital structure. And you told me then your response was no, there was no independent analysis. Is that still your testimony?

A. Yes. And what I'm referring to here is independent analysis similar to what Doctor Avera has done, where he's taken a lot of detailed analysis and he's put it in different charts in order to come up with what he believes are reasonable interpretations, and I agree with him. So I'm referring to the fact that I didn't do that detailed fundamental analysis for either ROE or the capital structure.

Q. Okay. Next I want you to turn to Pages 35 and 36 of your direct testimony.

A. Yes.

Q. Here you discuss Standard & Poor's evaluation of the impact FPL's long-term purchased power agreement has on its capital structure; is that correct?

A. Yes.

Q. Is it your testimony that FPL is the only utility that relies on purchased power for 15 percent or more of its generation needs?

A. I don't -- I don't recall the -- I know the 15 percent number is our number. I don't recall the number for similar entities. But as I mentioned before, S&P does publish a list which indicates that, on an imputed debt basis, because of the large amount of PPAs that we do have, we have about the fourth or fifth largest adjustment in the United States.

Q. I'm going to ask you to turn to your deposition, Page 54.

A. Okay. Yes.

Q. And I think the question appears on Line 12, so this might refresh your memory. The question was, "Is it your testimony that FPL is the only utility that relies on purchased power for 15 percent or more of its generation needs?" And your response was?

A. No.

Q. Is that still correct?

A. Yes. Again, it's not my testimony that FPL is the only one that relies on purchased power for 15 percent or more. We do for our structure. I didn't know then and I don't know now whether, in fact, there are others that, as a percentage of their, you know, entire company, have more than 15 percent. What I do know is that the S&P analysis -- again, investors do their own analysis, they don't give us that analysis -- but the S&P analysis that they do does list us number four or five in terms of the imputed debt adjustment that S&P makes.

Q. Okay. And have you done any analysis that shows how FPL's actual equity ratio compares to the actual equity ratio for other utilities that rely on purchased power?

A. No.

Q. And have you done any analysis that shows how FPL's equity ratio on an S&P adjusted basis compares to the equity ratio on an S&P adjusted basis for other utilities that rely on purchased power?

A. No.

Q. And, Mr. Pimentel, isn't it true that FPL will see in the near future the expiration of power purchase contracts totaling 1,610 -- I'm sorry. 1,610 megawatts?

A. If in the near future you mean over the next five or six years?

Q. Yes.

A. We do have some large power purchase agreements that expire, I believe, in -- I believe it's end of 2014 or early 2015. Are those the ones you're referring to?

Q. I'm actually referring in your packet of discovery responses, there's an excerpt from the FPL brief that was filed in Docket Number 090172-EI. Do you see that excerpt?

A. Yes.

Q. Okay. And on the second page of that excerpt, I think that's Page 29 at the end, we talk about power purchases.

A. I see it.

Q. Okay. And would you read that, please?

A. "The economic analysis assumes the expiration of power purchase contracts totaling 1,610 megawatts." Do you want me to continue?

Q. No, that's fine. And this exhibit relates to FPL's need determination filing for the EnergySecure pipeline, correct?

A. It's only two pages, Pages 28 and 29. I'm sure we can confirm that.

Q. All right. Subject to check.

A. Yes. And, again, I do believe, if you look at our Form 10K in the back, that those are the -- a majority of those are the ones that expire in late 2014 or maybe 2015.

Q. Okay. I'm going to ask you to turn to the next document in the packet, I hope, which is the Ten-Year Site Plan, FPL's Ten-Year Site Plan.

A. Yes.

Q. And this exhibit contains certain pages from FPL's 2009 Ten-Year Power Plant Site Plan filed with the Commission on April 1, 2009. Is that correct?

A. Yes.

Q. The pages you have before you relate to FPL's firm purchased power commitments. Do these two schedules show all of FPL's firm purchased power contracts that S&P considers when evaluating the impact purchased power has on FPL's financial position?

A. Yes, Ms. Bennett, I believe so.

Q. Okay. Looking at the schedule for the winter purchases, does this schedule show that FPL projects its reliance on firm purchased power to fall from 2,700 megawatts in 2009 to 700 megawatts in 2017?

A. Yes, assuming none of those contracts are renewed, because I don't think we take those into account here, that's correct.

Q. Okay. So, FPL is assuming the expiration of 1,600 megawatts of purchased power in its need filing, and is projecting the dropoff of 2,000 megawatts of purchased power in its Ten-Year Site Plan; is that correct?

A. Yes.

Q. And so according to these filings with the Public Service Commission, FPL's reliance on purchased power will be significantly less eight years from now than it currently is, correct?

A. Yes. But, one, that assumes that none of these power purchase agreements are renewed. And, two, 2017 or 2018 is a heck of a long way away from where we're at today. And we're talking about our capital structure that's actually in effect today for the foreseeable period.

Q. To the extent FPL's reliance on purchased power is projected to significantly decline in the future, the rating agencies' consideration of the relative impact of purchased power on FPL's financial position would be expected to decline, as well; is that correct?

A. I thought you were going to say expected to go up, which means I misunderstood your question.

Q. Should I have said expected to go up?

A. I don't know. Can you just repeat it, please?

Q. I'm sorry. I was doing two things at one time. I'll quit writing my note to myself and go back to the question.

To the extent FPL's reliance on purchased power is projected to significantly decline in the future, the ratings agencies' consideration of the relative impact of purchased power on FPL's financial position would be expected to decline, as well, correct?

A. Yes, that is correct. The rating agencies, and we're talking about S&P, because we don't really know exactly all the steps that Moody's takes, the rating agencies are looking at the present value of the estimated capacity or payments to be made into the future, they present value that back, and then they make an adjustment, as we've talked about, depending on how those power purchase agreements are actually recovered or not.

And so, therefore, if you just think of a spreadsheet of a present value analysis, if you have contracts that are falling off in the latter years, that would make the present value of those cash flows that you're paying less -- you know, a lower amount today. And so I just want to make sure that we all understand.

If those contracts aren't there, the amount would be less, but it doesn't mean that S&P actually takes those contracts out of the calculation until in fact those contracts are no longer there.

Q. Okay. We've talked a lot about rating agencies, and I think we would all agree that they're very familiar with the ratemaking process in Florida; is that correct?

A. Yes.

Q. Would you agree that it's generally understood that companies and consumer advocates will take positions that will become the potential range of outcomes to be expected in rate proceedings?

A. I don't like to think that, because I have obviously prepared a lot of testimony and spent a lot of time doing what I do, and so, therefore, I believe that I've got a very reasonable basis for my position. But I think history has shown that there are plenty of cases where there is some boundary. I don't know whether that's the case all the time, but I certainly have seen that.

Q. Would you agree that rating agencies understand it's the regulatory commission's role in rate cases to balance the interests of the utility's customers and its shareholders?

A. I think they absolutely do do that, and I think that the comments that we see and we've all talked about here today regarding the regulatory climate in Florida, that's a significant positive for the rating agencies when it comes to the business environment. And so, yes, I do believe that they understand it, and I believe they're very comfortable with what they've seen this Commission and the staff and this company do in the past.

Q. Okay. Thank you. I'm going to now ask you to turn to Page 9 of your direct testimony, and let me know when you're there.

A. Yes.

Q. Lines 7 through 13, I would ask that you read those aloud for me, please.

A. "How is FPL weathering the current liquidity crisis? FPL's strong balance sheet, liquidity position, and credit ratings have enabled the company to weather the significant events in the financial markets, as we have seen over the past year, without compromising our ability to continue to provide reliable, cost-effective service to our customers. In fact, those strengths have enabled the company to maintain access to capital throughout the current financial crisis."

Q. And then turn to Page 30 of your direct testimony, Lines 18 to 21.

A. Would you like me to read it?

Q. Please.

A. "FPL's strong balance sheet has provided continuous access to both short-term liquidity and the capital markets throughout extreme events, such as the 2004 through 2005 storm seasons, as well as the current financial market crisis."

Q. Thank you. Would you agree that FPL's strong balance sheet is due at least in part to past Commission decisions that have been supportive of the company's credit quality?

A. Yes. As I think I've stated several times, both the environment, the Commission's decisions, and the management of the company, you know, have all come together to provide a strong financial position to the company, and what we're looking at in this case is maintaining that into the future.

Q. Okay. I want you to go back into the discovery responses. There's a document titled Florida Investor-Owned Utility Issuer Credit Rating, I believe.

A. Yes.

Q. You provided it in response to a deposition request. I think it was Exhibit 1 to your deposition. Was this schedule prepared by you or under your supervision?

A. Yes.

Q. This schedule shows the issuer credit rating for each of the four vertically integrated utilities in

Florida, correct?

A. Yes.

Q. And has anything changed since the preparation of this schedule?

A. I don't believe so, but I believe Gulf Power might be on negative credit watch. I don't believe that their rating has changed at this point. I don't think anything has changed with Tampa Electric. I'm not sure about Progress.

Q. Okay, fair enough. And, again, back to the discovery responses. There is a response to Staff Interrogatory Number 99. It should be the next document in your packet.

A. Yes.

Q. This response explains the ratings history of FPL from 1999 through the present; is that correct?

A. Yes.

Q. Has anything changed since this response?

A. No, I do not believe so.

Q. And, again --

COMMISSIONER McMURRIAN: Hang on, Ms. Bennett. Mr. Moyle.

MR. MOYLE: I know it's late, and I'm trying to follow along the best I can, but I'm having difficulty, you know, following the next thing, and I don't know if it's my packet or what.

But, can you sort of give me a sense as to where it is in this big packet of documents?

MS. BENNETT: Sure.

COMMISSIONER McMURRIAN: If it helps, when we were on the Ten-Year Site Plan, were you there?

MR. MOYLE: Yes.

COMMISSIONER McMURRIAN: It's just a few pages past the cover page of the Ten-Year Site Plan.

COMMISSIONER SKOP: And to that point, Ms. Bennett, if you could give us some sort of preparatory signal as to how many pages you are advancing, because you've got quite a big stack here left, so that would be helpful.

MS. BENNETT: Okay.

COMMISSIONER McMURRIAN: And I think we're all seeing how confusing this is, and perhaps we'll come up with a better way by October 21. Thank you.

MR. MOYLE: Thank you.

COMMISSIONER McMURRIAN: Did you find it, Mr. Moyle?

MR. MOYLE: Yes, ma'am. Thanks.

BY MS. BENNETT:

Q. Now that we've found 99, let's turn the page to 100.

A. Okay.

Q. Everyone there? It's about five or six pages.

And this response was in response to an interrogatory from staff, and it was responded to by Ms. Beilhart, I believe. It explains S&P's practice to evaluate utility operating and holding company credits in part based on the financial and business risk profile of the respective consolidated enterprises; is that correct?

A. Yes.

Q. And has anything changed since the time this response was prepared that would change FPL's response to the interrogatory?

A. No.

Q. Would you agree that FPL's debt and equity investors look at rating agency reports regarding FPL and FPL Group?

A. Yes, I would. As I've indicated before, debt investors are much more interested in the rating agency reports than equity investors. Equity investors also do look at them, but they look at a lot of other information before making an investment decision.

Q. Okay. The next item I want you to look at is a Moody's report. It was provided to staff in response to its Request for Production of Documents Number 21, and it has Bates stamp number 156974. Let me know when you're there.

A. I'm there.

Q. This report is a credit opinion for Florida Power & Light from Moody's Investor Service dated June 19th, 2009. Is this correct?

A. Yes.

Q. Please turn to Page 2 and read aloud the final paragraph at the bottom of the page.

A. "Although," that paragraph?

Q. Yes.

A. "Although the state of Florida has historically been an above average regulatory environment for electric utilities, there is some regulatory uncertainty regarding FPL's current rate case. The size of the rate case is substantial and comes at a time when the state of Florida's growth has slowed. Furthermore, none of the current members of the FPSC were on the Commission at the time FPL's last rate case was settled in 2005. Offsetting these risks to some degree was the FPSC's recent ruling in Tampa Electric's rate case, which affirmed the Moody's view that the regulatory environment for electric utilities in Florida should remain relatively supportive."

Q. Do you agree that based on the Commission's decision in the Tampa Electric rate case, Moody's believes the regulatory environment for electric utilities in Florida remains relatively supportive of credit quality?

A. I think, if I didn't miss something, you just read what this says, right?

Q. Yes.

A. So I guess I would agree. But I would also just take a minute to say, as I indicated before, that the rating agencies are clearly somewhat concerned about what's going on in Florida, and some of the information that's been discussed outside of this rate proceeding, and some --

MR. MOYLE: I'm going to object. I'm going to object to this. I have a whole line that was political environment. I didn't ask it because it's not in his direct and he shouldn't be getting into it now. If he does, then I would like to redirect on it.

MS. BENNETT: And it's outside the scope of my question, also. We were just focusing on this one Moody's report that was responsive to a discovery response from staff, so I'm ready to move on to the next question.

COMMISSIONER McMURRIAN: I think we will move on. Thank you.

BY MS. BENNETT:

Q. I would like you to turn to FPL's Response to Staff's Request for Production of Documents Number 18, Bates stamped at the bottom 156847.

COMMISSIONER McMURRIAN: What was that number, again, Ms. Bennett?

MS. BENNETT: 156847.

COMMISSIONER SKOP: It's about nine or ten pages ahead.

THE WITNESS: Yes.

BY MS. BENNETT:

Q. And you've seen this report before. Oh, I'm sorry. It is getting late. Can you tell me what the report is, please?

A. It's an analyst report on FPL Group from Jefferies & Company.

Q. And what's the date on that Jefferies report?

A. April 29th, 2009.

Q. And you've seen this report before?

A. I probably did see it at the time. I don't recall it right now.

Q. I would ask that you turn to Page 2 of the report.

A. Yes.

Q. Would you turn your attention to the fourth paragraph from the top of the page?

A. Yes.

Q. I'm not going to ask you to read the whole paragraph aloud, but if you want to read the paragraph, and I really want you to focus on the sentence that starts with "the filing is based." Which, those are the final three sentences of the paragraph.

A. Uh-huh.

Q. Once you're there, if you would begin reading aloud, that would be great.

A. "The filing is based on a 12-1/2 percent ROE, 55.8 percent common equity ratio, and continuation of the generation-based rate adjustment clause. We believe that a mid-50s range authorized common equity ratio is achievable. Last month, Tampa Electric was authorized a rate decision that was based on a 54 percent common equity ratio, and an 11.25 percent ROE, which is at the high end of recently authorized ROEs in the industry."

Q. And, based on your reading of that, would you agree with the analysts of Jefferies & Company, that the 11.25 percent ROE approved for Tampa Electric is at the high end of recently authorized ROEs in the industry?

A. Yes, I would agree that's what this says. What it doesn't say, and may say it somewhere else, I just don't recall this report at this point, is that, as

I've mentioned before, equity investors look at the relative risks of the investments. At least it's in my testimony that we have more risks associated with our business than Tampa Electric, and so a reasonable investor looking at the two companies would only accept the same return -- only accept the same return if the companies had the same risks. If the companies have different risks, as I believe we do, they would only accept the higher return.

Q. Okay. We don't have to talk about the next report, but I want you to move on to -- it's Bates stamp page 156997. It's a Response to Staff's Production of Documents Number 24.

A. Yes.

Q. And this report is a rating research report for FPL Group from Fitch Ratings dated February 12th, 2008, is that correct?

A. Yes.

Q. And I would like for you turn to Bates stamp page 157002. I think that's Page 6 of the report.

A. Okay.

Q. There are -- I would like for you to read aloud the first four sentences under the heading Financial Results and Outlook.

A. "Group Capital operates at a profit, but its credit and cash flow measures are not as robust as those of FPL or the consolidated FPL Group. Group Capital's growth capital investments are funded with a high component of debt leverage, including non-recourse project debt at about 70 percent debt to 30 percent equity." Keep going?

Q. Please.

A. "Also, during the period 2002 to 2006, relatively low power prices and spark spreads in Texas and Maine were a drag on operating results. As a result, Group Capital has relied upon the guarantee of its parent, FPL Group, in order to finance its growth investments most economically."

Q. I think we've discussed it before, but you would agree that Group Capital is the funding vehicle for FPL Group's nonregulated operations; is that correct?

A. Yes, that is correct.

Q. Okay. I need you to turn now to -- it's FPL's Response to Staff's POD Number 19. It bears the Bates stamp page of 156892 on the front of the report.

A. Okay. Ms. Bennett, I didn't know whether you were going to ask me another question on this one. As I've indicated before, the rating agencies, specifically S&P, make significant and substantial adjustments to the debt that FPL Group Capital actually has on its books, because there is over approximately $3.5 billion of debt on FPL Group Capital's books that is actually non-recourse. And by non-recourse that means that those debtholders only have the ability if payment is not made on the debt to actually go against the assets of that project.

And so, therefore, the rating agencies, although this has higher leverage on an unadjusted basis, on an adjusted basis a lot of that debt at FPL Group Capital is actually removed from the books. And you can most clearly see that when you look at the S&P annual reports, the credit rating agency reports that it does on FPL Group.

Q. Okay.

A. And I wanted to clear that up, because if you read this it paints a picture that it's very high leverage, and it is on an unadjusted basis. But on an adjusted basis, a lot of FPL Group Capital's debt, excuse me, by the rating agencies is actually taken off the balance sheet. Very similar to the way that for Florida Power & Light Company, the storm bonds, which are non-recourse to Florida Power & Light, are taken off of Florida Power & Light Company's balance sheet.

Q. Okay. And let's turn now to the next document, which is the POD Response Number 19.

COMMISSIONER McMURRIAN: Ms. Bennett, let me just jump in and ask you how much more do you think you have?

MS. BENNETT: Probably 20 minutes.

COMMISSIONER McMURRIAN: Okay. And, Mr. Butler or Mr. Anderson, can you tell me about how much more you have on redirect?

MR. BUTLER: Very little. Ten minutes or so.

COMMISSIONER McMURRIAN: Do you want a break now, Jane? I think you deserve one.

THE WITNESS: If you don't mind, could we just take a five-minute break, if that's okay?

COMMISSIONER McMURRIAN: Absolutely.

COMMISSIONER ARGENZIANO: Madam Chair. Madam Chair.

COMMISSIONER McMURRIAN: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: I know we're all really working really hard, but I'm fearful that what we're doing is trying to cram in a rate case that hasn't been done in a quarter century, and I'm hearing people are tired, and it's getting exhausting for everyone, and I just -- I'm really -- I really think this is wrong. At 10:44 at night is not a good time for people to be bringing up points, for the company or for the intervenors. And I'm really worried that we're pushing this too far.

I'm not sure what the answer is, but I'm sure everybody there wants to go home. And understand, I'll stay on the phone all night. I just think that what I'm hearing is exhaustion, and I'm not sure that's the right way of deriving information and asking questions.

It sounds like some people are getting to the point where, you know, they don't even -- okay. I don't even know if I want to answer -- or ask a question anymore. And that's just not the way to do this. And I'm just not sure that we shouldn't all break right now and when we come back, we come back. But I just have strong feelings that we may have pushed it too far, or too late.

COMMISSIONER McMURRIAN: I hear you loud and clear, Commissioner Argenziano. And I'm worried about the same thing, actually. The staff is asking their cross now. I don't know if we're going to have questions from the bench, and that was why I was asking about how much time we had left.

COMMISSIONER ARGENZIANO: Sure.

COMMISSIONER McMURRIAN: If we are that close and we don't have to bring this witness back on the

21st, it seemed like it might be worth pushing through.

COMMISSIONER ARGENZIANO: I understand that, Madam Chair, but at the same time the witness understands that that's part of what he's here for, and maybe it would be better if he would just go home now and take a break.

I know Mr. Butler had a nice bump on the head earlier, and I really hope he's feeling well. And truthfully, Mr. Butler, I know it's the same thing on the phone, it's 10:45 at night. Be real careful. You know, it's very dangerous after you get a bump on the head to go to sleep, but I know you're exhausted.

And, Madam Chair, just to say it again, maybe the best thing is to say we tried. I give everybody credit. We've been here all day, but maybe it's better that everybody just come back the next time we're scheduled. I'm just afraid we're rushing things. There are some things I missed in the last hour because of just -- I think, just being tired that I wish I hadn't.

But I'm just not sure -- take it from here. I just wanted to put my two cents in and see if that carried any weight or got us any closer to finishing and maybe just coming back the next time. And if the witness wouldn't mind, if he needs to come back, I think that's the best way to do it.

But I'll leave it up to everybody. I'm not -- you know, I'm just putting my two cents in.

MR. ANDERSON: If I might speak up for FPL, Mr. Pimentel very strongly would like to finish tonight. The core thing I think is Mr. Pimentel is awake and very responsive to questions. I don't think there's that much more. He's made several trips here already in this case, and, as we all know and we all appreciate, we all have important roles, but he has a day job as a CFO with FPL and FPL Group.

He's been on the stand since late afternoon yesterday, and will all respect, we really would like to get to the end and release him so we could then proceed with other witnesses at the other date.

MR. MENDIOLA: Madam Chair.

COMMISSIONER McMURRIAN: Mr. Mendiola.

MR. MENDIOLA: Thank you. I'll admit to being an eternal optimist, but with three days scheduled for the remainder of the hearing and looking at the -- aside from obviously Witness Slattery, who will take some time, I don't think it's going to be hard to finish in the next three days that are remaining, even if Mr. Pimentel comes back on the 21st.

COMMISSIONER McMURRIAN: Mr. Moyle.

MR. MOYLE: Well, you know, I think everybody is tired. I mean, we're going through a lot of information. You know, it's detail information. We're doing our best to try to pay attention to it, but it is late. And what I understand to be the remaining time is, you know, 20 or 30 minutes or so with staff, and then that assumes no questions from the bench, you know, and then more time. I think we ought to call it a day. My kids would appreciate it, too.

COMMISSIONER McMURRIAN: Well, my hesitancy is the Chairman wanted us to finish tonight. And, Commissioner Argenziano, I know you can't see, but the Chairman, his back was bothering him so bad he had to go ahead and go home.

COMMISSIONER ARGENZIANO: And I understand that, and with all due respect, and everybody's done a yeoman's job. It's just that what I've been hearing for the last hour and a half, and I would hate to be criticized, any one of us, even the company, to be criticized for us rushing this. And I understand that they wanted to bring the witness, have him done, and, God, he's been on that stand all day. And I really say what a job everybody has done.

But I have to be honest with you, and, again, with all due respect to the Chairman, we're all independent Commissioners, and I think we have to make the decision. And I don't want to push anybody. I mean, I'll keep going, I'm just -- I'll tell you what, I just think that we're getting to the point where everybody's tired and it's just not fair. It really isn't.

And I'm afraid that some of the questions and the answers are sounding very reluctant. And not that the witness is doing that, I'm not accusing him of that. I'm just saying it's a late hour and it may be beyond a reasonable time to have a rate case that we're working on go.

And with all due respect to the company, I really do understand they want to get it over with and get this witness out. I'm just telling you, I can see the headlines. And not that we're working on headlines, but I would want people to be chastising the company, or the Commissioners, or the witnesses, or the intervenors that we just pushed it until we were too tired. And maybe I'm just too tired and maybe that's what I see. But, you know, I'll leave it up to the Commissioners.

COMMISSIONER McMURRIAN: Mr. Wright, did you --

MR. WRIGHT: Madam Chairman, I mean, I'm not going to assert prejudice, and I certainly sympathize and emphasize with Mr. Pimentel's wanting to get done.

I mean, we all want to get done. We've been at it more than 13 hours today, and I frankly agree with Commissioner Argenziano. I think it's late. People are passing remarks to the effect of it's late, and I'm messing up, and this and that. But that's my two cents as a practitioner. But as I always say, y'all make the call, we'll do what you say.

COMMISSIONER McMURRIAN: Okay.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. I guess I have similar concerns. I mean, the hour is getting late. It's ten till 11:00. I don't think anyone's had the break for dinner. But, you know, if we could have finished, I think that would be good. I'm willing and open-minded to persevere a little bit longer, but I don't necessarily see us getting to the end of not only staff's cross-examination, but also redirect.

And, frankly, I guess part of my concern is some of the questions that are coming out seem to be related to analyst reports. And, you know, in terms of prejudging the case on analyst reports, I'm kind of trying -- and maybe it's the late hour, but I'm trying to understand what staff is attempting to proffer through referencing reports that foreshadow the future.

So maybe staff could briefly elaborate on that. But I'm getting kind of mentally brain-dead, also.

COMMISSIONER ARGENZIANO: Madam Chair, that's the problem. I think we all are. And I really do understand the companies, and I'm not trying to be belligerent or anything. It's just -- it's been a long day and I just think it needs to end.

COMMISSIONER McMURRIAN: Okay. Ms. Bennett, do you --

MS. BENNETT: I was just going to respond to Commissioner Skop's question in that when you play cleanup batter, sometimes your questions look more like Swiss cheese because people have asked -- and so a lot of my lead-up kind of went away. It might be better for me to have an opportunity to pull the questions together so that they made sense.

At this point in time, I do think I probably had at least half an hour. I said 20 minutes, but I was flipping through to make sure. I think I have half an hour.

COMMISSIONER McMURRIAN: I tend to agree with a lot of what's been said. And I apologize to you, Mr. Pimentel, myself. I think we are at that stage, and I think we are getting a little bit overly tired and anxious for questions and answers to be over. And perhaps that's not the right light to be dealing this -- dealing with everything in. And, see, I can't even string a sentence together.

So I think we are going to adjourn, pick up on October 21st.

And I guess, anything else before we adjourn, Ms. Bennett?

MS. BENNETT: Time certain, 9:30 on October 21st?

COMMISSIONER McMURRIAN: 9:30, October 21st.

MR. BUTLER: Commissioner McMurrian.

COMMISSIONER McMURRIAN: Mr. Butler.

MR. BUTLER: I'm sorry. Just before we break, just real briefly. There have been a couple of comments put on the record for the sake of preserving the record earlier regarding the aviation expenses, and I feel it's important to be sure this is -- FPL's position is clear.

We are completely committed to addressing Commissioner Skop's concerns and being sure that we provide the information we need to have all of the Commissioners comfortable with our aviation expenses. We have listened to, and so far not spoken up about the other parties who have expressed concerns, have cross-examined, and most recently have, you know, preserved objections to a late-filed exhibit on the subject.

And I just want to note for the record that, you know, we had provided discovery on the aviation logs back in April. None of the parties filed any testimony on this subject. None of the parties took a position in the prehearing order on Page 92. You know, it's a straight "no positions" and a couple of "adopt OPC's position," which is no position itself. Staff was the only party that had reserved "no position at this time."

And so, excuse me, we think it's a little bit over the top to be having as much objection to the process of the Commission informing itself as we're seeing. Thank you.

COMMISSIONER McMURRIAN: Mr. Butler, I'm sorry. Again, everyone has said it's late a million times. I'm saying it again. What are you asking me?

MR. BUTLER: I'm simply making that statement for the record. No call for action on your part.

COMMISSIONER McMURRIAN: Thank you.

All right. Hearing that, we are adjourned.

(Transcript continues in sequence with Volume 41.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 22nd day of September, 2009.

Jane Faurot

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