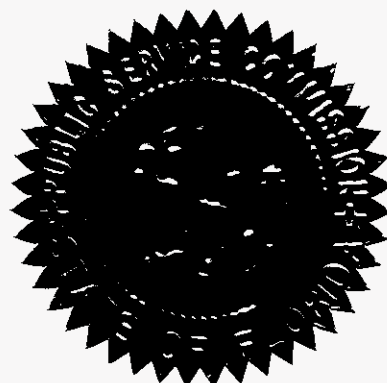


BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PETITION FOR INCREASE IN RATES DOCKET NO. 090079-EI
BY PROGRESS ENERGY FLORIDA, INC.

PETITION FOR LIMITED PROCEEDING DOCKET NO. 090144-EI
TO INCLUDE BARTOW REPOWERING
PROJECT IN BASE RATES, BY
PROGRESS ENERGY FLORIDA, INC.

PETITION FOR EXPEDITED APPROVAL DOCKET NO. 090145-EU
OF THE DEFERRAL OF PENSION
EXPENSES, AUTHORIZATION TO CHARGE
STORM HARDENING EXPENSES TO THE
STORM DAMAGE RESERVE, AND VARIANCE
FROM OR WAIVER OF RULE 25-6.0143(1)(C),
(D) AND (F), F.A.C., BY PROGRESS
ENERGY FLORIDA, INC.



VOLUME 2
Pages 106 through 194

ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING.
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

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: Monday, September 21, 2009

TIME: Commenced at 12:40 p.m.
Concluded at 3:30 p.m.

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

REPORTED BY: RAY D. CONVERY
Court Reporter

PARTICIPATING: (As heretofore noted.)

ORIGINAL

DOCUMENT NUMBER - DATE

09861 SEP 21 09

FPSC-COMMISSION CLERK

I N D E X

WITNESS

NAME:	PAGE NO.
VINCENT DOLAN	
Direct Examination by Mr. Glenn	116
Prefiled Direct Testimony of Jeff Lyash as adopted by Vincent Dolan inserted into the record	118
Cross Examination by Mr. Rehwinkel	136
Cross Examination by Ms. Bradley	155
Cross Examination by Mr. Moyle	175

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUMBER:		ID.	ADMTD.
263	Documents from the Customer, Mr. Napote	153	153
264	January, 2009 to August, 2009 Rate Case Decisions	182	

P R O C E E D I N G S

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

4 ACTING CHAIRMAN EDGAR: Okay. Before we go to
5 the first witness, earlier this morning during our
6 discussions we had presented to us by our staff some
7 additional issues for potential stipulation. Mr. Moyle,
8 I believe you had some questions. Are you ready to move
9 forward or can you speak to those?

10 MR. MOYLE: Yes. I think we've been able to
11 come to an agreement with respect to the issues that
12 FIPUG had questions about.

13 Staff, I think it's 3, 4 and 5, isn't that
14 right?

15 ACTING CHAIRMAN EDGAR: Actually I'm looking
16 at 22, 23 and 25.

17 MR. MOYLE: The ones that I was most concerned
18 about were ones that flowed from this idea of an updated
19 sales forecast and an updated jurisdictional separation
20 survey, and I think Progress has made clear to me both
21 on the record and off the record that those are off the
22 table, they're not going to be part of this case. And,
23 you know, given that representation, I'm okay. So to
24 the extent FIPUG took positions on any issues that were
25 keyed on that similar to the Retail Federation and

1 Office of Public Counsel, you know, we would withdraw
2 our opposition.

3 ACTING CHAIRMAN EDGAR: Okay, thank you,
4 Mr. Moyle.

5 With that, I think that may put us, then, in a
6 posture to take up the sheet that we discussed earlier
7 this morning that was labeled Additional Stipulations
8 and which addresses Issues 22, 23 and 25, and then
9 perhaps a second sheet that has been distributed at the
10 break labeled Second Additional Stipulations which
11 address Issues 3, 4 and 5. I'll ask Ms. Fleming to put
12 us in the proper posture.

13 MS. FLEMING: Yes, Commissioners. With the
14 first sheet additional stipulation that relates to
15 Issues 22, 23 and 25, and after consulting with all the
16 parties, there are -- all the parties can stipulate to
17 those issues.

18 With respect to the second additional
19 stipulation handout, what we provided, we wanted to
20 provide this handout because there has been some
21 rewording in the issue that's shown in legislative
22 format, and I would also like to note that in the
23 stipulation language we would also include that FIPUG
24 does not affirmatively stipulate to the issue but takes
25 no position on this issue along with the other parties.

1 ACTING CHAIRMAN EDGAR: Okay, thank you, Ms.
2 Fleming.

3 Anything from any of the parties as to either
4 of these sheets and proposed stipulations?

5 MR. GLENN: Progress is fine with those
6 stipulations.

7 ACTING CHAIRMAN EDGAR: Anything from any of
8 other of the parties at this time?

9 Hearing none, Commissioners, are there any
10 questions about any of these stipulations? No.

11 Is there a motion?

12 COMMISSIONER SKOP: Move to approve Additional
13 Stipulations, Issue 22, 23 and 25.

14 COMMISSIONER McMURRIAN: Second.

15 ACTING CHAIRMAN EDGAR: Thank you.

16 COMMISSIONER McMURRIAN: My confusion is
17 whether or not we're also going to vote on -- are we
18 doing separate motions on the Second Additional
19 Stipulations, Commissioner Skop?

20 COMMISSIONER SKOP: That was my idea on that.

21 ACTING CHAIRMAN EDGAR: That was your intent,
22 okay. Then we have a motion and a second to approved
23 the proposed stipulations, 22, 23 and 25 issues. All in
24 favor say aye. Aye.

25 COMMISSIONER SKOP: Aye.

1 COMMISSIONER McMURRIAN: Aye.

2 ACTING CHAIRMAN EDGAR: Any opposed?

3 Show it adopted.

4 Commissioner Skop, can you help us address
5 Issues 3, 4 and 5?

6 COMMISSIONER SKOP: Yes, thank you, Madam
7 Chair. I'd move to approve what is listed as the second
8 additional stipulations, Issue 3, Issue 4 and Issue 5.

9 COMMISSIONER McMURRIAN: Second.

10 ACTING CHAIRMAN EDGAR: Thank you. All in
11 favor?

12 Aye.

13 COMMISSIONER SKOP: Aye.

14 COMMISSIONER McMURRIAN: Aye.

15 ACTING CHAIRMAN EDGAR: Opposed?

16 Show it adopted.

17 And then, Ms. Fleming, I believe that you also
18 distributed another sheet that is titled Attorney
19 General Issues 115-A and 115-B, and now that I'm looking
20 at it more closely, it appears that this is the clean
21 version that I asked for and the issue language that was
22 approved by the Commission earlier this morning to be
23 included into the issues list for this case. Is that
24 correct?

25 MS. FLEMING: That is correct, and I would

1 note that what's being handed out now is a correction in
2 one of the issues, the subsection, it listed 36606, but
3 we needed to include subsection 1, so it's the
4 correction of a typo.

5 ACTING CHAIRMAN EDGAR: No action needed, but
6 any questions or clarification needed by anybody?

7 No? Okay. Then anything else, Ms. Fleming,
8 that we can or should take up before we move to the
9 first witness?

10 MS. FLEMING: There is one additional
11 stipulation to address, and it's with respect to Issue
12 57. It's found on -- contained on page 53 of the
13 Prehearing Order. And Issue 57 states, "Should an
14 adjustment be made to advertising expenses?" The
15 stipulation will read, "An adjustment has been
16 appropriately made to remove image-building advertising
17 expense in the amount of \$3,388,000 as reflected in MFR
18 C-2."

19 ACTING CHAIRMAN EDGAR: Okay, so you're giving
20 us a change to the Progress position for Issue 57?

21 MS. FLEMING: The change is the stipulation
22 language. All parties have stipulated to this language.
23 The Intervenors have taken no position. So this is an
24 additional stipulation.

25 ACTING CHAIRMAN EDGAR: Okay. Could you read

1 that one more time?

2 MS. FLEMING: Sure. The stipulation for this
3 issue is just the first sentence in Progress's position,
4 which is, "An adjustment has been appropriately made to
5 remove image-building advertising expense in the amount
6 of 3,388,000, as reflected in MFR C-2."

7 ACTING CHAIRMAN EDGAR: Anything from any of
8 the parties on this? Mr. Moyle?

9 MR. MOYLE: And I hate to even, you know,
10 burden it, but my understanding with respect to, you
11 know, taking no position, that's not tantamount to
12 agreeing to the Company's, you know, position and
13 stipulating that a fact is there so that they don't have
14 to carry forth their burden of proof, and I just want to
15 make sure we're all on the same page in that respect.

16 MS. FLEMING: It was my understanding that
17 this would be reflected as a Category 2 stipulation.

18 MR. MOYLE: Okay. Well, I think I'm okay on
19 this, but on others we're taking no position, and I
20 don't want that to somehow then be seen as, you know,
21 they don't have to meet their burden of proof to move
22 their case forward.

23 ACTING CHAIRMAN EDGAR: Okay. And I guess
24 what I would ask, Commissioners, if this is all right
25 with you, is let's hold off on this one. We've done a

1 lot of stipulations, I want to move into the witness.
2 My own, speaking only for myself, is that, if there are
3 any other stipulations that parties are close on working
4 with our staff, we can certainly address those as we
5 move forward. That helps, clearly, administratively
6 with efficiency and to free up all of our time and focus
7 on those issues that are more in contention than those
8 that may be appropriately stipulated, but let's just
9 hold that if we may, Ms. Fleming, in abeyance for the
10 moment.

11 Commissioners, any questions or comments
12 before we call the first witness?

13 Okay, I think we are ready to go forward.

14 Mr. Glenn?

15 MR. GLENN: Thank you, Commissioner Edgar. We
16 would call Vincent M. Dolan.

17 ACTING CHAIRMAN EDGAR: And while Mr. Dolan is
18 coming forward, let me also share with you all, I think
19 there have been some questions about planning and
20 scheduling. Our Chairman has asked me to share with
21 you that we will aim for a lunch break in the 1:15-ish,
22 depending where we are in sort of the natural flow of
23 things, and that we would go probably until about eight
24 o'clock this evening, again, realizing whatever may be a
25 natural break close to that time.

1 And Mr. Glenn, we are ready when you are.

2 MR. GLENN: Thank you.

3 Whereupon,

4 VINCENT M. DOLAN

5 was called as a witness on behalf of Progress Energy
6 Florida, having been duly sworn, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. GLENN:

10 Q Mr. Dolan you've been sworn, correct?

11 A Yes, I have.

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

14 A Vincent Dolan, 299 1st Avenue North, St.
15 Petersburg, Florida.

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

17 A Progress Energy Florida Company. I'm the
18 president and CEO.

19 Q Now, have you adopted the prefiled testimony
20 of Mr. Jeffrey J. Lyash which was prepared and caused to
21 be filed on March 20, 2009, in this proceeding and
22 consisting of 14 pages?

23 A Yes, I have.

24 Q Do you have any changes or revisions to make
25 to that prefiled direct testimony?

1 A No, I do not.

2 Q If I asked the same questions contained in
3 that prefiled direct testimony, would your answers be
4 the same?

5 A Yes, they would.

6 MR. GLENN: Commissioner Edgar, at this point
7 I ask that the direct testimony of Jeffrey J. Lyash as
8 adopted by Mr. Dolan be inserted into the record as
9 though read.

10 ACTING CHAIRMAN EDGAR: The prefiled direct
11 testimony will be inserted into the record as though
12 read.

13

14

15

16

17

18

19

20

21

22

23

24

25

**DIRECT TESTIMONY OF
JEFF LYASH**

1 **I. Introduction and Summary.**

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

3 A. My name is Jeff Lyash. My business address is 299 1st Avenue, North, St.
4 Petersburg, Florida 33701.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by Progress Energy Florida, Inc. (“Progress Energy” or the
8 “Company”) as its President and Chief Executive Officer. In this role, I have overall
9 responsibility for the operations of Progress Energy Florida.

10
11 **Q. Please describe your educational background and professional experience.**

12 A. I graduated with a bachelor’s degree in mechanical engineering from Drexel
13 University in 1984. Prior to joining Progress Energy, I worked with the Nuclear
14 Regulatory Commission in a number of capacities. In 1993, I joined Progress
15 Energy, and spent eight years at the Brunswick Nuclear Plant in Southport, North
16 Carolina, ultimately becoming Director of Site Operations. In January 2002, I
17 assumed the position of Vice President of Transmission/Energy Delivery in the
18 Carolinas. On November 1, 2003, I was promoted to Senior Vice President of
19 Energy Delivery-Florida. On June 1, 2006, I was promoted to President and Chief
20 Executive Officer of Progress Energy Florida, which is the position I currently hold.

21

1 **Q. What is the purpose of your direct testimony?**

2 A. I provide an overview of the Company's need for rate relief to continue to provide
3 its customers with efficient, reliable power consistent with the energy goals set by
4 the Florida Legislature, the Governor, and this Commission.

5
6 **Q. Do you have any exhibits to your testimony?**

7 A. Yes, I have prepared or supervised the preparation of the following exhibits to my
8 direct testimony:

- 9 ● Exhibit No. ___ (JL-1), which is my current resume;
- 10 ● Exhibit No. __ (JL-2), which reflects PEF's decreasing OSHA injury rate; and
- 11 ● Exhibit No __ (JL-3), which reflects PEF's improving reliability performance.

12 These exhibits are true and accurate.

13
14 **Q. Do you sponsor any schedules of the Company's Minimum Filing
15 Requirements (MFRs)?**

16 A. Yes, I sponsor or co-sponsor MFR Schedule F-9. This is true and correct, subject to
17 being updated during the course of this proceeding.

18
19 **Q. Please summarize your testimony.**

20 A. Progress Energy Florida has had superior performance – both operationally and in
21 managing our costs – the result of which has been stable and generally flat base rates
22 for more than a quarter century. We have accomplished this while other critical
23 goods and services have increased much more dramatically over the same period.
24 Customer growth and our aggressive cost management practices, however, can no

1 longer cover the investments needed to meet the comprehensive energy goals
2 established for this State by the Florida Legislature, the Governor, and this
3 Commission. We are committed to meeting the Legislature's and Governor's
4 directions to reduce greenhouse gas ("GHG") and other emissions, add new nuclear
5 generation, increase alternative energy resources, increase energy efficiency, and
6 harden the electric system against storms; but this commitment comes at a cost.

7 As the Company is embarking on the largest, most aggressive capital
8 expenditure campaign in its history and in the history of the State for an electric
9 utility, to meet these goals, it is critical that the Company's financial health and
10 integrity be maintained; that it continue to have the ability to attract the significant
11 capital at a reasonable cost that it needs to finance these critical and substantial
12 infrastructure projects; that its rates are set at levels that allow it to actually earn its
13 authorized rate of return, and that capital is returned to it in a timely manner. The
14 outcome of this case will have a clear impact on the financial health of the
15 Company, and ultimately on PEF's ability to meet the Legislature's and Governor's
16 goals.

17
18 **II. Progress Energy Florida's Superior Performance.**

19 **Q. How has Progress Energy Florida performed over the last several years?**

20 A. Progress Energy Florida's performance has been superior in all key areas: cost
21 management; safety and reliability; power production; customer service; and storm
22 response.

23

24

Base Rates

1
2 Despite upward cost pressures, which have affected nearly all other industries, the
3 Company has not increased base rates since 1993, with the exception of adding the
4 Hines 2 and 4 power plants in 2008 (while absorbing the cost of the Hines 3 power
5 plant), and in fact lowered base rates in 2002. We have been able to keep the growth
6 of our price below the growth in the overall consumer price index since 1984.
7 While base rates have remained essentially flat, the Consumer Price Index has
8 increased 106%, the price of housing 113%, the price of food 115%, and the price of
9 medical care 253%. As witnesses Jackie Joyner, Dale Oliver, David Sorrick,
10 Willette Morman, Dale Young, Masceo DesChamps, and Sandy Wyckoff discuss in
11 greater detail, we have accomplished this in large part due to our ability to
12 efficiently and effectively manage costs.

Safety and Reliability

13
14 We continue to excel in safety and reliability. Since 2001 we have reduced our OSHA
15 injury rate by 70%, as reflected in my Exhibit No. __ (JL-2). We have been at or
16 near top quartile in the industry since 2003, and improved to top decile in 2007.
17 Similarly, we have reduced customer system average outage minutes by 40% since
18 1997, as reflected in my Exhibit No. __ (JL-3). We have maintained SAIDI below
19 80 since 2004, which is outstanding given the size and diversity of the Company's
20 service territory. We have also continued to achieve significant improvements in
21 our Transmission system reliability and safety by decreasing circuit SAIDI by more
22 than 23% since 2003, and reducing OSHA injury rates by 65% since 2002.
23
24

Power Production

1 Our power generation fleet also has had outstanding performance. Our Crystal River
2 Unit 3 ("CR3") nuclear power plant continues to perform at record safety and
3 production levels. CR3 has maintained the U.S. Nuclear Regulatory Commission's
4 highest rating (green status) in all areas since 2006. Since 2000, CR3 has had the
5 four highest performing generating cycles in plant history. In 2007, the station
6 generated more electricity than any other year in which the station had a refueling
7 outage. Our fossil fleet has performed equally well. Fleet equivalent availability,
8 which is a measure of the availability of the units when they are needed to serve
9 customer load, has generally exceeded the NERC average. The fleet has also
10 outperformed the NERC average with respect to equivalent forced outage rates,
11 which measure how often a unit is off-line due to an unexpected or forced condition.
12 Our simple cycle fleet has also demonstrated extremely high levels of starting
13 reliability, with starting reliability levels exceeding 99.5% over the last four years.

Customer Service

14 Customer service and satisfaction remain high. We have scored either first or second
15 quartile in customer satisfaction for the past six years and in customer service for the
16 past nine years according to the J.D. Power & Associates survey of residential
17 customers. Over the past four years, we have earned PA Consulting Group's
18 ServiceOne award twice, the EEI Edison Award, and the J.D. Power & Associates
19 Founder's Award. Progress Energy was the first utility to receive the Founder's
20 Award, and only the 15th company to ever receive the award. We were ranked the
21 highest utility in Florida this year for business customer satisfaction by J.D. Power.
22
23
24

Storm Response

Our response to major storms has been second to none. As a result of the implementation of best practices and comprehensive storm plans representing the cumulative experience of both Progress Energy Florida and Progress Energy Carolinas, we have become an industry model for storm preparedness and response. We showed this repeatedly during the 2004 and 2005 hurricane seasons. These plans, and our efforts at putting them into practice quickly and efficiently, allowed us to meet the challenges of restoring power during an unprecedented hurricane season where, in 2004, four back-to-back hurricanes impacted our customers in our service territory. The four hurricanes left an unprecedented number of customers without service at their peak, yet in every case we excelled in restoring service to those customers who could receive service, doing so in as little as two days for Hurricane Ivan and only up to nine days for Hurricane Charley, despite the fact that over 500,000 of our customers, or 1.25 million people, were left without service at the peak of that hurricane. Our employees worked tirelessly and with great dedication to prepare for, respond to, and recover from what turned out to be the worst hurricane season on record for the State of Florida. As a result of our hurricane response efforts, we were awarded the Edison Electric Institute (“EEI”) Emergency Response Award – the highest praise from our peers.

III. Our Vision and Needs for the Future.

Q. What is the Company’s plan for the future?

A. Our plan is to meet the Legislature’s and Governor’s directives, and this Commission’s goals and expectations to secure Florida’s energy future through our

1 balanced solution. This includes increasing energy efficiency and alternative forms
2 of energy. It also includes constructing state-of-the-art new power plants, enhancing
3 existing plants, and building our Levy nuclear plant, which will be critical to
4 meeting the Legislature's desire to increase fuel diversity and security, and the
5 Governor's and Congress's desire to significantly reduce greenhouse gas emissions
6 in the State.

7
8 **Q. What factors are driving the Company's need for rate relief?**

9 A. A number of factors both at the state and federal levels are requiring additional
10 investment by the Company. The Florida Legislature and Governor have set forth a
11 comprehensive set of energy goals for the State of Florida that, among other things,
12 calls on public utilities like the Company to diversify their fuel resources, reduce
13 their dependence on fossil fuels, increase renewable energy resources, increase
14 energy efficiency, add new nuclear power generation and reduce greenhouse gas and
15 other emissions, and harden their transmission and distribution systems against
16 storm damage. This Commission is committed to implementing these goals by
17 encouraging fuel diversity, fostering increased renewable energy generation and
18 increased energy efficiency, adopting alternative cost recovery mechanisms for the
19 recovery of nuclear power costs, and requiring and approving storm hardening plans
20 by the investor-owned utilities. Meeting these goals, however, comes at a cost.

21 In addition, the national recession has hit Florida particularly hard. This has
22 resulted in near stagnant growth in 2008, 2009, and projected lower than historical
23 growth in the near future. This has resulted in much lower revenues than predicted

1 and lower revenues in our projected test year. This is compounded by the fact that
2 our fixed costs have continued to rise.

3
4 **Q. What is the Company doing to meet the State's energy goals?**

5 A. The Company has adopted its "Balanced Solution" strategy to meet the energy goals
6 of the Legislature, Governor, and this Commission. Our Balanced Solution calls for
7 (1) increasing the Company's already aggressive energy efficiency programs, (2)
8 developing innovative, cost-effective alternative energy resources, and (3)
9 constructing state-of-the-art power plants, including new, advanced nuclear power
10 plants, to meet our customers' current and future energy needs. Each of these
11 strategies is consistent with the energy goals for Florida utilities developed by the
12 Florida Legislature, the Governor, and the Commission.

13
14 **Q. What investments are the Company making to foster more energy efficiency?**

15 A. The Company is already a leader in energy efficiency and demand-side management
16 ("DSM") programs. According to EIA's most recent (2006) data, Progress Energy
17 Florida's DSM programs have produced 1.7% of the electric industry's energy
18 efficiency savings and 6.4% of the electric industry's peak demand reductions even
19 though we represent only about 1.1% of the industry's energy sales and peak
20 demand. This notwithstanding, the Company moved forward with 39 new measures
21 for its DSM plan ahead of the Commission's schedule for revisions to the
22 Company's DSM goals. With PEF's expanded DSM program, PEF expects to
23 reduce the need for an additional 527 winter Megawatts of peak demand load from
24 direct load control and 418 winter Megawatts from energy efficiency, for a total of

1 945 winter Megawatts load reduction. This is in addition to more than 1,500
2 Megawatts of demand reduction that PEF has achieved through its DSM programs
3 since they were initiated; or the equivalent of avoiding the construction of almost 5
4 new 500MW generating plants. In just the first two years of our DSM expansion,
5 we more than doubled energy savings relative to 2006 levels. The Company's
6 commitment to energy efficiency has resulted in an innovative, cost-effective DSM
7 plan that ranks among the largest and most successful programs in the country.
8

9 **Q. What steps has the Company taken to increase its use of alternative energy**
10 **resources?**

11 A. The Company is committed to aggressively pursuing investments in future
12 renewable energy generation. Through its recent renewable energy purchase power
13 agreements the Company will potentially add 367 Megawatts of new renewable
14 generation to its system. This renewable energy generation is in addition to the
15 Company's current contracts with five renewable energy providers for more than
16 173 Megawatts of renewable energy, the most of any Florida utility. PEF is a leader
17 among Florida utilities in encouraging renewable energy resources and it will
18 continue to make the investments necessary to promote to the extent possible the
19 development of further, cost-effective renewable energy resources in Florida.
20

21 **Q. What investments will the Company make in start-of-the-art plants and in its**
22 **transmission and distribution system to meet policy-maker goals and to**
23 **continue to reliably provide cost-effective energy to its customers?**

1 A. Fulfilling the State's energy goals developed by the Florida Legislature, the
2 Governor, and this Commission, as well as new FERC, NERC, and FRCC
3 mandates, requires substantial capital investment. The Company is making the
4 investment commitment necessary to fulfill these goals. For example, we will have
5 spent approximately \$800 million to repower the Company's existing 450 megawatt
6 oil-fired Bartow steam plant with cleaner burning natural gas and increased the
7 megawatt ("MW") output of the plant by an additional approximately 827 MWs
8 when the repowered units come on line in June of this year. This will reduce the
9 Company's carbon footprint, increase reliability, and provide customers the
10 opportunity to save significant fuel costs over the life of the plant.

11 At our Crystal River Energy Complex, we are installing \$1.3 billion in
12 environmental control equipment on two of our coal-fired units, which will
13 significantly lower the Company's air emissions. This project, undertaken pursuant
14 to our Commission-approved environmental controls plan, will be completed this
15 year.

16 To further improve fuel diversity and security, and to further lower emissions,
17 we are also increasing capacity at our existing CR3 nuclear plant. The CR3 uprate,
18 which this Commission approved last year, will increase carbon-free capacity by
19 180MWs and save customers approximately \$2.6 billion in fuel costs over the life of
20 the plant when we complete the uprate in 2011. Similarly, to assure that CR3 will
21 operate efficiently now and for the next 30 years, we are replacing the plant's steam
22 generators. This \$299 million project is underway and will be completed by the end
23 of this year.
24

1 Similarly on the Transmission and Distribution side, the Company has made
2 and will continue to make substantial capital and operation and maintenance
3 (“O&M”) investments. This investment is necessary to replace aging equipment,
4 meet growth, and implement the Company’s storm hardening plan that this
5 Commission approved, and to satisfy new FERC and NERC requirements to
6 strengthen and secure the electric power grid. The Company estimates it will
7 require over \$611 million in future annual revenue requirements for its transmission
8 and distribution systems to meet these objectives.

9
10 **Q: What other factors are driving the Company’s need for rate relief?**

11 A. Progress Energy Florida is facing the same pressures as other businesses, state
12 agencies, and people throughout the state. Despite aggressive cost management, as
13 Mr. DesChamps testifies, the Company’s employee benefit costs have increased.
14 Although we have effectively managed overall labor cost increases, the cost for
15 several high demand job functions have increased; principally engineers, including
16 those with nuclear experience, and project management positions. Finally, given the
17 recession and the significant stock market decline, Progress Energy Florida’s
18 pension costs have increased.

19
20 **Q. Can the Company meet the State’s energy goals at your current rates?**

21 A. We cannot. With the exception of adding the Hines 2 and 4 power plants in rates
22 beginning in 2008, the Company has not had an increase in base rates since 1993. In
23 fact, the Company substantially reduced its base rates from 2002 through 2007 as a
24 result of the settlement of its last two base rate proceedings. Our base rates have

1 essentially remained flat for the past quarter century and are roughly the same as
2 they were in the early 1980's. Since 2005 increases in the total price paid by
3 customers have been driven primarily by escalating fuel costs, which have increased
4 dramatically in the last few years, despite the Company's best efforts to mitigate the
5 impact of the increases on its customers. Increases in the cost of fuel, of course, are
6 largely outside the control of any utility, including the Company. PEF's residential
7 base rates have increased by only 1% since 1984. By contrast, the consumer price
8 index has increased by 106%, housing has increased 113%, food has increased by
9 115%, and medical care has increased by 253% over the same time frame. These
10 cost escalation figures demonstrate the Company's ability to hold base rates
11 relatively constant by controlling its costs during a period of time when costs were
12 otherwise rising in the rest of the economy. The Company has accomplished this
13 while continuing to provide customers with superior service.

14 In an era of ever increasing costs and lower growth, however, we cannot
15 continue to provide superior service and reliability and meet the energy goals as
16 mandated by the Legislature and Governor at our current rates.

17
18 **Q. What is the Company seeking in this proceeding?**

19 A. The Company is asking the Commission to set base rates at a level consistent with
20 the service and operational performance that customers expect and that allows the
21 Company to meet the comprehensive energy goals established for this State by the
22 Florida Legislature, the Governor, and this Commission. We believe an appropriate
23 level will require an annual revenue requirements increase in base rates by
24 approximately \$499 million, beginning January 1, 2010. The requested increase will

1 provide the Company with a reasonable opportunity to earn a fair return on its
2 investment, including a 12.54% rate of return on the company's common equity, and
3 will allow the Company to meet policy-makers' established goals and to secure
4 Florida's energy future. We are seeking interim and limited relief in the amount of
5 \$76 million beginning July 1, 2009, driven by the commercial in-service date of the
6 Bartow Repowering project and lower customer growth and revenues. This relief,
7 along with other accounting treatment relief, will help the Company to maintain its
8 financial integrity in a critical time when PEF needs access to capital markets on
9 reasonable terms and at reasonable costs.

10
11 **Q. Why is it critical for the State to have a financially healthy utility?**

12 A. To implement the State's comprehensive energy policy, the Company has embarked
13 upon the largest, most aggressive capital investment campaign in its history. It is
14 critical that the Company's financial health and integrity be maintained, and that it
15 continue to have the ability to attract the significant capital at a reasonable cost that
16 it needs to finance these critical and substantial infrastructure projects.

17 Although return on equity and capital structure are extremely important to the
18 Company's ability to successfully meet the State's energy policy goals, it is equally
19 important that the Company's rates are set at levels that *allow it* to actually earn its
20 authorized rate of return, *and* that capital is returned to it in a timely manner. If the
21 Company is hamstrung by a low ROE, unacceptable capital structure, or the inability
22 to actually earn its authorized return, it will undoubtedly have a significant, negative
23 impact on the Company's cash flow and earnings, and on its ability to attract much
24 needed capital at reasonable terms and at reasonable costs, and to maintain strong

1 credit quality; all of which are essential to financing the Company's Levy nuclear
2 project, as well as its multi-billion dollar day-to-day operations. Such a course will
3 result in increased costs to consumers and an inability of the Company to continue to
4 provide superior service and to complete the significant capital projects that are
5 critical to the successful implementation of the State's energy goals.

6
7 **Q. Does this conclude your testimony?**

8 A. Yes, it does.
9

1 BY MR. GLENN:

2 Q Mr. Dolan, and do the exhibits attached to
3 your adopted testimony consist of JJL-2 and JJL-3?

4 A Yes, they do.

5 Q And are those exhibits true and correct to the
6 best of your knowledge?

7 A Yes, they are.

8 MR. GLENN: Commissioner Edgar, I'd note that
9 the exhibits of Mr. Dolan's adopted testimony have been
10 premarked for identification as numbers, I believe, 48
11 and 49 on staff's exhibit list.

12 ACTING CHAIRMAN EDGAR: Thank you.

13 BY MR. GLENN:

14 Q Mr. Dolan, have you prepared a summary of your
15 adopted direct testimony?

16 A Yes, I have.

17 Q Would you please give it at this time?

18 A Yes, I will.

19 ACTING CHAIRMAN EDGAR: Mr. Dolan, you have
20 five minutes.

21 THE WITNESS: Thank you, Madam Chairman, good
22 afternoon. Commissioners, good afternoon.

23 The rate relief we seek in this case is for
24 identifiable large new capital investments, operating
25 and maintenance expenses needed to maintain and harden

1 our electric grid, moneys needed to proactively maintain
2 and make more efficient our power plants and for revenue
3 requirements necessary to cover these fixed costs as a
4 result of lower actual and projected sales.

5 Progress Energy Florida has managed our day-
6 to-day operations and the associated expenses in a
7 prudent and efficient manner, the result of which has
8 been a history of stable and generally flat base rates
9 for nearly a quarter of a century. We have accomplished
10 this while other critical goods and services have
11 increased much more dramatically during that same
12 period.

13 Customer growth and our disciplined cost
14 management practices, however, can no longer cover the
15 investments that we need to make to meet the
16 comprehensive energy goals established for this state by
17 the Florida Legislature, the Governor and this
18 Commission.

19 We are committed to meeting the Legislature's
20 and Governor's policy direction to reduce greenhouse gas
21 and other emissions; to license, build and operate new
22 nuclear capacity; to increase cost-effective alternative
23 energy resources; to expand customer utilization of
24 energy efficiency and demand-side management; to install
25 new state-of-the-art generation facilities; and to

1 invest in the electric grid to improve its capacity and
2 to harden it against storms.

3 But this commitment comes at a cost, and the
4 principal drivers -- you heard these this morning -- are
5 investment to repower the company's existing 450
6 megawatt oil-fired Bartow steam plant with cleaner
7 burning natural gas, and tripling the megawatt output of
8 that facility.

9 This repowered plant, which began commercial
10 operation in June of this year, reduces the company's
11 carbon footprint, increases reliability and provides
12 customers the opportunity to save significant fuel costs
13 over the life of the plant, and this equates to
14 approximately \$130 million in annual revenue
15 requirements related to our request. And to ensure that
16 our Crystal River 3 nuclear facility will operate
17 efficiently now and for the 30 years, we're in the
18 process of replacing the plant's steam generators. This
19 \$300 million project is under way and will be completed
20 by the end of this year, and this equates to an
21 additional \$43 million annual revenue requirement
22 included in our request.

23 We are also rebuilding the electrostatic
24 precipitators at our coal units, Crystal River 4 and 5,
25 equating to another \$13 million revenue requirement

1 related to that project, and we also have real O&M needs
2 to maintain our power plants, harden our system and meet
3 new FERC reliability standards.

4 In addition, the national recession has hit
5 Florida particularly hard. This has resulted in near
6 stagnant to negative growth in '08 and '09, and
7 projected lower than historical growth in the near
8 future. Translated, this means much lower revenues than
9 previously forecasted and lower revenues in our
10 projected test year, compounded by the facts that our
11 fixed costs have continued to rise.

12 We are also embarking on the largest, most
13 aggressive capital expenditure campaign in our company's
14 history to meet the goals set forth by the Governor and
15 the Legislature. And if we are hamstrung by a low ROE,
16 unacceptable capital structure or the inability to
17 actually earn our authorized return, it will undoubtedly
18 have a significant negative impact on our cash flow and
19 earnings, our ability to attract much needed capital at
20 reasonable terms and at reasonable costs, and to
21 maintain strong credit quality, all of which are
22 essential to financing our Levy nuclear project as well
23 as our multi-billion-dollar day-to-day operations.

24 Such a course will result in increased costs
25 to consumers and an inability of the company to continue

1 to provide the level of service our customers and this
2 Commission expect and to complete the significant
3 capital projects that are critical to the successful
4 implementation of the State's energy goals.

5 On behalf of the 4,000 employees of Progress
6 Energy, we appreciate your thoughtful and thorough
7 review of our request, and this concludes my summary.

8 MR. GLENN: Madam Chairman, we tender the
9 witness for cross-examination.

10 ACTING CHAIRMAN EDGAR: Thank you.

11 Mr. Rehwinkel, are you first? Okay, you're
12 recognized.

13 MR. REHWINKEL: Thank you.

14 CROSS EXAMINATION

15 BY MR. REHWINKEL:

16 Q Good -- it's afternoon -- good afternoon, Mr.
17 Dolan.

18 A Good afternoon, Mr. Rehwinkel.

19 Q Is it true or isn't it true that the company
20 has filed a business-as-usual rate case without regard
21 to the state of the economy in Florida?

22 A No.

23 Q Why do you say that?

24 A Well, I say that because we come before the
25 Commission in this particular proceeding with new and

1 real costs, and we are basically requesting this
2 Commission to give us the relief that we need to run the
3 business in the manner in which this Commission and our
4 customers expect.

5 And I think to -- I would not use your term on
6 how we've approached this case. I think it ignores
7 employee cuts that Mr. Glenn spoke about earlier. I
8 think it ignores the significant work that our employees
9 do day in and day out to manage our costs, and I think
10 it ignores, you know, generally our philosophy about how
11 we try to treat other employees over the long term.

12 Q Can you show me where in your direct testimony
13 you discuss the state of the economy and the economic
14 climate of Florida?

15 A Well, I would say this, Mr. Rehwinkel: I
16 don't know if there is a specific reference to the
17 economy. I think there's been discussion about that
18 this morning, and my thought on that is this: that if
19 there are facts in this case that any of our witnesses
20 or your witnesses will bring forward that are related to
21 the economy that make sense in the context of this
22 hearing, I think the Commission will weigh those facts.
23 So I think I will -- you know, I will leave that to the
24 witnesses that follow to talk about facts that are
25 specifically related to economic conditions.

1 Q Well, isn't it true that your direct testimony
2 does not acknowledge that there is a recession that is
3 impacting the state of Florida and your customers?

4 A I don't know that there's a specific reference
5 to recession in my direct testimony.

6 Q Is it your testimony that what Progress Energy
7 has asked for in its filing, including the
8 \$499.997 million rate increase, is the minimum necessary
9 to meet your legal obligations to provide service to the
10 customers of Florida or to your customers?

11 MR. GLENN: Objection as to the form of the
12 question, and it calls for a legal conclusion.

13 ACTING CHAIRMAN EDGAR: Mr. Rehwinkel, can you
14 rephrase?

15 MR. REHWINKEL: Well, I'm not asking him for a
16 legal conclusion, but I want to know his opinions, as
17 the CEO of the company, if this is -- if they are asking
18 for the least that they can to fulfill their
19 obligations. I think his testimony addresses --

20 ACTING CHAIRMAN EDGAR: Does that mean no?

21 MR. REHWINKEL: Well, I guess -- I mean, his
22 testimony addresses their -- that they are meeting
23 certain goals and that comes at a cost, so I'm trying to
24 explore whether this case is the least they can do or is
25 it more than what they have to do.

1 ACTING CHAIRMAN EDGAR: Can you rephrase?

2 MR. REHWINKEL: I'll try.

3 ACTING CHAIRMAN EDGAR: Thank you.

4 MR. REHWINKEL: Thank you.

5 BY MR. REHWINKEL:

6 Q Mr. Dolan, is the company's filing the least
7 that you feel you can do in order to meet your
8 obligation to serve your customers?

9 A Yes.

10 Q You testify in here in several areas that
11 you're trying to meet the goals of the Legislature and
12 the Governor and Congress, is that correct?

13 A Yes, I do.

14 Q Now, is each and every one of those goals a
15 legal requirement that your company is required to meet?

16 MR. GLENN: Objection. It calls for a legal
17 conclusion from the witness.

18 MR. REHWINKEL: Madam Chairman, let me do it
19 this way. I'll refer him to some sections of his
20 testimony.

21 BY MR. REHWINKEL:

22 Q Let me ask you to turn, Mr. Dolan, to page 3,
23 actually start at the bottom of page 2. Starting on
24 line 24, you mention, "Customer growth and aggressive
25 cost management practices can no longer cover the

1 investment needed to meet the comprehensive energy goals
2 established for this state by the Florida Legislature,
3 the Governor and this Commission." Do you see that?

4 A Yes, I do.

5 Q Okay. Now, what are those goals that you're
6 testifying about?

7 A Well, I think the goals that were -- or what
8 follows in terms of examples would be fuel diversity.
9 Examples would be -- which includes adding new nuclear
10 generation. The goals would be diversity of resources,
11 which would include alternative energy. The goals would
12 also include the goals that we're talking about
13 separately in the docket on energy efficiency, to
14 increase energy efficiency, and I think we also have --
15 there are, you know, goals to -- ongoing goals to make
16 sure that our system is reliable, as some examples.
17 That's probably not completely inclusive of everything,
18 but I think those are the things that come to mind.

19 Q Is it your testimony, for example, on lines 3
20 and 4, where you mention the Governor's -- the
21 Legislature's and the Governor's directions to reduce
22 greenhouse gas and other emissions, is that something
23 you have to do?

24 A I believe that, subject to the -- and let's
25 take one case in point, if I may.

1 I would say yes, first, to answer your
2 question, the Governor issued a series of executive
3 orders in recent past. One of those set out a goal for
4 reduced greenhouse gases, so I think clearly that's
5 policy direction that influences how we run our
6 business. As an example, you know, I don't think it's
7 going to be necessarily consistent with that goal to
8 pursue new coal generation, and I think this Commission
9 and others have spoke about that particular policy
10 direction, so an alternative to that, in pursuing that
11 goal, being mindful of the Governor's executive order to
12 reduce carbon emissions, that would suggest to me lower
13 carbon-intensive sources like new natural gas as opposed
14 to oil, which is the investment we made at our Bartow
15 facility and the Levy nuclear power plant as just a
16 couple of examples consistent with that policy.

17 Q Is it your position that that's something that
18 you are -- it's a mandate that you do that?

19 A Well, I believe we have -- I would say yes to
20 that. I believe we have executive orders that have
21 certain requirements. I would also say that there -- as
22 the witness from Apalachicola testified this morning,
23 there is the strong likelihood that we will have carbon
24 legislation at the federal level in the not-too-distant
25 future, and while that is not a certainty today, it has

1 passed the House. It has not passed the Senate. I
2 think it would be important for us to keep that in mind
3 as we think about the future, when you look at
4 investments in particular in generation, that may take
5 anywhere between five and ten years from start to finish
6 to put into place.

7 Q Is it your testimony that the company -- the
8 company's \$499.997 million rate increase is something
9 that you would spend to meet these goals regardless of
10 the state of the economy?

11 A I'm not sure I understand your question.

12 Q Well, let me ask it this way: Would you
13 consider it to be prudent for the company to spend money
14 to meet aspirational goals rather than legal
15 requirements to provide service?

16 A Well, it depends on what you're -- I'm not
17 sure I understand what your definition is of
18 aspirational goals, but let me try to answer your
19 question this way, Mr. Rehwinkel, if I can.

20 I think that the investments we're making
21 today, while they're mindful of future policy -- or
22 they're certainly mindful of existing policy and there
23 may be changes in future policy, I think first and
24 foremost they are the right business decisions for our
25 company today.

1 We have to, as an example, add generating to
2 our system to serve load growth, and we have to look for
3 ways to make sure we have appropriate fuel diversity,
4 one of the goals that we try to strive for.

5 So while that particular investment at Bartow
6 may have secondary benefits related to future policy
7 decisions, it's entirely appropriate in the construct
8 that we're in today to serve and meet our obligation to
9 serve customers today.

10 Q Well, on page 3 of your testimony, looking at
11 lines 13 through 16 -- actually, lines 7 through 16, if
12 I could direct your attention, starting on line 7,
13 perhaps I'm looking at this wrong, but can you tell me
14 why I'm wrong to conclude that your testimony is that
15 you are embarking on a large and aggressive capital
16 expenditure campaign in order to meet the goals that you
17 have discussed elsewhere in your testimony? Is that an
18 incorrect reading on my part?

19 A Well, I would say this: I'm not sure -- I
20 just want to make sure how we're reading this. I think
21 these goals are important to keep in mind, and there are
22 some of those goals that affect decisions in the
23 environment that we're in today, and they're also, I
24 think, our expectations of how these goals are going to
25 evolve over time.

1 But what I would say to answer your question
2 is this: that we're making the necessary investments
3 today to run our business appropriately, but I think
4 we're also mindful of what the future may hold,
5 especially when you look at a generation type investment
6 like Levy. This is a, probably a ten-year type
7 proposition, gas plants three years, coal plants longer,
8 but I don't want to overlook the fact that, especially
9 with the schedule that we're anticipating for the Levy
10 investment right now, we have substantial new generation
11 investments that are going to be required in the near
12 term, you know, that we're looking at right now.

13 So I think when we talk about investments for
14 the future, I think we talk about ongoing investments in
15 our areas of customer service, distribution,
16 transmission, existing generating plants, both new and
17 capital and maintenance associated with all of those
18 facilities, plus new generating facilities that we
19 expect will come in the future.

20 Q So when you testified on lines 13 through 16
21 where it says, "The outcome of this case will have a
22 clear impact on the financial health of the company and
23 ultimately on PEF's ability to meet the Legislature's
24 and Governor's goals," are you stating there that this
25 rate increase is directly tied to meeting these goals?

1 A Yes.

2 Q And you think that it is appropriate to ask
3 the customers to pay higher rates in order to meet these
4 goals?

5 A No. What I'm testifying to is I think we're
6 asking customers to pay appropriate rates for us to
7 conduct our business in the way that we're expected to
8 conduct our business.

9 Q I guess what I'm trying to determine is, is
10 the rate increase that you're requesting designed to
11 enable you to meet the goals that you discuss in -- on
12 pages 2 and 3 of your testimony?

13 A Yes. I think, if I might, I think there's a
14 dual purpose here, and I don't want to lose sight of the
15 fact that what we're asking for are investments that
16 we're making that are necessary to run our business
17 today. There are also goals that are out there, some
18 firm, some prospective, that we are mindful of as well
19 when we make these decisions, and I think in some cases,
20 like Bartow, they will serve that dual purpose.

21 Q If I could ask you to look at page 6 of your
22 direct, and here you're discussing plans for the future,
23 and the statement here starting on line 23 is, "Our plan
24 is to meet the Legislature's and Governor's directives
25 and this Commission's goals and expectations to secure

1 Florida's energy future through our balanced solution."
2 Is it your testimony that there are -- that the
3 Governor's goals are a directive to the company to do
4 certain things?

5 A Yes.

6 Q And in what way?

7 A I would go back to the example that I gave
8 earlier, that there is -- are executive orders out
9 related to carbon reduction, as one example. So I think
10 that, you know, that suggests that, you know, we ought
11 to do things that are mindful when we make generation
12 decisions. It certainly influences our decision on the
13 Levy nuclear power plant. It certainly influences our
14 decision on the Bartow repowering project.

15 Q Is it your testimony that those directives are
16 legally required of the company, or that they're things
17 that you ought to do?

18 MR. GLENN: Objection as to the form of the
19 question; again, calls for a legal conclusion. It's
20 also asked and answered.

21 MR. REHWINKEL: My response is that I'm trying
22 to understand the true nature of these goals and
23 objectives and whether the company considers them to be
24 mandates or aspirational goals, and I think, as the CEO
25 of the company, he certainly understands what he has to

1 do in order to comply with the regulations of this
2 Commission and the State.

3 ACTING CHAIRMAN EDGAR: Mr. Rehwinkel, the
4 "asked and answered" is I think what I have been
5 hearing, so I guess my question to you would be, how is
6 this question different than the questions that you have
7 asked that have been answered?

8 MR. REHWINKEL: Well, it is the first question
9 I've asked on this part of his testimony. I really --
10 I'm trying to find out if this is the same thing that
11 he's testifying about in other parts of his testimony.
12 I mean, the words *goals* and *directives* and *objectives*
13 are in here again and again, and I don't know whether
14 they're all the same or they're different ones.

15 ACTING CHAIRMAN EDGAR: All right, overruled.
16 Would you re-ask the question, please?

17 MR. REHWINKEL: I'll have to remember how I
18 asked it.

19 ACTING CHAIRMAN EDGAR: Different than the
20 last time is what you told me.

21 BY MR. REHWINKEL:

22 Q The directives that you're referring to here
23 on page 6, lines 23 and 24, do you consider those to be
24 legal mandates or objectives or aspirational goals that
25 the company should meet?

1 A I'm sorry, Mr. Rehwinkel, where are you
2 referring to?

3 Q On page 6, lines 23 and 24.

4 A Okay. I think -- well, I'm sorry, one more
5 time with your question, sir, so I get it right.

6 Q Okay. The phrase *directives* here, the
7 directives that you're referring to, the Legislature and
8 Governor's directives, are you -- do you view those,
9 whatever they may be, as legal mandates or as goals or
10 aspirations that the company should try to achieve?

11 A I would say that we did, as a company, view
12 these as a combination, sort of what I mentioned to you
13 earlier. There are certain goals that are not
14 negotiable, if you will, you know, we -- our obligation
15 to serve, our obligation to have a certain reserve
16 margin, our obligation to pursue fuel diversity. So I
17 think a lot of what you see in our case is consistent
18 with that, but as I said earlier, I think it's also
19 important in our business to look forward into the
20 future and try to understand, you know, the direction
21 that we're going in.

22 We've seen potential legislation offered,
23 passed the House in Washington that contemplates a lower
24 carbon future, so I think certainly that affects some of
25 the decisions that we make as a company. To say that

1 that's a legal requirement as we sit here today, I would
2 say no, that's not, but I think there might be some
3 question in the future about decisions if we were to
4 make certain decisions today that might be inconsistent
5 with how policymakers feel we're going to deal with
6 energy in the future. So I think we try to be mindful
7 of both of those.

8 Q Do you sit on the Senior Management Committee
9 of the company?

10 A I have for the last 77 days, yes.

11 Q And as I understand it, the Senior Management
12 Committee meets maybe weekly, if not more frequently, is
13 that right?

14 A Well, there is generally a once-a-week
15 meeting --

16 Q Okay. And --

17 A -- which I'm missing this morning. So I have
18 the pleasure of being here instead today, so --

19 Q I appreciate that and I'll try to hurry this
20 along so you can get to the next one.

21 A Thank you for that. It's not until next
22 Monday, so -- I don't want to encourage you to you take
23 more time, but --

24 Q Based on recent experience, I think I need to
25 hurry it along.

1 Here's my question about the Senior Management
2 Committee: Do you review large capital and expense
3 budget items in that?

4 A I would say yes, generally we do.

5 Q Isn't it true that in doing so, that the
6 company looks at things that they would like to spend
7 money on to meet certain goals that the company has and
8 that you prioritize your spending accordingly?

9 A I would say yes, that's generally true. I
10 just want to make sure understand your question.

11 So we -- I mean, we know there are certain
12 things that we must do, and then there are other things
13 that there may be some degree or discretion either in
14 doing it or the timing of doing it. So I would say we
15 try to prioritize initiatives, yes.

16 Q And wouldn't it also be true that not
17 everything that is presented for expenditure is
18 approved?

19 A Yes, that would be true.

20 Q Okay. And is it true that the reason for that
21 is that, as you have mentioned earlier, there are
22 priorities, is that correct?

23 A Yes, in large part. I mean, I think there
24 are -- we'd have to look the unique circumstance. I
25 mean, there are some things that will get done or not

1 done for different reasons, so priorities matter, but
2 that's probably not the sole issue for decision-making.

3 Q Would the highest priorities be things that
4 you're legally obligated to do to meet a regulation?

5 A I would say in our business that's going to
6 have a pretty high priority, yes.

7 Q Isn't it true that the company has a business
8 practice of spending within its means with respect to
9 how your budget is done?

10 A Yes.

11 Q And so isn't it also true that if you don't
12 have the means to spend, then more likely than not
13 you're not going to spend for a particular project
14 than -- let me withdraw that question and ask it -- I
15 think you've answered the question I have there.

16 Why isn't it -- let me ask it this way --
17 actually, I think that's all that I have for you. Thank
18 you, Mr. Dolan.

19 A Thank you, Mr. Rehwinkel.

20 ACTING CHAIRMAN EDGAR: Thank you, Mr.
21 Rehwinkel.

22 Let me ask the Intervenors, what is the order
23 with which we are going to proceed through this? We're
24 going this way? Okay. Ms. Bradley, about -- roughly,
25 do you have a feel for how long your cross will be?

1 MS. BRADLEY: I'm terrible at this. I have a
2 couple of pages. It's not that many questions, though,
3 so I guess it depends on how he answers.

4 ACTING CHAIRMAN EDGAR: I understand, and I
5 appreciate that.

6 With that in mind, then, our Chair I know had
7 wanted us to take a break in the 1:00 to 1:15 range, so
8 I'd like to honor that. And we will, Commissioners, go
9 on lunch and we will come back at 2:30, Ms. Bradley, to
10 begin with your cross and, Mr. Dolan, we will see you
11 again at 2:30.

12 THE WITNESS: I'll be here, Madam Chair.

13 ACTING CHAIRMAN EDGAR: Thank you. We're on
14 break.

15 (Lunch recess.)

16 CHAIRMAN CARTER: We're back on the record,
17 and before we go back with Ms. Bradley to do her cross-
18 examination, a preliminary matter. Mr. Rehwinkel,
19 you're recognized, sir.

20 MR. REHWINKEL: Thank you, Mr. Chairman, and I
21 appreciate the Commission's indulgence to allow Mr.
22 Napote to testify. We have taken the information that
23 he asked to be passed out and entered into the record,
24 which is Exhibit 263, documents from Mike Napote. We've
25 given the original to the court reporter and all the

1 parties have been given a copy, so I just -- I don't
2 know if it's appropriate to move it into the record at
3 this time.

4 CHAIRMAN CARTER: Let me do this: He did
5 appear as part of a public comment, so we've usually --
6 the things that we get in public testimony, we usually
7 put that in. Is there any objection by the parties?

8 MR. GLENN: No objection.

9 MR. WRIGHT: No objection.

10 CHAIRMAN CARTER: No objections? Without
11 objection, show it done.

12 So Exhibit 263, I'm not going to mess up his
13 name by trying to pronounce it, but it will just be
14 documents by the customer, Mr. N-a-p-o-t-e, is that the
15 correct spelling?

16 MR. REHWINKEL: Yes.

17 (Exhibit No. 263 marked for identification and
18 admitted into the record.)

19 CHAIRMAN CARTER: Anything further
20 preliminarily, Mr. Rehwinkel?

21 Anything from the parties before we begin?

22 COMMISSIONER ARGENZIANO: Mr. Chairman?

23 CHAIRMAN CARTER: Commissioner Argenziano.

24 COMMISSIONER ARGENZIANO: Yes, thank you. I
25 just wanted to say I'm back. I had an appointment with

1 my orthopedic surgeon this morning, but I'm here --
2 sorry I had to miss this morning, but I am here and I'll
3 be here for the duration.

4 CHAIRMAN CARTER: Commissioner Argenziano, my
5 plans are -- and I think that, just looking at what we
6 did it looked like forever ago, but on the FPL case, I
7 think that we got to the point where we had diminishing
8 returns, so I wanted to tell you, as well the other
9 Commissioners, and I think I did mention it, but if I
10 didn't, maybe I had a brain cramp, but we probably won't
11 go beyond 8:00. That's -- because what happens is
12 after -- if we go late, after we finish, then staff will
13 have to go get ready for the next day before they leave
14 and then come back, and the parties have to do the same
15 thing. So I want to be fair to everybody, so we won't
16 go beyond 8:00 and we'll try keep our lunch -- as long
17 as there's a logical break, I'm hoping that we can do
18 our lunch within 1:00 to 2:15 and probably do -- for our
19 court reporters, I don't want to push it three hours
20 anymore. I'll do maybe a two-hour break for the court
21 reporters. Okay.

22 COMMISSIONER ARGENZIANO: Thank you.

23 CHAIRMAN CARTER: All right, Ms. Bradley,
24 you're recognized.

25 MS. BRADLEY: Thank you.

CROSS EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. BRADLEY:

Q Mr. Dolan, I just have a few questions.

I know you went to the service hearing in St. Petersburg.

A Yes, I did.

Q And that's where your office is located?

A Yes, our headquarters is in St. Petersburg.

Q Did you read the transcripts or have briefings or do anything regarding the other service hearings?

A I did.

Q And what was that?

A Well, the -- I talked with our folks prior to and after each of the service hearings -- our executives in that particular area where the service hearings were held were there at each of those particular hearings -- and I read all of the customer service issues that were raised in the report that we filed with the Commission related to those service hearings.

Q Did you just read the report or did you actually read the transcript?

A I read some of the transcripts and I was also, as I said, I was present for the -- heard a lot of the live testimony at the hearing in St. Petersburg.

Q Now, you talked about in your testimony

1 improving reliability, correct?

2 A Yes, I did.

3 Q Would you agree that there's room for
4 improvement there?

5 A Well, I think I would -- well, I would say I'm
6 comfortable with our reliability where it is today. I
7 would defer to Mr. Joyner to talk about that in more
8 detail, but as it relates to reliability, I think
9 reliability is good.

10 We have -- I've been with the company since
11 1986, and we had a period of time where our reliability
12 was not where it needed to be, and we've made
13 substantial and measurable improvement in our
14 reliability probably over the last five to six years in
15 particular.

16 Q So are you saying that there's no room for
17 improvement there?

18 A Well, I think there's -- if you take any
19 particular dimension of our business, no, I'm not saying
20 there's not room for improvement. What I am saying is
21 that at some point, if you take SADI as an example, and
22 I'm sure Mr. Joyner will do a much better job than I
23 will on the specifics of this, the incremental cost to
24 customers to achieve the next step improvement, in that
25 particular instance, we always weigh the cost-benefit of

1 that. So there's a level of reliability. We tend to
2 shoot for top quartile in a lot of our measures, top
3 25 percent, top decile in some other measures. So I
4 think we always try to weigh the next increment in terms
5 of cost-benefit to the consumer, you know, before we,
6 you know, will move our goals beyond where they are.

7 Q Are you aware that the people, customers that
8 came and testified in Apalachicola, were very upset
9 about the fact that you pulled out your local service
10 repair group there?

11 A Yes, and I would -- if you might allow me, I
12 -- there was, I know you made some comments earlier
13 about some of the specific cases in Apalachicola, and I
14 just wanted to clarify one of those, the one where --

15 Q I was going to ask you about that, but which
16 one are you talking about?

17 A Well, I'd like to clarify the one about the
18 customer that showed up with the meter, the restaurant,
19 the one that you referred to.

20 Q Yes, sir.

21 A And I did read the resolution of that. We did
22 a root cause analysis, and, quite frankly, and I think
23 the customer admitted to this as well, he overloaded
24 that circuit by expanding his side of the meter, and,
25 quite frankly, we were very fortunate that one of our

1 meter employees followed safety practices and wasn't
2 killed, because that meter exploded when he went to
3 remove it. We had subsequent follow-up with his
4 electrician and the owner of that business, and it was
5 his responsibility is why the problem occurred, and
6 that's in the record, it's in our report that we filed
7 with the Commission. So I just want to make sure that
8 we get the record straight on that particular incident.

9 Q Would you agree, though, that the customers
10 have a legitimate complaint about you pulling out the
11 local customer service center?

12 A Well, I wouldn't agree -- I would say no, I
13 wouldn't agree, on balance. I think we're always going
14 to have isolated instances where we're going to have
15 issues with customers. I think if you look at the
16 service hearings -- you know, we serve 1.7 million
17 customers. 300 or so showed up to speak. Of that 300,
18 21 had service issues. So I think if you look at that
19 in the context of 1.7 million customers, I would draw
20 the conclusion that our reliability and customer service
21 is pretty good.

22 So we always -- but that doesn't mean that we
23 don't strive to provide better service where there are
24 issues in our system. We did make some adjustments in
25 our workforce in north Florida. We've since made

1 corrections in that. I think we found that the level of
2 service in that particular area, you know, had, you
3 know, had changed, and then as we recognized how it had
4 changed, we moved to correct that and we have done that
5 since that period of time. That's the way we run our
6 business. We're trying to make decisions, in that
7 particular case, that was part of our workforce
8 adjustment where we substantially reduced jobs in our
9 business.

10 So there's always going to be situations where
11 you go back and make corrections where they're
12 necessary, and we did take the corrective action there.

13 Q Were you aware that the gentleman you were
14 talking about, he is part of that -- setting his
15 restaurant on fire was part of his complaint, but the
16 rest of his complaint was that after he got it fixed and
17 the City had permitted it, that it still took him a long
18 time to get Progress back there to turn the electricity
19 back on and he lost some business?

20 A You know, what I do know is what I read in the
21 report, okay? The specific issue that you're citing I'd
22 have to defer to either Mr. Joyner or our customer
23 service folks on that, but what I do know and what
24 concerns me more than the event that occurred is that
25 that customer put one of our employees in harm's way,

1 and if he didn't follow our safety guidelines, he could
2 have lost his life in that instance. So obviously I'm
3 very concerned about that.

4 CHAIRMAN CARTER: Commissioner?

5 COMMISSIONER ARGENZIANO: Just a quick
6 question, excuse me, Ms. Bradley, and I'm hearing what
7 you're saying and I think that's a very, very dangerous
8 situation, but can I ask you, did the customer agree
9 that it was his fault? Because I think I remember him
10 saying something to the contrary, and I don't know
11 whether that's true or not. I don't know that he had
12 admitted it or not. I'm just wondering if he has
13 acquiesced and said yes, okay, I overloaded the box or
14 whatever it was. Do you know if he has a different
15 position?

16 THE WITNESS: Commissioner Argenziano, I would
17 say yes, both he and his electrician agreed with our
18 assessment of that situation.

19 COMMISSIONER ARGENZIANO: Okay. Okay. Thank
20 you very much.

21 THE WITNESS: You're welcome.

22 CHAIRMAN CARTER: Ms. Bradley?

23 MS. BRADLEY: Thank you.

24 BY MS. BRADLEY:

25 Q Did you also hear the testimony or did anybody

1 inform you about the complaint that there was an
2 accident down there after you pulled the local service
3 center out and that it took an hour for anybody to get
4 down there to turn off lines and the firefighters had to
5 wait for them to get there?

6 A Yes, Ms. Bradley, I am aware generally of the
7 situation down there. That is a matter of pending
8 litigation, so I would be hesitant to say too much about
9 the specifics of that situation.

10 Q Would you agree that the people that have
11 testified in -- both there and in other parts of the
12 state that had complaints about power surges and power
13 outages and losing appliances and that type of thing,
14 that they have legitimate complaints?

15 A No, I wouldn't agree. I think -- again, I
16 would have to look at a case-by-case basis, but I'm
17 comfortable that our policy related to claims, whether
18 it's a power surge or whatever, that we evaluate each of
19 those claims based on the facts at the time and we deal
20 with those customers consistent with our policy. So if
21 in fact there was damage that was caused that is our
22 responsibility, we would take care of that. If it's
23 not, then we would not, and I think I'm more than
24 comfortable that we apply our claims policy consistent
25 with Commission policy.

1 Q What do you consider your responsibility
2 versus that which is not?

3 A Well, I think -- again, I'm not a lawyer, so I
4 don't want to go too far along this path, but I think a
5 lot of the standard is gross negligence on the part of
6 the company, not things that naturally occur on our
7 electric system. So again, I would defer to others,
8 perhaps there are others that are more familiar with
9 that particular issue, but I think that's my general
10 understanding of how we deal with claims.

11 Q So you would apply more of a legal standard
12 rather than a let's-do-everything-we-can-for-the-
13 customer type standard?

14 A No, I would say we would apply a standard
15 consistent with how we deal with claims, and I think we
16 take into account, you know, what our responsibility is,
17 and then in certain circumstances there may be instances
18 where we go beyond that. I think we'd have to look at
19 it on a case-by-case basis, which is exactly what we do.
20 I think we look at each of the individual situations and
21 try to treat the customer, you know, consistent with our
22 policy.

23 Q In your review of the customer service
24 hearings, were there instances where you took
25 responsibility for some of the problems?

1 A Well, I know there were -- I really don't know
2 the specifics. What I do know is that there were 21
3 issues that we worked through, and if my memory serves
4 me correctly, there may have been two or three that were
5 not resolved to the customer's satisfaction. So again,
6 out of the 1.7 million, we had 300 show up, 21 that
7 actually had a service issue, and we may have had three
8 out of our 1.7 million customers that may not have felt
9 that they had reached a satisfactory resolution.

10 Q Would you agree that not everyone that may
11 have had a complaint was able to attend the hearing?

12 A I don't know that. I would say it's possible
13 that others that may have had something to speak about
14 were unable to attend the hearing. There were quite a
15 number of hearings, though, I would say. There were ten
16 around our system in total. So there was ample
17 opportunity for folks to come and talk to the
18 Commission. There's also ample opportunity for them to
19 talk to the company, and there's ample opportunity for
20 them to submit a written statement to the Commission if
21 they choose to do that.

22 Q Were you aware of the testimony that a couple
23 of people made about a lot of their friends weren't able
24 to attend because they were working or some other
25 circumstances?

1 A Yes. I'm sure, you know, to answer your
2 question, I'm sure there were circumstances where some
3 customers may not have been able to attend a specific
4 hearing.

5 Q Has your company made any policy changes since
6 those service hearings to address any of those
7 complaints that were raised?

8 A You know, I don't know the answer to that. I
9 would probably -- again, I'd have to go back and look at
10 them individually, and I just don't have a specific
11 thought in my mind that we made a policy change. We may
12 have, but I just -- I don't have that firsthand
13 knowledge. I'm sure others of our folks can address
14 that better than I can.

15 Q Policies that are made at your company, do
16 they have to run them by you?

17 A I would say not necessarily, no. I think, you
18 know, if it's a major policy decision for the company, I
19 would be generally aware, but there are a lot of policy
20 decisions that get made at lower levels in the
21 organization.

22 Q Would you agree that customers shouldn't have
23 to come to a service hearing in order to have their
24 complaints addressed?

25 A Yes, I would agree with that.

1 Q I understand that your salary is not one of
2 the ones that's on the proxy statement, correct?

3 A Yes, that is correct, unfortunately, or
4 fortunately, depending on your perspective.

5 Q I think I understand that answer.

6 Let me show you what is at line 13 of the
7 record that we have in this case and ask you if that is
8 your current salary for 19 -- I mean, 19 -- for 2009,
9 total compensation?

10 A Well, I don't -- I mean, the total
11 compensation is based on -- we're still in 2009, so I
12 can't say for sure this is a pretty precise number.
13 What I do know is, sort of ballpark, it's probably in a
14 reasonable ballpark.

15 Q And have you got --

16 A And just, if I may, just to clarify that, you
17 know, we -- a lot of -- well, okay. Some of the '08
18 stuff gets paid in '09, so this is probably in a
19 reasonable ballpark for '09.

20 Q And are you anticipating an increase for 2010?

21 A I always hope for one, but that remains to be
22 seen. That will be decided in -- next year.

23 Q Y'all haven't made any projections as far as
24 2010?

25 A We have. I think we have made a projection in

1 total across our workforce. I think your question was
2 for me personally --

3 Q Yes.

4 A -- and I think I answered that it's uncertain
5 how I will be treated.

6 Q And what will that be based upon?

7 A I hope it will be based upon our performance
8 as a company overall. We try to keep in balance a
9 number of different goals for our employees and our
10 customers and our owners, make sure that we try to keep
11 those in harmony so that we can continue to run the
12 business the way we like to.

13 Q Would you agree that there may be a big
14 difference in the way your customers, who are probably
15 averaging less than \$50,000, and the way some of your
16 top executives, who are making a lot more than that,
17 would look at affordability?

18 A No, I don't think -- I'm not sure we would
19 look at affordability different. I think, you know,
20 customers or individuals and other businesses -- I mean,
21 people are going to have questions about different
22 salaries, and I think part of it is the nature of the
23 business that people are in, the nature of their
24 position in that business. So there's always going to
25 be disparities in that. People will have a difference

1 of opinion about that.

2 Q I didn't phrase that really well. Let me try
3 again.

4 As far as looking at the issue of whether your
5 rates are affordable, would you agree that somebody
6 that's making what your top executives are making is
7 going to have a different view of that than many of your
8 customers who are making probably an average of less
9 than \$50,000?

10 A Well, I'm not sure -- let me try to answer
11 your question this way, if I may: I think the standard
12 is more just and reasonable. I think that's what we're
13 here for in terms of rates. So I think -- but I'm
14 comfortable -- I think people will have a difference of
15 opinion, yes. I listened attentively this morning as we
16 went down the bench, and we have, I think, areas where
17 we disagree and we respect that, and that's why we're
18 here. We're here to talk about our disagreement, and
19 ultimately this Commission will make a judgment about
20 the areas in which we disagree.

21 Some areas we agree, I was pleased to hear
22 about, compliments about our employees and our service,
23 and we're grateful for that, but there are areas that we
24 disagree, and we understand that and we respect that,
25 and we will tell our story and we will listen to the

1 other side as well. I think that's what the process is
2 about.

3 Q In the customer hearing that you attended, as
4 well as your reviews of the other hearings, did you see
5 the testimony of especially a lot of the seniors and
6 others on fixed income that said they simply can't
7 afford an increase?

8 A Yes, I did.

9 Q For the customers who can't afford your rates,
10 would you agree that they're not going to enjoy any of
11 the benefits that you're talking about bringing to the
12 customers?

13 A I'm not sure I understand your question.

14 Q Well, in your testimony you're talking about
15 wanting to do these things because you want to provide a
16 benefit to your customers, and would you agree that
17 those who can't afford those rates won't enjoy those
18 benefits?

19 A No, I would not agree with that.

20 Q If somebody can't afford the rates, then how
21 can they enjoy those benefits?

22 A Well, are you asking me how -- I'm sorry.
23 You're asking me how they would enjoy the benefits of
24 what we're doing here today? I'm not sure I understand.
25 I'm sorry. I'm not trying to be difficult, I'm trying

1 to understand your question.

2 Q All right, I'll try again.

3 If you had customers that came in and said,
4 "We can't afford an increase," if you were to get such
5 an increase, for those that can't afford those rates and
6 that are talking about having to move from the state or
7 move in with families, they won't enjoy those benefits,
8 will they?

9 A I'm not sure. I guess -- let me try an
10 example, maybe, to try to address your question. I'm
11 still not sure I completely understand it, but let me
12 try this.

13 One of the aspects of this case that we're
14 here for relates to our investment at the Bartow
15 repowering facility. It's a \$130 million revenue
16 requirement. We spent \$800 million modernizing that
17 plant, upgrading that plant and expanding its capacity.
18 Customers today are enjoying benefits associated with
19 that plant because they're enjoying lower gas prices. I
20 think if you look at a reasonable analysis against the
21 investment that we made, I think you will find that the
22 fuel savings on our system are very much commensurate
23 with that investment. So I can't agree with you that
24 what we're asking in a base rate proceeding with an
25 offsetting benefit in the fuel that was forecasted in

1 our system this year and will continue into 2010, I
2 think we're matching those benefits. We're just working
3 with those costs in different dockets.

4 So I, you know, I think in the final analysis
5 that we have to -- we are trying to run our business in
6 a responsible way. We're trying to do things that we
7 feel are necessary at just and reasonable rates in a
8 manner that provides all customers customer service.
9 Some customers maybe have to deal with it differently
10 than others. I'm not suggesting that's a good thing or
11 a bad thing. I think we are trying on the whole to run
12 our business the way we think that makes sense.

13 Q Were you aware of the persons that --
14 consumers that came in and testified that they were
15 having a hard time financially, and if there was a rate
16 increase that was granted, they would either have to
17 leave the state or would have to move in with family
18 members and lose their independence?

19 A Yes.

20 Q And for those people, they won't enjoy the
21 benefits that you're talking about, will they?

22 A I would say -- I mean, it depends. I mean,
23 ultimately it depends first, how this case is resolved,
24 and then they're going to have to make decisions -- you
25 know, again, I would just say this: We are here today

1 to present our case to this Commission to suggest how we
2 want to run our business consistent with the rules and
3 the laws of the state, and there -- you know, there's
4 always pluses and minuses with how these cases are
5 resolved, pluses for the company -- pluses and minuses
6 for the company, our employees, our owners and customers
7 all taken together. So we're trying to do the best job
8 that we can balancing the interests of everyone that has
9 a stake in this particular case, and we're still trying
10 to run our business in the way that all customers expect
11 us to and the way this Commission expects us to as well,
12 and that will be our continuing belief. We really would
13 like to continue to operate our company in the way that
14 we have for the last hundred years, and will continue as
15 we move forward from here.

16 Q Would it be fair -- let me try one more time.

17 Those people, if a rate increase goes through,
18 that have said they can't afford it and they'll have to
19 move in with somebody else or leave the state, there's
20 no way for them to enjoy the benefits that you're
21 talking about, correct?

22 A Well, I would say no. I would say, as I said
23 earlier, there are some benefits being achieved today
24 for some of the investments that we made that we're here
25 to seek recovery for, so I wouldn't agree with that in

1 general.

2 If customers leave and there are future
3 benefits and they're not on our system, they will not be
4 here to see those benefits, those individual customers,
5 yes, I would agree with that.

6 Q Would you and your top executives be willing
7 to forego a rate increase next year if it meant reducing
8 costs so that more people could afford your rates?

9 A I think you asked me, would we -- I'm not
10 sure. You asked would we forego a rate increase next
11 year if it would help our rates?

12 Q Salary increases --

13 A I'm sorry, I thought that --

14 Q -- for top executives, would you be willing to
15 look at that in order to make the rates more affordable
16 for some of those customers?

17 A I would say we -- well, let me answer your
18 question this way: I wouldn't say yes and I wouldn't
19 say no. I think the way we try to run our business, as
20 I said earlier, our philosophy is we try to be
21 consistent. We try to be consistent and keep in balance
22 the interests of all the stakeholders in how we run our
23 business, and those are employees, customers and our
24 owners, the people that lend us the kind of money that
25 we need to go build facilities. Everybody has an equal

1 and important role in that.

2 So consistent with that, we try to have a
3 compensation philosophy that is in the median, number
4 one, and number two, is consistent over time. So a lot
5 of what we have seen in the period of the '90s where
6 there was a lot of dot-com exuberance and Wall Street
7 exuberance, I think you will find that our company
8 continued to operate with the same philosophy: sort of
9 steady, you know, movement in terms of how we treat our
10 employees, how we deal with our customers and how we try
11 to make sure we have solid financial metrics for our
12 investors. That's not changed.

13 So I would say we're comfortable with that
14 philosophy. We would like to continue with that
15 philosophy, and I think it's important to make sure
16 that, for our employees in particular, whether it be at
17 the low level of the organization or at the top of the
18 organization, that we have compensation philosophies
19 that are consistent with that.

20 Q Were you aware of the customers that testified
21 that they had lost jobs, taken salary cuts, had their
22 Social Security frozen and otherwise sacrificing
23 financially?

24 A Yes.

25 Q And in light of that, in order to help those

1 people, would you be willing for your top executives to
2 forego a rate increase next year -- a compensation
3 increase next year?

4 A I would say we -- again, I would just say
5 this: We want to continue to apply our philosophy
6 related to compensation consistently, and we do that in
7 the good times and the bad times, and I think that's how
8 we want to move forward from here, and that's, you know,
9 a fundamental part of our case.

10 Q So is that a no?

11 A As I said earlier, you know, how we deal with
12 compensation next year, you know, those decisions are
13 yet to be made. We are where we are today. I think you
14 know how we've projected those costs for next year, and
15 it includes the opportunity to have increases for our
16 employees from the top to the bottom of the
17 organization.

18 Q I'm just asking, would you be willing to ask
19 that those rate increases not go into effect for your --
20 I mean, your compensation increases not go into effect
21 for your top executives?

22 A I would say, as I said, I think -- I guess the
23 answer to your question is -- to say that today, my
24 answer would be no. So I think those are judgments that
25 we'll make as we move forward.

1 MS. BRADLEY: No further questions.

2 CHAIRMAN CARTER: Thank you, Ms. Bradley.

3 Mr. Moyle?

4 MR. MOYLE: Thank you. Thank you, Mr.

5 Chairman.

6 CROSS EXAMINATION

7 BY MR. MOYLE:

8 Q Mr. Dolan, good afternoon.

9 First of all, congratulations on your position
10 as president of Progress Energy Florida, and I sometimes
11 get confused. What do you prefer that the company be
12 called? I've heard it called Progress, I've heard it
13 called PEF. What should we refer to it as during our
14 cross-examination?

15 A You can call -- well, Mr. Moyle, you can call
16 us however you see fit, but I would suggest Progress
17 Energy Florida is appropriate.

18 Q Okay. And PEF, just -- that's a mouthful, and
19 I'm going to ask a whole bunch of questions about the
20 company, so just, unless I say otherwise, talking about
21 your parent or anything, we'll just assume that my
22 questions relate to Progress Energy of Florida, okay?

23 A Yes.

24 Q And you assumed the presidency how long ago?

25 A 77 days ago today.

1 Q Okay. And, you know, the PSC has a practice
2 that's a little unique in terms of trying facts, and one
3 of those unique ways is having prefiled written
4 testimony. I have a bunch of questions about the
5 prefiled written testimony of the former president, Mr.
6 Lyash, which you have adopted. Are you comfortable with
7 the adoption of the testimony that was prepared and
8 filed on Mr. Lyash?

9 A Yes.

10 Q Okay. And in preparing to adopt it, what did
11 you do? You know, just help me understand how it became
12 that you adopted his testimony.

13 A I'm not sure I understand your question.

14 Q Well -- and I don't want to get into any
15 conversations you had with your lawyers, but presumably
16 somebody at one point said, listen, now you're the
17 president, you need to file this testimony and support
18 it and raise your hand and swear to its veracity. I
19 presume that you took a look at it and checked things
20 and double-checked it to make sure that it was something
21 that you would be comfortable with?

22 MR. GLENN: Objection; argumentative. He's
23 testifying, number one; and number two, he's
24 mischaracterizing anything that the witness, you know,
25 has testified.

1 CHAIRMAN CARTER: Mr. Moyle, to the objection?

2 MR. MOYLE: I'm truly not trying to be
3 argumentative. I'm just trying to understand what steps
4 he took before, you know, saying this was his testimony,
5 and I'm just trying to ask that question. I asked it in
6 a general way: What steps did you take to -- you know,
7 before adopting the testimony. I think it's a fair
8 question.

9 CHAIRMAN CARTER: Mr. Glenn?

10 MR. GLENN: That's a fair question, Mr.
11 Chairman; however, by saying "I presume" this and this
12 and this, that's not a question, that's being
13 argumentative.

14 CHAIRMAN CARTER: Okay, let's rephrase.

15 Rephrase.

16 BY MR. MOYLE:

17 Q What did you do to make yourself comfortable
18 that the testimony previously filed by Mr. Lyash was
19 testimony that, if you had been asked to come up with
20 it, you would have come up with the same thing?

21 A A couple of things I would mention, Mr. Moyle.
22 One, I have been -- I worked closely with Mr. Lyash in
23 my previous capacity, so I'm pretty well familiar with
24 the significant issues in the business. He and I worked
25 very closely together on a day-to-day basis. I did have

1 some involvement in the original review of his testimony
2 in support of that, and when the change was coming, you
3 know, prior to announcing it officially, you know, sort
4 of anticipated I may be sitting here today. So I
5 certainly reviewed his testimony and the supporting
6 documentation, and I'm comfortable, you know, continuing
7 to sponsor his testimony.

8 Q So after you got this position, did you go
9 back and reread Mr. Lyash's testimony to make sure that
10 it was -- all the positions set forth therein were
11 positions you were comfortable with?

12 A Yes.

13 Q Okay. And with respect -- I'm going to ask
14 you about certain issues in there, and one that I think
15 we have a disagreement with between our -- your company
16 and the Intervenor clients is the return on equity.
17 What did you do to inform yourself as to the
18 reasonableness, in your judgment, of a return on equity
19 request of 12.54?

20 A I would say -- again, twofold: One of the
21 benefits in my -- part of my prior responsibility before
22 I assumed the job that I'm in today was regulatory,
23 state regulatory, so I was very familiar working, you
24 know, sort of day in and day out with a number of our
25 witnesses and our attorneys in terms of overall case

1 preparation.

2 So I'm familiar with the steps that we go
3 through, I've been involved in the regulatory process
4 for some time, so I understand, you know, in large part
5 the development of the background information and the
6 fundamentals associated with our request, specifically
7 for the ROE.

8 So prior to being in the role that I'm in, I
9 was comfortable and understood that was going to be part
10 of our submission, and I'm certainly equally comfortable
11 today as part of our submission.

12 Q Okay, but in terms of -- I mean, you are
13 asking that this Commission award a 12.54 return on
14 equity to your company, correct?

15 A Yes.

16 Q And that isn't necessarily based on any
17 independent analysis that you've done, correct?

18 A If I understand your question, I would say
19 yes. I didn't -- you know, I didn't do personal
20 statistical analysis, if that's your question. I am
21 generally aware of, you know, ROEs in the southeast, in
22 integrated companies versus distribution companies,
23 regulated business. So I would -- I think it's fair to
24 say I have a pretty reasonable knowledge about return on
25 equity, although I'm -- but don't let me misstate.

1 There are far more qualified people here on the ins-and-
2 outs of all the calculations that go into how you
3 establish a return on equity, and I would certainly
4 defer to their expertise in large part.

5 Q And in response to my question, you had
6 mentioned your familiarity with returns, recent returns
7 in the southeast. You would agree that recent return on
8 equity decisions is information that is important to
9 consider, correct?

10 A I would say other cases -- you know, I guess I
11 would say they're relevant to an extent. You know,
12 really what's most relevant where we sit here today is
13 the facts and circumstances that we're here to argue
14 about -- or debate, excuse me -- in this particular
15 case.

16 So I would like to make sure that first and
17 foremost, to answer your question, I'm most interested
18 in the relevant facts associated with our company.
19 There are outside things that are going on that may
20 shape perspective, but I think first and foremost we
21 want to deal with our own facts and circumstances.

22 Q And I was going to ask you the question using
23 the term *relevancy*, so I appreciate you giving it in the
24 answer and your profession that you're not a lawyer, but
25 I used *importance*, but you would agree, would you not,

1 that recent decisions by this Commission and other
2 Commissions is something that's fair game for
3 consideration, correct?

4 A I think that -- again, I don't know that I
5 would agree completely. I think I would agree -- you
6 know, the answer that I gave -- the previous answer that
7 I gave, I think our case has its own facts associated
8 with our case. The Commission is probably also aware,
9 as the parties are, about other cases and other
10 decisions, and I think they can assign whatever
11 relevance to that that they choose to do.

12 Q Before adopting Mr. Lyash's testimony, did you
13 make an inquiry and ask, hey, what's the average ROE
14 that's been issued recently by Commissions that have
15 been deciding that issue?

16 A No, I did not ask that specific question;
17 however, as I said earlier, I'm generally familiar with
18 the regulatory environment, and I'm familiar certainly
19 with some of the recent cases in Florida. So I have
20 that general knowledge; however, that's one general data
21 point that, you know, that's a factor, but I think
22 ultimately our judgment is going to be based on the
23 facts, and I think you'll hear from our witnesses about
24 the facts as to why we suggested the ROE that we did.

25 Q Yes, sir, and I know we'll get into that and

1 we will do that.

2 Given your general familiarity with decisions
3 of Commissions, do you know how many Commissions in this
4 country in 2009 have awarded ROEs north of 11?

5 A No, I don't have that statistic specifically.

6 Q Let me refer you to a document that was handed
7 to you.

8 CHAIRMAN CARTER: Do you need a number, Mr.
9 Moyle?

10 MR. MOYLE: Yes, please.

11 CHAIRMAN CARTER: We can't call it 462
12 anymore. 264. 264, short title?

13 MR. MOYLE: January, 2009, to August, 2009,
14 ROE decisions, or rate case decisions probably is
15 better.

16 CHAIRMAN CARTER: Okay. January, 2009 -
17 August, 2009 Rate Case Decisions.

18 (Exhibit No. 264 marked for identification.)

19 CHAIRMAN CARTER: Okay.

20 BY MR. MOYLE:

21 Q Mr. Dolan, do you have any familiarity with
22 SNL Financial? The document I handed you, which is now
23 264, at the very bottom it says "Copyright 2009, SNL
24 Financial."

25 A I'm not sure I know who they are. SNL, does

1 that stand for something, or --

2 Q You know, it's been represented that it's a
3 successor company to one of these companies that
4 compiles rate information.

5 A I see. No, I'm not familiar with that
6 specific company.

7 Q Okay. Now, you talked about having general
8 familiarity with some ROE decisions, and the exhibit
9 that I've shown you, 264, it has a column on the right-
10 hand side of the document entitled "Return on Equity."
11 Do you see that? Under the heading --

12 A I'm sorry, Mr. Moyle. I see it in more than
13 one place. I just want to make sure I'm getting the
14 right reference here.

15 Q And you see it on the left hand, or the left-
16 hand side of the page. It's under a broader column
17 entitled, "Increase Requested," right?

18 A Yes, I do see that.

19 Q And then toward the right-hand side of the
20 page it's under a column entitled "Increase Authorized,"
21 correct?

22 A Yes, I see that as well.

23 Q Okay. Given your general familiarity with
24 return on equity decisions that you testified about,
25 generally do those return on equity numbers reflected on

1 the return on equity "Increase Authorized" column seem
2 accurate to you?

3 A If you'd give me a minute, I'll review that.

4 MR. GLENN: Mr. Chairman, if I could ask for a
5 clarification, is what Mr. Moyle asking the witness
6 whether each line item is -- you know, Southern
7 California Edison, Public Service of Colorado, United
8 Illuminating, Tampa Electric, Avista, if each one of
9 those ROEs is accurate, is that what Mr. Moyle is
10 asking?

11 CHAIRMAN CARTER: Mr. Moyle?

12 MR. MOYLE: I think the pending question is
13 not that precise, but just generally, do those look like
14 authorized return on equities that he's familiar with or
15 that he's testified he's familiar with.

16 THE WITNESS: Okay. I'm sorry, Mr. Moyle,
17 what was your question?

18 BY MR. MOYLE:

19 Q Do these generally look like authorized return
20 on equities for investor-owned utilities --

21 MR. GLENN: Objection. I think this
22 mischaracterizes the document, that these are all
23 investor-owned.

24 CHAIRMAN CARTER: Rephrase.

25 / / / / /

1 BY MR. MOYLE:

2 Q Okay, let me start at it this way: When I
3 asked you about what you did to inform yourself on the
4 return on equity, you said that you were generally
5 familiar with Commission decisions in which return on
6 equities were authorized, correct?

7 A Yes.

8 Q And the numbers shown on the return on equity
9 column under "Increase Authorized," does that generally
10 comport with your understanding of Commission decisions
11 awarding return on equities in the recent past?

12 A Yes, but I'd like to explain, if I may. So
13 the one I'm most familiar with is, obviously, Tampa
14 Electric, and we see their authorized return, and
15 obviously you heard from our folks earlier and you'll
16 hear from other folks about how we feel our facts and
17 circumstances are different than Tampa. I have great
18 respect for them as a company. We're here to talk about
19 our specific facts and circumstances.

20 The others, I'm a little bit -- I would
21 generally agree with you, Mr. Moyle, with a couple of
22 caveats. I think as you go around the country, the
23 state of play with regulation is very different in
24 different regions of the country. So, for example, if
25 you go to the northeast and you take New York as an

1 example, a lot of the companies in New England, I think
2 probably the vast majority are distribution-only type
3 companies, so I think their risk profile is going to be
4 very different than an integrated -- a vertically
5 integrated company, and also an integrated company that
6 operates nuclear generation.

7 So while these may be representative, they're
8 not comprehensive. I know for a fact that if you look
9 at the southeast as well, you'll find, for example,
10 Alabama Power Company's ROE is 13 -- you know, 75, I
11 believe. You can fact-check me on that. I think you'll
12 find -- I know for a fact that our authorized return in
13 North Carolina with the State Commission is 12.75. So
14 these are some examples, and obviously these may be --
15 I'd have to look at the dates of the decisions; you're
16 suggesting these are all in '09. So, yeah.

17 And again, too, ROE is one component of a full
18 decision that a Commission makes. So there may be other
19 counterbalancing facts that would suggest why this ROE
20 is appropriate for a specific company. So I think this
21 may be factually correct, but again, I would say we'd
22 have to weigh this against our specific facts, and the
23 Commission would have to ultimately decide the relevance
24 of any of these jurisdictions.

25 Q And just to follow along on some of your

1 answers to that question, and also this document, the --
2 if you assume the math is correct and the average
3 authorized ROE is 11.51, your request is more than 200
4 basis points higher than that, correct?

5 A Let me make sure I understand your question.
6 So I would say, purely on the math, my answer would be
7 yes, if you just do a simple mathematical equation
8 against this list of companies and the average, then
9 what you suggested is true.

10 Q Okay. And do you know how much each hundred
11 basis points of ROE for Progress Energy Florida
12 represents in terms of additional moneys that the
13 ratepayers are being asked to pay?

14 A Yes.

15 Q What is that number?

16 A 50 million, approximately.

17 Q 50 million?

18 A 50 million, approximately.

19 Q So if this Commission were to decide, you know
20 what, we're not going to be number one, we're going to
21 be average and award a 10.54 ROE, then that would, in
22 effect, save the ratepayers \$100 million, is that right?

23 A If you isolate the issue of ROE and you want
24 to be average, then your mathematical calculation is
25 correct, yes.

1 Excuse me, if I might, Mr. Moyle, if you want
2 to be average against this peer group, and I would
3 suggest to you that this is not a complete peer group
4 for regulated returns for all regulated utility
5 companies in the United States today, so I think this
6 perhaps is an average against your data sheet. It's not
7 an average in how I would think about average, and,
8 quite frankly, I don't think we want to operate our
9 company as average. I think we want to operate our
10 company well above average.

11 Q In response to my question previously, you had
12 referenced, well, Alabama Power is at, you know, a
13 number here, and North Carolina is over here. You would
14 agree -- I mean, what is the purpose of setting an ROE?
15 Isn't it to make the judgment as to the appropriate rate
16 to attract capital?

17 A Yes, I would; as a matter of fact, I think
18 you're making my point for me. I think that we're
19 always going to find people that are higher and lower
20 than what we're suggesting, so while that has some
21 relevance, again, I think we need to look at our
22 specific circumstances, the investments that are coming,
23 our credit metrics, our cash flow, all of the financial
24 metrics that we think are important to be able to run
25 our business the way your customers, your clients and

1 this Commission expects.

2 So again, we will -- we can continue this
3 debate and we will find higher and lower and we could go
4 back and forth. I think when it's all said and done,
5 we've comfortable to, you know, put forth our case and
6 suggest why we think ROE is appropriate to our specific
7 circumstance.

8 Q Yes, sir, and I appreciate that, and I know
9 that you have a professor from Duke who we're going to
10 speak with who has, you know, information, and I'm going
11 to do that, but you're the president of the company, and
12 I want to just explore this to make sure that we're not
13 talking past each other with respect to a very important
14 issue in the case. I mean, you heard your counsel --

15 MR. GLENN: Objection; argumentative.

16 Mr. Moyle needs to ask a question. This is cross-
17 examination.

18 CHAIRMAN CARTER: Rephrase, Mr. Moyle.

19 BY MR. MOYLE:

20 Q Did you hear your counsel say that ROE is an
21 important issue in the case in the opening?

22 A Yes, I did.

23 Q And he also said that depreciation was an
24 important issue, correct?

25 A Yes, he did.

1 Q And he also said that O&M expense was an
2 important issue, correct?

3 A Yes, he did.

4 Q Now, with respect to your comments about
5 Alabama and North Carolina, I just want to make sure
6 that we're on the same page. The ROE is the amount that
7 this Commission is being asked to set to attract capital
8 to your company, correct?

9 A I would say yes, generally that's a factor in
10 how we attract capital.

11 Q And wouldn't you agree that that judgment
12 should be made based on as current information as can be
13 obtained with respect to what, you know, what that
14 market is?

15 A No.

16 Q Do you understand my question?

17 A I do, and my answer is no.

18 Q Okay. So again, all things being equal -- and
19 sometimes we have to use that, but all things being
20 equal, you would not agree that an ROE decision issued
21 recently for Tampa Electric at 11.25 would be more
22 probative than, let's say, a decision for Alabama Power
23 issued seven years ago that awarded a 13 percent ROE?

24 A No, I would not necessarily agree with that.

25 Q Why not, again, all things being equal?

1 A Sure. I would say that, you know, as in the
2 case of Tampa Electric, this Commission examined their
3 specific circumstances and made a decision, you know,
4 and I think in our case we're asking for the same thing.
5 The timing and the nature of that -- everybody has
6 unique circumstances.

7 We are -- as we said, we -- our need for
8 significant capital for new investment as we go forward
9 is going to, I hope, weigh on how ultimately this
10 Commission decides what the appropriate return on equity
11 is for our particular company, because that has both
12 short-term and longer-term implications for our business
13 and our customers.

14 So I think I'll go back to -- as we discussed
15 this earlier, you know, there's always relevant data or
16 -- you know, there's always -- I'll strike the word
17 relevant. There's always data out in the environment
18 that the Commission can look at and consider, and I'm
19 sure they will. Ultimately, though, their decision I
20 hope will rest on the facts that we present in this
21 particular case and our unique circumstances.

22 Q And I'm sure they will.

23 I guess what I was trying to get you to focus
24 on was solely the issue of timing, and by saying all
25 things otherwise being equal, I was trying to get you to

1 focus on timing and compare the relevancy of a recent
2 Tampa Electric decision on ROE compared to, say, a
3 seven-year-old ROE decision out of Alabama, and to try
4 to get you to agree that the more recent decision, all
5 other things being equal, would be more relevant.

6 MR. GLENN: Objection; argumentative. Again,
7 Mr. Moyle is just testifying.

8 CHAIRMAN CARTER: Rephrase. Rephrase.

9 BY MR. MOYLE:

10 Q Let me just try it this way: All other things
11 being equal, would you agree that an ROE decision at a
12 point in time closer to a decision that this Commission
13 was being asked to make would be more important or
14 relevant than a decision that may have been five or six
15 years old on a return on equity issue?

16 A No, I'm not sure I would agree with that.

17 Q Okay. What is Progress Energy Florida
18 currently rated, do you know?

19 A Our credit rating?

20 Q Yes, sir.

21 A It's BBB, I think, BBB-minus, maybe.

22 Q Do you know, is that higher or lower or the
23 same as Tampa Electric Company?

24 A I don't know that.

25 Q I'm sorry?

1 A I don't know the answer to that. I'm sure our
2 other witnesses could answer that question better than I
3 can.

4 (Brief pause at 3:30 p.m.)

5 (The transcript continues in sequence with
6 Volume 3.)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)

3 COUNTY OF LEON)

4 I, RAY D. CONVERY, do hereby certify that I was
5 authorized to and did stenographically report the
6 foregoing proceedings at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that the foregoing
9 transcript is a true record of my stenographic notes.

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

15 DATED this 24th day of September, 2009, at
16 Tallahassee, Leon County, Florida.

17
18
19
20 

21 _____
22 RAY D. CONVERY
23
24
25