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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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

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

VOLUME 45
Pages 6017 through 6123

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PROCEEDINGS: HEARING

COMMISSIONERS
PRESENT: ACTING CHAIRMAN LISA POLAK EDGAR
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

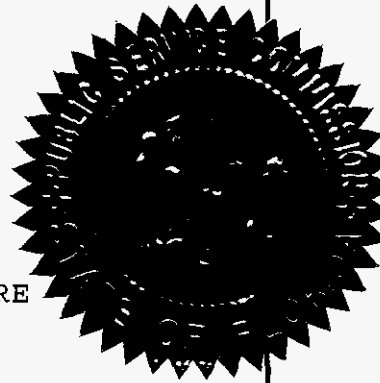
DATE: Thursday, October 22, 2009

TIME: Commenced at 2:45 p.m.
Concluded at 5:10 p.m.

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

REPORTED BY: CLARA C. ROTRUCK
Court Reporter
(850) 222-5491

PARTICIPATING: (As heretofore noted.)



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I N D E X

WITNESS

NAME: PAGE NO.

ROBERT BARRETT

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EXHIBITS

NUMBER:	ID.	ADMTD.
337 through 340		6042
341 Exhibit to Santos rebuttal testimony	6064	6064
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P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 44.)

4 ACTING CHAIRMAN EDGAR: And we're back on the
5 record after a lunch break, and when we went on break we
6 had some documents distributed and I think everyone was
7 going to take a look at them.

8 Ms. Williams?

9 MS. WILLIAMS: At this time staff would like
10 to withdraw its prior request to have updated RAB-21 and
11 updated RAB-22 entered into the record, as well as the
12 late filed Exhibit 419 that we had set a place-holder
13 for. We won't be attempting to enter those.

14 ACTING CHAIRMAN EDGAR: Mr. Moyle, I think
15 that probably brings us back to you being finished with
16 this witness.

17 MR. MOYLE: That's right, so given that none
18 of those documents are coming in, none of the documents
19 described by Mr. Butler, or the document identified and
20 marked, my questions are over with this witness. Thank
21 you.

22 ACTING CHAIRMAN EDGAR: Thank you.

23 Mr. Butler, anything further?

24 MR. BUTLER: No further.

25 MR. WRIGHT: Thank you, Madam Chairman.

CROSS EXAMINATION

1
2 BY MR. WRIGHT:

3 Q Good afternoon, Mr. Barrett. I don't have a
4 lot of questions for you, you will be pleased to hear,
5 I'm sure.

6 In response to some questioning by Mr.
7 McGlothlin, I believe you made the statement to the
8 effect that the company has put forth a fairly
9 reasonable forecast of its expenses for this case. Is
10 that an accurate characterization of that testimony?

11 A Yes.

12 Q I think you said something similar in response
13 to some questioning by Mr. Moyle. I think what you said
14 at that time was that it was within the realm of
15 reasonableness, your forecast, that is. Is that about
16 what you said?

17 A I don't remember the exact words, but I would
18 further assert that they are reasonable.

19 Q You used the phrase "fairly reasonable" in
20 response to questioning by Mr. McGlothlin, and my
21 question for you is, can you tell us, can you tell the
22 Commission what, in your mind, is fairly reasonable? I
23 mean, is it within five percent, within three percent?
24 What does that mean?

25 A I actually don't have a specific range of

1 variability around that of a number in mind when I say
2 that. What I mean by that is the assumptions that go
3 into it are reasonable and the calculations that come
4 out with the forecast, therefore, would be reasonable.

5 As I indicated earlier, there's always going
6 to be variability and variance around a point estimate,
7 but it has been our experience in forecasting there are
8 going to be things that tend to offset, so that "fairly
9 reasonable" in my view would be something that is, you
10 know, I don't know a number to put on it.

11 Q Do you have a confidence interval around your
12 forecast, say, for O&M expenses? Can you say that you
13 are 90 percent confident that your O&M expenses are
14 between X and Y?

15 A I don't have a confidence interval around it.

16 Q A couple of questions for you about the
17 generation base rate adjustment mechanism.

18 I have it right, I think, that the projected
19 revenue requirement associated with West County 3 is
20 \$182 million, is that right?

21 A Yes.

22 Q If, just assume, this is a hypothetical, but
23 if the company were overearning by \$182 million in 2011,
24 then wouldn't it be true that the company could absorb
25 the entire revenue requirement of West County 3 without

1 having to have any increase at all and still earn its
2 authorized rate of return on overall and ROE?

3 A All else being equal, I think that is true,
4 but that really has nothing to do with the GBRA itself
5 and the earnings on the asset that would be coming in.

6 Q Isn't it true that for -- well, I think you
7 testified in response to Mr. McGlothlin's questioning
8 that the first power plant in FPL's system that was ever
9 subject to the GBRA was Turkey Point 5, correct?

10 A Correct.

11 Q And during the 1990s and early 2000s, FPL did
12 bring on a number of power plants, did it not?

13 A It did.

14 Q And isn't it true that FPL during that period
15 was able to bring those power plants on line, absorb the
16 revenue requirements and still remain profitable without
17 the GBRA or within a base rate increase?

18 A Yes. During that period of roughly three
19 percent annual top line sales growth and the ability to
20 achieve some O&M productivity savings, we were able to
21 bring those plants on line.

22 Q I just want to ask you a few follow-up
23 questions about the line of questioning that Ms. Bradley
24 and Mr. Moyle had with you regarding Schedule C-15.
25 That is the professional dues.

1 A Okay.

2 Q I happen to be looking at the one for 2008, so
3 why don't we just stick with that.

4 First off, I want do ask you a follow-up
5 question about Associated Industries of Florida. Would
6 it be correct that Associated Industries, that whatever
7 dues FPL pays to AIF, are reported below the line
8 because AIF engages in lobbying?

9 A I believe that's the case. I'm not sure why,
10 but I do know that they are below the line.

11 Q Do you know whether the Florida Chamber of
12 Commerce engages in lobbying?

13 A I do not know.

14 Q I'm going to pick out a few of these to ask
15 you about.

16 Line 1 there, the Business Round Table --

17 A Yes.

18 Q -- do you know what that organization is and
19 does?

20 MR. BUTLER: Madam Chairman, I'm going to
21 renew my objection to this line of questioning. It's
22 gone on at considerable length. It has no tie to
23 Mr. Barrett's rebuttal testimony, and initially there
24 was some interest, it seemed to be, in finding out
25 generally if there were expense reductions that could be

1 achieved in this area, and that was a tie to the
2 rebuttal testimony, but it seems to be clearly just
3 going to gather information about industry association
4 dues that's not at all the subject of his rebuttal
5 testimony.

6 MR. WRIGHT: I am, in fact, going to the same
7 point made by Ms. Bradley with respect to which you
8 overruled Mr. Butler's prior objection, which is whether
9 there are expense reductions.

10 As a proffer, my intention is to ask him about
11 maybe a couple of hands full of these entities and ask
12 him if he knows what they do, and if he can tell the
13 Commission what, if anything, the membership dues that
14 FPL pays to these organizations provides in terms of
15 enhanced quality of service or lower cost to customers.

16 MR. BUTLER: And I would ask Mr. Wright to
17 identify where in Mr. Barrett's rebuttal testimony that
18 subject appears.

19 ACTING CHAIRMAN EDGAR: And I was going to
20 say, first of all, it does seem like we have traveled
21 this ground recently, if not also before, but also if
22 you can point me, us to some place much more
23 specifically in the rebuttal testimony, then that would
24 be helpful for my consideration.

25 MR. WRIGHT: Again, Madam Chairman, I think it

1 is the same exact point made by Ms. Bradley in response
2 to the similar objection, in which she referred to page
3 17, and he's talking about the opportunities for further
4 cost reductions are limited. I would assert that it
5 appears to me that a number of these organizations don't
6 do anything that provide enhanced quality of service or
7 lower cost.

8 ACTING CHAIRMAN EDGAR: I'm sorry, but if they
9 are below the line --

10 MR. WRIGHT: These are not below the line,
11 Madam Chair.

12 ACTING CHAIRMAN EDGAR: These are not below.
13 I don't have a list in front of me, Ms. Bradley. We'll
14 get there. Then that's helpful. I do not have that
15 list in front of me at this very moment. Please draw me
16 to the rebuttal, if you would.

17 MR. WRIGHT: At page 17, lines 16 to 20 and
18 even continuing on, Mr. Barrett talks about both -- the
19 question is --

20 ACTING CHAIRMAN EDGAR: I'm looking at it.

21 And then for my clarification, your questions
22 along this line will be few and will have to do with
23 only those that are above the line?

24 MR. WRIGHT: Yes, ma'am.

25 ACTING CHAIRMAN EDGAR: Proceed.

1 MR. WRIGHT: Thank you.

2 MS. BRADLEY: Madam Chairman, if I could
3 interject, it might be helpful, the thing that I was
4 looking at and I think he's looking at was part of the
5 MFRs and I think it was C-15, I believe. So it was
6 submitted as part of their MFR.

7 ACTING CHAIRMAN EDGAR: Thank you.

8 Mr. Wright?

9 MR. WRIGHT: Thank you, Madam Chairman.

10 BY MR. WRIGHT:

11 Q The pending question, Mr. Barrett, was, do you
12 know what the Business Round Table is and what it does?

13 A I do not.

14 Q So you're not in a position today to tell the
15 Commission what, if anything, FPL's dues to the Business
16 Round Table do in terms of providing enhanced quality of
17 service or reduced cost of service to FPL's customers,
18 are you?

19 A Not specifically, no.

20 Q I'm just going to try to make this as quick as
21 I can.

22 I would not challenge, we would not challenge,
23 at least my client would not challenge the company's
24 dues for, as an electric, EPRI; the Florida Electric
25 Power Coordination Group; FRCC; NERC; and the nuclear

1 organizations to which you belong. I think those are
2 fine organizations and the company's participation in
3 those speaks for itself.

4 The majority of the rest of these are various
5 things, like Chambers of Commerce, et cetera, and I'd
6 just like to ask you, can you tell us what these folks
7 do and how, if at all, FPL's dues to the entities other
8 than the larger contributions for the nuclear
9 organizations, EPRI, EEI, ECG, NERC, et cetera, how if
10 at all those provide, those dues go to enhance quality
11 of service or lower cost of service to FPL's customers?

12 A Well, I believe generally those groups, the
13 Chambers of Commerce, et cetera, are community
14 development groups where our participation is kind of
15 our ear into the community as businesses in the
16 community, what things are affecting them and can help
17 us to maybe better address their needs as a business in
18 that community.

19 Q Can you make a nexus there to enhanced quality
20 of service or lower cost of service to FPL's customers?

21 A Again, to the extent we're listening to the
22 business -- businesses in the communities that we serve,
23 it enables us to better understand what challenges
24 they're facing and how we can maybe even work together
25 better on issues that enhance the community or are

1 helpful to their business situation. I mean, that's
2 about as much as I know, Mr. Wright.

3 Q Would the same generally be true for the rest
4 of the organizations other than the ones we have talked
5 about?

6 A Yes, I believe so, yes.

7 Q Thank you. I think I have maybe one or two
8 more questions for you. If you could look at page 11 of
9 your rebuttal testimony at lines 9 and 10?

10 A I'm there.

11 Q At that point you make the statement, "Absent
12 the revenues requested in this proceeding in 2010, ROE
13 is projected to be 4.7 percent," that's correct, yes?

14 A Yes.

15 Q Isn't it true that that projection assumes
16 that the company incurs all costs as projected in its
17 MFRs?

18 A Yes.

19 Q And that it also assumes all of the accounting
20 treatments proposed by the company in its MFRs?

21 A Yes.

22 Q So if the Commission were to make a different
23 determination with regard to depreciation expenses and
24 say that your approved depreciation expenses were lower,
25 your ROE would increase, correct?

1 A Correct.

2 Q And similarly for some other items that, for
3 sake of time, we won't go into, like the depreciation
4 reserve, if there's a credit depreciation expense the
5 ROE will go up, correct?

6 A Yes.

7 Q Thank you.

8 MR. WRIGHT: That's all I have, Madam
9 Chairman.

10 ACTING CHAIRMAN EDGAR: Thank you.

11 Mr. Wiseman, you said no questions?

12 MR. WISEMAN: I did, but I actually have one
13 question as a follow-up.

14 ACTING CHAIRMAN EDGAR: Go ahead.

15 CROSS EXAMINATION

16 BY MR. WISEMAN:

17 Q Good afternoon, Mr. Barrett.

18 A Good afternoon.

19 Q Kenneth Wiseman for the South Florida Hospital
20 and Health Care Association.

21 I just want to ask you, I think it's just one
22 follow-up question on something that Mr. Wright was just
23 asking you.

24 Would you agree that if FPL is paying dues to
25 an organization that doesn't contribute to lower costs

1 for FPL's customers or better service by FPL, that FPL
2 should not include those costs in its regulated cost of
3 service?

4 MR. BUTLER: I'm going to object to that
5 question as, unlike the question of where there be cost
6 savings, this is really going to the subject of kind of
7 regulatory and policy that I think very clearly is
8 beyond the scope of Mr. Barrett's rebuttal testimony.

9 ACTING CHAIRMAN EDGAR: Mr. Wiseman?

10 MR. WISEMAN: Your Honor, I think this
11 actually goes directly to his testimony. The testimony
12 that Mr. Wright quoted from his rebuttal testimony said
13 that there is no further places for cost savings in
14 FPL's rates, and it seems to me if FPL is paying dues to
15 an organization that doesn't contribute to better
16 service or lower cost for customers, then those are dues
17 that should be below the line instead of above the line.
18 And if they're below the line costs, they would directly
19 to cost savings and reduced rates. So I think that goes
20 directly to his rebuttal testimony.

21 ACTING CHAIRMAN EDGAR: You're relying upon
22 the language on page 17 that says, "The opportunities
23 for further cost reductions are limited"?

24 MR. WISEMAN: Yes.

25 ACTING CHAIRMAN EDGAR: I'm not sure --

1 MR. WISEMAN: I'm sorry?

2 ACTING CHAIRMAN EDGAR: No, my apologies, I
3 was thinking.

4 MR. WISEMAN: I wasn't sure if you'd posed a
5 question to me.

6 ACTING CHAIRMAN EDGAR: I didn't. I was
7 thinking aloud and decided that that was probably not a
8 good idea.

9 Mr. Butler, do you have anything further to
10 add?

11 MR. BUTLER: Nothing other than I don't think
12 the policy question seems to be one of what should be
13 the proper parameter of a recoverable cost, and that
14 does not seem to be something that's tied even faintly
15 into the language that you had just referred to and that
16 Mr. Wright and Mr. Wiseman referred to from Mr.
17 Barrett's rebuttal testimony.

18 ACTING CHAIRMAN EDGAR: Mr. Wiseman, my memory
19 of the question was that you were asking the witness his
20 opinion rather than his legal knowledge of regulatory
21 practice or law.

22 MR. WISEMAN: Yes. I'm not asking for a legal
23 conclusion, I'm asking simply if this is an area where
24 there could be further cost reductions.

25 ACTING CHAIRMAN EDGAR: Then, if you would,

1 re-pose the question to the witness and the objection is
2 sustained -- overruled, apologize. I apologize.

3 You may ask your question and the objection is
4 overruled. I'm sorry for misstating.

5 MR. WISEMAN: Thank you.

6 BY MR. WISEMAN:

7 Q Mr. Barrett, I will repeat the question for
8 you. Would you agree that if FPL is paying dues to an
9 organization that does not contribute to better service
10 on FPL's system or lower cost for FPL's customers, that
11 the dues that FPL provides to that organization should
12 not be included in FPL's regulated cost of service?

13 A If that were the case I would agree with you.
14 However, I believe that the organizations that we
15 contribute to we do view as helping us in terms of
16 providing better service to our customers.

17 Q Thank you, Mr. Barrett.

18 MR. WISEMAN: I have no further questions.

19 ACTING CHAIRMAN EDGAR: Thank you.

20 Questions from staff?

21 MS. WILLIAMS: Thank you, Madam Chairman.

22 Before I begin, the parties have represented to me that
23 they have no objections to two items from staff's
24 Composite Exhibit List No. 35 that we wanted entered
25 into the record. If we could address those, they were

1 FPL's Response to Staff's Tenth Set of Interrogatories
2 No. 168 and FPL's Response to SFHHA's Tenth Set of
3 Interrogatories No. 290. Those are items 8 and 32.

4 ACTING CHAIRMAN EDGAR: Any objections from
5 the parties? No? Then we can go ahead and enter those
6 into the record at this time.

7 (Staff's Exhibit No. 35, Items 8 and 32,
8 marked for identification and admitted into the record.)

9 MR. WRIGHT: Madam Chairman?

10 ACTING CHAIRMAN EDGAR: Mr. Wright.

11 MR. WRIGHT: I would just like to ask, if the
12 staff could identify exactly what's going in I can check
13 it off my list. I would appreciate it, thank you.

14 ACTING CHAIRMAN EDGAR: Ms. Williams, can you
15 point out or repeat whatever would be helpful to Mr.
16 Wright?

17 MS. WILLIAMS: Sure. On staff's Composite
18 Exhibit List No. 35, it's item 8 and 32. From item 8,
19 it's Interrogatory No. 168. And then from item 32 it's
20 Interrogatory No. 290.

21 MR. WRIGHT: Thank you, Madam Chairman. Thank
22 you, staff.

23 ACTING CHAIRMAN EDGAR: Ms. Williams, you're
24 recognized for questions on cross.

25 / / / / /

CROSS EXAMINATION

1
2 BY MS. WILLIAMS:

3 Q Good afternoon, Mr. Barrett. I just have a
4 few questions. The first set were punted to you Ms.
5 Ousdahl because they were related to forecasting, and
6 specifically they have to do with the advanced metering
7 infrastructure, or AMI, and Smart Grid.

8 Now, the only Smart Grid-related dollars that
9 have been included in the current forecast are for the
10 AMI meter technology, correct?

11 A Correct.

12 Q And if Smart Grid is implemented by FPL, both
13 the transmission and distribution functions would be
14 impacted, correct?

15 A I believe so, yes.

16 Q And you would agree with me that substation as
17 well as line accounts for each function would be
18 affected, wouldn't you?

19 A I believe so, yes.

20 Q But you would also agree that it's too early
21 to determine the extent to which substations and line
22 accounts would be affected?

23 A Yes.

24 Q Now, I'm going to have Ms. Bennett pass out to
25 you what has been previously marked as Exhibit 512 that

1 was entered during, I believe in Mr. Pimentel's cross-
2 examination. He referred these questions either to you
3 or Mr. Davis, so if you're not able to answer them, let
4 me know and if Mr. Davis is the most appropriate witness
5 we can punt those to him.

6 Have you had an opportunity to look at this?

7 A Yes.

8 Q Now, you will see on this exhibit there are
9 three separate charts, one at the top, one in the middle
10 and one at the bottom?

11 A Yes.

12 Q Now, the capital structure at the top of the
13 page reflects the cost of capital per the company's
14 original filing, is that correct?

15 A Yes.

16 Q And the capital structure in the middle of the
17 page reflects certain adjustments to the cost of capital
18 per the company's rebuttal testimony?

19 A Yes.

20 Q Could you identify and explain the differences
21 between these two representations of the company's
22 capital structure?

23 A I'll give it a shot, and whatever I can't
24 answer, Mr. Davis I'm sure will be able to.

25 In essence they reflect all of the adjustments

1 that were submitted on KO-16, the late-filed exhibit --
2 or, excuse me, I think it's a rebuttal exhibit to Ms.
3 Ousdahl's testimony.

4 And so there's a number of adjustments that
5 were made, some affecting rate base and some affecting
6 capital structure specifically, that needed to be
7 reflected, so that's what's going on here.

8 So the sum total of all of those adjustments
9 had the effect of lowering rate base by about
10 \$280 million or so, so that's why the total capital is
11 about that amount lower.

12 There were some specific adjustments to the
13 bonus depreciation which affected deferred taxes. The
14 movement of ITC related to the solar projects out of
15 base and into clause, those were specific adjustments,
16 and then there were some other adjustments that were as
17 detailed in KO-16 that were made pro rata. So all of
18 those things affected, all of the rate base and capital
19 structure items affected this schedule.

20 Q So I just want to clarify on that sixth line
21 down when you talked about the ITC, the investment tax
22 credits, that changed from 56 to five?

23 A Yes.

24 Q And you stated that that was because those
25 associated with investments in solar programs were

1 originally in the rate case and then they were taken out
2 and put in ECRC?

3 A Correct.

4 Q Okay, thank you.

5 MS. WILLIAMS: That's all I have.

6 ACTING CHAIRMAN EDGAR: Anything from the
7 bench?

8 Anything on redirect?

9 MR. BUTLER: Some brief redirect, please.

10 ACTING CHAIRMAN EDGAR: Mr. Butler?

11 MR. BUTLER: Thank you.

12 REDIRECT EXAMINATION

13 BY MR. BUTLER:

14 Q Mr. Barrett, in response to questions earlier
15 you referred to the commutation of the Aegis Insurance
16 policy, and I believe you stated in your testimony that
17 it was commuted that the credit appeared in 2009. Is
18 that the correct year?

19 A No, it was in 2008.

20 Q Thank you.

21 You were asked by Mr. Wright about confidence
22 intervals for your financial forecast. Are you aware of
23 any utility that evaluates or prepares confidence
24 intervals on its financial forecasts or budgets that it
25 prepares?

1 A No.

2 Q You were asked by, I believe it was Mr. Moyle,
3 about whether the efficiency improvements that have
4 occurred or that did occur in the period 1999 through
5 2005 were recurring. Do you recall that?

6 A Yes, I do.

7 Q Can you explain what you meant when you said
8 that those efficiency improvements are recurring?

9 A Sure. As we made improvements in primarily
10 non-fuel O&M costs we were able to lower those costs
11 over time to the point where we have now, we have
12 embedded in our operations and in our forecast of
13 operations those efficiency improvements.

14 That's what I meant by recurring, in the fact
15 that they have long-lasting impacts; not that there
16 would be continuing opportunities to do that in the
17 future, but that the gains that we have made will stay
18 with us.

19 Q Thank you.

20 You were asked by Mr. Moyle about in these
21 economic times it would be appropriate to engage in O&M
22 and other costs belt-tightening, do you remember those
23 comments?

24 A Yes.

25 Q Or those questions. Has FPL, in fact, engaged

1 in belt-tightening with the current year and the
2 projections for the test years?

3 A Absolutely. During our budget process, we, in
4 fact, from the initial submissions from the business
5 units of the required expenditures to run the business,
6 we, in fact, trimmed those down in view of the
7 deteriorating economic conditions during that budget
8 process, and so the forecasts we have reflected in our
9 filing do already have a good measure of belt-tightening
10 included.

11 Q I'd like to ask you about the hypothetical
12 that Mr. McGlothlin had discussed with you, and I think
13 in that hypothetical that the utility, the hypothetical
14 utility had revenues of \$500 million, earnings of
15 \$100 million and revenue requirements for a new plant of
16 \$20 million. Do you recall that example?

17 A I do.

18 Q Now, if the revenues do not go up from year
19 one before the new plant is put in service until year
20 two when the plant is put into service, so there's
21 \$20 million in additional revenue requirements, what
22 would that do to the \$100 million of earnings,
23 recognizing the simplifying assumption that there is no
24 tax effects?

25 A So if the plant goes in in year two and the

1 revenues have not gone up, then the earnings would down
2 by that \$20 million.

3 Q So in the math it would go down from 100 to
4 80 million, is that correct?

5 A Correct.

6 Q Now, if a \$100 million was representative of
7 the utility earning its authorized return, would it in
8 year two still be earning its authorized return?

9 A No, it would not.

10 Q Let me expand the hypothetical with one
11 further piece of information and ask you about that.

12 Let's say the \$500 million of revenues
13 represent base revenues and that the utility also in
14 year one collects \$300 million in fuel costs through an
15 adjustment clause mechanism. Now, in that circumstance
16 you would agree that the company would be collecting in
17 year one \$800 million total in revenues from customers,
18 correct?

19 A Correct.

20 Q Now, let's say that the revenue requirements
21 for the plant are still \$20 million, but that when the
22 plant goes into service there are fuel savings of
23 \$20 million.

24 In year two, after that plant has gone into
25 service and assuming no change otherwise in the sales

1 for the utility, what would the utility's revenues be in
2 year two?

3 A 800.

4 Q And would that be the same as in year one?

5 A Yes.

6 Q Thank you, Mr. Barrett.

7 MR. BUTLER: That's all the redirect that I
8 have.

9 ACTING CHAIRMAN EDGAR: Exhibits, Mr. Butler?

10 MR. BUTLER: Yes, one moment.

11 I would move the admission of Exhibits 337
12 through 340.

13 ACTING CHAIRMAN EDGAR: Seeing no objection,
14 Exhibits 337 through 340 will be admitted at this time.

15 (Exhibits 337 through 340 admitted into the
16 record.)

17 ACTING CHAIRMAN EDGAR: Anything from staff?

18 MS. WILLIAMS: I'm unclear, did we already
19 move my two exhibits in previously?

20 ACTING CHAIRMAN EDGAR: If you're talking
21 about from the composite exhibit?

22 MS. WILLIAMS: Yes, I am.

23 ACTING CHAIRMAN EDGAR: Yes.

24 MS. WILLIAMS: Then we have nothing further.

25 ACTING CHAIRMAN EDGAR: And where are we with

1 419?

2 MS. WILLIAMS: We're not moving that in.

3 ACTING CHAIRMAN EDGAR: Then the witness is
4 excused. Thank you.

5 MR. BUTLER: Thank you, Madam Chairman. Our
6 next witness is Ms. Santos. Ms. Santos has been
7 previously sworn.
8 Whereupon,

9 MARLENE M. SANTOS
10 was called as a witness on behalf of Florida Power &
11 Light and, having been previously duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BUTLER:

15 Q State your name.

16 A Marlene Santos, 9250 West Flagler Street,
17 Miami, Florida.

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

19 A By Florida Power & Light, as Vice-President of
20 Customer Service.

21 Q Have you prepared and caused to be filed 19
22 pages of rebuttal testimony in this proceeding?

23 A Yes, I have.

24 Q Mindful of the exercise we went through with
25 Mr. Barrett, do you have a copy of your errata sheet

1 where you could provide orally the changes to your
2 testimony?

3 A Yes, I do.

4 Q Would you please do that at this time?

5 A Sure. On page 11, line 18, the number 899,613
6 should be changed to 751,895. On that same page 11,
7 line 19, the number 915,949 should be changed to
8 775,931. That's all.

9 Q Thank you. With those changes, Ms. Santos, if
10 I asked you the questions today contained in your
11 rebuttal testimony, would your answers be the same?

12 A Yes, they would.

13 MR. BUTLER: Madam Chairman, I would ask that
14 Ms. Santos' rebuttal testimony be inserted into the
15 record as though read.

16 ACTING CHAIRMAN EDGAR: The prefiled rebuttal
17 testimony will be entered into the record as though read
18 with the changes noted by the witness.

19

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **REBUTTAL TESTIMONY OF MARLENE M. SANTOS**

4 **DOCKET NO. 080677-EI**

5 **AUGUST 6, 2009**

6
7 **Q. Please state your name and business address.**

8 A. My name is Marlene M. Santos. My business address is Florida Power & Light
9 Company, 9250 W. Flagler Street, Miami, Florida 33174.

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

11 A. Yes.

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

13 A. Yes. I am sponsoring the following rebuttal exhibit which is attached to my
14 testimony:

- 15 • MMS-4, Complaints for Florida Investor Owned Utilities

16 **Q. What is the purpose of your rebuttal testimony?**

17 A. The purpose of my rebuttal testimony is to refute claims made in the direct
18 testimonies of South Florida Hospital and Healthcare Association (SFHHA)
19 witness Kollen and Office of Public Counsel (OPC) witnesses, Brown and
20 Dismukes related to Advanced Metering Infrastructure (AMI), bad debt expense,
21 late payment charge revenue, and topics related to FPLES. In addition, I will
22 comment on customer complaint/inquiry data presented by Florida Public Service
23 Commission (FPSC or Commission) witness Hicks.

SUMMARY

1

2

3 **Q. Please summarize your rebuttal testimony.**

4 A. SFHHA witness Kollen is proposing an adjustment of \$5.7 million be made to
5 increase the savings associated with the AMI project. Mr. Kollen asserts that the
6 Test Year savings should be in direct proportion to the number of meters
7 deployed. My testimony shows how this estimate of savings is unrealistic as
8 savings do not occur at the same rate as meter deployment. Savings are realized
9 after several complex interdependent components and processes are fully
10 developed, tested and implemented, and deployment at an FPL regional work area
11 is achieved.

12

13 OPC witness Brown is proposing adjustments to bad debt expense. Ms. Brown
14 claims that forecasted write-offs are overstated because FPL used an older version
15 of the inputs of kWh sales and real price than what was filed in these proceedings.
16 However, my testimony shows that when the write-off forecast is revised to
17 account for the updated kWh sales and real price as Ms. Brown proposes, as well
18 as the pertinent updated economic variables, the write-off forecast increases by
19 \$4.5 million in 2010 and \$1.6 million in 2011, compared to the original filing. It
20 does not decrease as Ms. Brown proposes. In addition, I will discuss how Ms.
21 Brown incorrectly accounts for write-off savings associated with the Automated
22 Bill Payment (ABP) program and the Remote Connect Switch (RCS)

1 functionality included in the AMI project, and show that an adjustment is not
2 necessary.

3
4 Ms. Brown is also proposing to increase the revenue forecast associated with our
5 proposed Late Payment Charge (LPC) of the greater of \$10 or 1.5%. My
6 testimony supports why a proposed reduction for a 2% write-off rate on the
7 incremental late payment charge revenue in the test years is appropriate and why
8 Ms. Brown's assumption of using an average of the 2007 and 2008 late payments
9 as a percent of total bills rather than the 30% behavior change assumed by FPL is
10 unrealistic. If the 30% adjustment for behavior change is not accepted, then FPL
11 would withdraw its proposal to change the current LPC fee structure. In addition,
12 my testimony shows why Ms. Brown's proposal to include an offset in the
13 revenue expansion factor for the LPC revenue calculated at 1.5% is improper and
14 should be rejected.

15
16 I will then address claims made by OPC witness Dismukes regarding the transfer
17 of the FPL gas business to FPLES on January 1, 2006, noting that it is absolutely
18 inappropriate to raise concerns and propose changes regarding a matter that was
19 ultimately resolved and settled upon as part of the Stipulation and Settlement
20 agreement referenced in FPSC's Docket Nos. 050045-EI and 050188-EI, Order
21 No. PSC-05-0902-S-EI dated Sept. 14, 2005. Therefore, Ms. Dismukes'
22 recommendation should be rejected because it is inconsistent with the Stipulation
23 and Settlement agreement. Moreover, the gross margins realized from the gas

1 business are unrelated to FPL and its customers. No adjustment is required,
2 contrary to Ms. Dismukes' recommendation. Additionally, for those FPLES
3 programs that utilize the FPL bill, FPLES compensates FPL for these billing
4 services.

5
6 Lastly, I will comment on the complaint/inquiry data presented by FPSC witness
7 Ms. Hicks. The data shows that on an annual basis only 0.16% of FPL customers
8 contacted the Commission with a complaint/inquiry and that over the two year
9 period, only two or 0.014% of those contacts appeared to be violations of
10 Commission rules. Clearly, FPL has a very low rate of complaints and, in fact,
11 compares favorably to other Florida Investor Owned Utilities (IOUs). This
12 demonstrates FPL's commitment to providing excellent customer service.

13
14 **REBUTTAL TO TESTIMONY OF SFHHA WITNESS LANE KOLLEN**

15
16 **Q. Please comment on SFHHA witness Kollen's assertion that AMI savings**
17 **during the Test Year should be in direct proportion to the number of meters**
18 **deployed.**

19 **A.** Mr. Kollen's claim should be rejected. His position is incorrect because savings
20 cannot be calculated based solely on the number of meters deployed. Mr. Kollen
21 fails to recognize that significant savings are not realized until several complex
22 interdependent components and processes are fully developed, tested and
23 implemented, and deployment is achieved at an FPL regional work area.

1 **Q. Please explain why Mr. Kollen's proposed savings can not be calculated**
2 **based solely on the number of meters deployed.**

3 A. The meter deployment by itself is not the sole driver to achieve savings. First, the
4 amount of savings Mr. Kollen estimates is unrealistic for the Test Year since there
5 is a considerable amount of work to be completed related to a wide range of
6 supporting systems, processes and organizations before significant savings can be
7 achieved.

8 These include:

- 9 • Integrating complex software to many legacy and several new systems in
10 order to maintain the integrity of customers' bills and to allow the
11 scalability required for mass deployment. These consist of several
12 different software solutions to read the meter, consolidate data, and
13 integrate to back office customer billing systems.
- 14 • Creating sophisticated databases required by new systems to manage and
15 store an extraordinarily large amount of meter data.
- 16 • Completing significant cyber security measures to protect the integrity of
17 our customer data and systems.
- 18 • Developing a significant number of new processes and systems to
19 maximize new functionality.
- 20 • Establishing and training the organization needed to support new
21 processes and systems.

1 Secondly, FPL's deployment approach results in meter reading workforce savings
2 being deferred until the AMI meter saturation in a region is nearly complete, the
3 deployed meters are validated and used for billing, and the remaining workload
4 associated with non-AMI meters is optimized.

5 **Q. Does Mr. Kollen question FPL's projected deployment schedule, or projected
6 costs and savings from the deployment of AMI meters and infrastructure?**

7 A. No. Mr. Kollen does not question FPL's projected deployment schedules or
8 projected costs of deployment, separated into expense and capital amounts. Mr.
9 Kollen also does not question the estimated annual savings of \$36 million, which
10 does not occur until 2014, once the AMI meters and infrastructure are fully
11 deployed.

12 **Q. Based on the characteristics of this project, is Mr. Kollen's proposed
13 adjustment to increase savings for 2010 by \$5.7 million appropriate?**

14 A. No. For the reasons discussed previously, savings do not occur at the same rate as
15 meter deployment. Savings are realized after several complex interdependent
16 components and processes are fully developed, tested and implemented, and
17 deployment at an FPL regional work area is achieved. Prudent integration,
18 deployment and organizational plans will insure continuous quality of service and
19 minimize impact to our customers. As such, the \$0.42 million savings included in
20 the Test Year are reasonable and the \$5.7 million adjustment to increase savings
21 is not appropriate.

1 **REBUTTAL TO TESTIMONY OF OPC WITNESS SHEREE L. BROWN**

2

3

BAD DEBT EXPENSE

4

5 **Q. Do you agree with OPC witness Brown's assertions that FPL's bad debt**
6 **expense is overstated?**

7 A. Absolutely not. In an attempt to cast doubt on FPL's projected bad debt expense,
8 Ms. Brown presents an analysis that is inconsistent and purposefully selective in
9 its recommendations. And in fact, when our forecast is updated to reflect the
10 assumptions that Ms. Brown suggests, FPL's projections of bad debt expense are
11 higher, not lower.

12 **Q. What are Ms. Brown's assertions concerning FPL's projections of bad debt**
13 **expense for the Test Years?**

14 A. Ms. Brown makes two assertions. One is that the assumptions used in the
15 regression model were made prior to economic changes that were utilized by FPL
16 in preparing other components of its filing. The other is that the benefits of
17 enhanced collection and assistance programs have not been sufficiently taken into
18 account in projecting the level of write-off savings.

19

20 Ms. Brown correctly points out that the level of kWh sales and real price of
21 electricity used in the regression model to predict bad debt are higher than those
22 used for other purposes in FPL's final projection for the Test Years. However, she
23 incorrectly concludes that the bad debt calculation would have been reduced

1 significantly if later, lower estimates of kWh sales and real price of electricity had
2 been used.

3
4 What Ms. Brown fails to consider is that the regression model used to predict bad
5 debt also includes economic variables, such as unemployment rate and
6 affordability index (Florida Real Per Capita Income/Median Price of Homes), as
7 well as kWh sales and real price. For consistency in FPL's filing, it is necessary
8 to use all variables--kWh sales, real price, and the other economic variables--from
9 the same vintage.

10
11 Table A below makes a comparison of the bad debt forecast submitted in MFR C-
12 11 to a revised forecast that uses the lower revenues in MFR C-11 as suggested by
13 Ms. Brown, but also utilizes economic variables for the same period including
14 Florida's unemployment and affordability index.

15 **Table A**

	2010	2011
MFR C-11	28,017,000	22,992,308
Revised	32,511,098	24,592,308
Difference	4,494,098	1,600,000

16
17 With all of those variables updated to the same vintage as the later kWh sales and
18 real price, bad debt expense increases by \$4.5 million and \$1.6 million over the
19 original filing for 2010 and 2011, respectively. In addition, the bad debt rate as
20 calculated in MFR C-11 would change from 0.260% to 0.302% in 2010 and from
21 0.207% to 0.221% in 2011. These are higher than Ms. Brown's proposed bad debt

1 rates of 0.194% in 2010 and 0.158% in 2011 shown in Exhibit SLB-6. In other
2 words, if all assumptions are updated on a consistent basis instead of only selected
3 ones, the test year bad debt expense in FPL's filing would need to be increased,
4 not lowered. Ms. Brown conveniently ignores the need for consistency in her
5 calculations. FPL is reflecting this increase in bad debt expense as part of FPL
6 witness Ousdahl's Exhibit KO-16, *Identified Adjustments*.

7 **Q. Do you agree with Ms. Brown's adjustment to the expected savings from**
8 **Automated Bill Payments (ABP)?**

9 A. No. Ms. Brown calculates incremental savings of \$1,474,271 in 2010 and
10 \$1,921,040 in 2011 based on her assumed increase in the 2010 and 2011 number
11 of customers that would sign up for ABP at the time of connect. Conceptually,
12 what Ms. Brown fails to realize is that the regression model used to forecast bad
13 debt expense has been exposed to the growth in ABP over the last few years. As a
14 result, the model already assumes a rate of growth for 2010 and 2011. An out of
15 model adjustment is only necessary if there is a significant change in policy or
16 procedure that causes a larger than anticipated savings. Therefore, Ms. Brown's
17 savings adjustments are incorrect since they are already accounted for in the
18 regression model.

19 **Q. What is Ms. Brown's recommendation for recognizing Remote Connect**
20 **Switch (RCS) write-off savings?**

21 A. Ms. Brown recommends that the FPSC recognize a greater portion of the RCS
22 avoided write-off savings by assuming an earlier deployment of the RCS avoided
23 write-offs. She assumes in 2010, that FPL would achieve a 5-year straight

1 amortization of the annual savings expected from RCS in 2014, when the program
2 will be fully implemented. She increases the 2010 savings from \$383,506 to
3 \$1,713,305. She uses a different methodology to adjust the 2011 savings from
4 \$2,607,692 to \$4,038,209.

5 **Q. Do you agree with Ms. Brown's recommendation to recognize greater RCS**
6 **savings in 2010 and 2011?**

7 A. No. RCS is a new technology in the meters that we will be deploying as part of
8 the AMI project. This technology leverages the wireless capabilities of the AMI
9 meter to connect and disconnect service remotely. As discussed previously on
10 pages 4 and 5 related to the AMI project, the meter deployment by itself is not the
11 sole driver to achieve savings. There is a considerable amount of work to be
12 completed related to a wide range of supporting systems, processes and
13 organizations before significant savings can be achieved.

14 **Q. Based on the characteristics of the AMI project, is Ms. Brown's proposed**
15 **adjustment to increase RCS savings in 2010 from \$383,506 to \$1,713,305 and**
16 **in 2011 from \$2,607,692 to \$4,038,209 appropriate?**

17 A. No. As previously discussed, savings do not occur at the same rate as meter
18 deployment. FPL has accurately reflected costs and savings by recording them as
19 they are anticipated to occur. The RCS bad debt savings included in the filing are
20 associated with the expected benefits from the equipment's use. It is incorrect to
21 account for RCS savings before they are expected to occur.

LATE PAYMENT CHARGE REVENUE

1

2

3 **Q. Why is Ms. Brown suggesting that FPL adjust the late payment charge**
 4 **revenues associated with the implementation of a \$10 minimum charge?**

5 A. Ms. Brown asserts that FPL should not have assumed a 2% net write-off factor
 6 and a 30% behavior change in the calculation of late payment charge (LPC)
 7 revenues. The adjustments that she makes incorrectly result in an LPC revenue
 8 increase of \$25,024,251 in 2010 and \$26,034,753 in 2011.

9 **Q. Is Ms. Brown's concern with the 2% net write-off factor valid?**

10 A. Ms. Brown's concern is partially valid. She is proposing that this factor be
 11 excluded because she asserts that it is reflected in the bad debt total. The bad debt
 12 expense shown on MFR C-11 does not account for the bad debt expense
 13 associated with the incremental LPC revenues from the proposed service charge
 14 change. However, when forecasting LPC revenues for the test years, the bad debt
 15 expense for the entire amount of LPC revenues was accounted for when only the
 16 incremental revenue associated with the proposed service charge should have had
 17 the LPC bad debt rate of 2% applied. Applying the 2% LPC bad debt rate
 18 assumption to only the incremental LPC revenues yields an increase of ~~\$899,613~~ ^{\$751,895}
 19 in 2010 and ~~\$915,949~~ ^{\$775,931} in 2011 to the total LPC revenues at proposed charges.

20

21 Whether the 2% LPC write-off is accounted for as part of the bad debt expense in
 22 MFR C-11 or in the calculation of the LPC revenue, it has the same basic impact.

23 As such, the LPC bad debt rate, applied to the incremental revenue associated

1 with the proposed LPC charge is justified. Additionally, FPL subsequently
2 performed an analysis that shows the write-off rate associated with LPC revenue
3 in 2008 was 2.35%, so the 2% assumption is understated.

4 **Q. Is Ms. Brown's concern with the 30% behavior change valid?**

5 A. No. The purpose of changing the late payment charge to have a minimum of \$10
6 is to change behavior and induce more timely payment. Ms. Brown acknowledges
7 that there should be a change to late payment behavior as a result of changing the
8 late payment charge from 1.5% to the greater of \$10 or 1.5% (pg 26 lines 12-15 of
9 her testimony), but simply uses an average of the 2007 and 2008 late payments as
10 a percent of total bills as a basis. By minimizing the behavior change assumption
11 of 30%, Ms. Brown effectively diminishes the impact that the late payment charge
12 is specifically designed to achieve. Ms. Brown's use of a historical late payment
13 rate is not founded on a price change behavioral response. Instead it is merely the
14 average of late payments as a percentage of total bills in 2007 and 2008. It is
15 quite a stretch in her reasoning to equate a growth trend in late payment charges
16 with a price altering behavior change as Ms. Brown is proposing.

17
18 In contrast, FPL has analyzed the likely behavioral impact of the change in late
19 payment charges, and that analysis fully supports our use of a 30% change. As
20 shown on Table B below, FPL determined that there should be a behavior change
21 of approximately 65% by applying the electricity demand elasticity of
22 approximately 0.2 to the estimated change in charges of 324%. FPL's use of an
23 assumed behavior change of 30% is therefore quite conservative because it is less

1 than half of the 65% change expected when applying the electricity demand
2 elasticity. (See Table B).

3 **Table B**

A	2008 LPC Revenues Charge < \$10	\$27,460,706
B	Count of 2008 Charge < \$10	11,634,410
C=A/B	Average 2008 Charge < \$10	\$2.36
D=C	Old Charge	\$2.36
E	New Charge	\$10.00
F=E/D-1	Change in Price	324%
G	Elasticity	-0.20
H=G*F	Change in Behavior	-65%

4
5 Ms. Brown has an unrealistic position that would significantly and unjustifiably
6 overstate FPL's LPC revenues. If FPL's conservative 30% adjustment for
7 behavioral change is not factored into LPC revenues, then FPL would withdraw
8 its proposal to change the current LPC fee structure.

9 **Q. Ms. Brown asserts on page 28 of her testimony that any increase in base**
10 **revenues will result in an increase in late payment fees and that therefore it**
11 **would be appropriate to include an offset in the revenue expansion factor for**
12 **this additional revenue. She then proposes an adjustment to FPL's revenue**
13 **expansion factor in her Exhibit SLB-8 that would reduce FPL's 2010 and**
14 **2011 revenue requirements by \$905,000 and \$1,132,000, respectively. Do you**
15 **agree with her proposal?**

16 **A.** No, I do not. First of all, reflecting the revenues from late payment fees as a
17 component of the revenue expansion factor would be inconsistent with
18 Commission precedent. Other Florida investor owned electric utilities assess a
19 late payment fee using a similar fee structure to what FPL is now proposing, and

1 FPL has not found a single instance in which they include the revenue associated
2 with the late payment fees in their calculation of the revenue expansion factor.
3 For example, TECO did not include late payment fee revenues in calculating the
4 revenue expansion factor in its recently concluded rate case (*see* Order No. PSC-
5 09-0283-FOF-EI, dated April 30, 2009, Docket No. 080317-EI) and neither did
6 Progress Energy Florida in the MFRs upon which its settled 2005 rate case was
7 based (*see* Order No. PSC-05-0945-S-EI, dated September 28, 2005, Docket No.
8 050078-EI). Ms. Brown has not offered any reason to deviate from that precedent
9 here.

10
11 Secondly, the reduction in FPL's revenue requirements that would result from the
12 revenue expansion factor adjustment proposed by Ms. Brown is unwarranted and
13 improper. Implicit in her adjustment is that the late payment fees that FPL
14 collects in the test year will increase in proportion to the increased revenues FPL
15 would receive under its proposed base rates. However, FPL has already reflected
16 the late payment fees in its calculation of proposed base rates (*see* MFR E-5, line
17 36). The late payment fees were projected on the basis of FPL's proposed
18 revision to the late payment fee structure (*i.e.*, the addition of a \$10 minimum
19 payment) and its total 2008 electric revenues, including fuel and other clause
20 revenues. FPL used total electric revenues for this projection because the late
21 payment fee applies to the *total* bill, not just the base rate portion. FPL's 2008
22 total electric revenues were approximately \$11.3 billion, which is more than FPL
23 projects its total electric revenues to be in 2010. Therefore, FPL's base rate

1 request already fully and properly reflects the late payment fees that are projected
2 for 2010. Ms. Brown's adjustment would improperly double-count the revenue
3 impact of those fees and should be rejected accordingly.

4 **Q. In the course of evaluating the claims of the intervening witnesses, did you**
5 **identify any adjustments that should be made to late payment fee revenues**
6 **calculated at the current rates?**

7 A. Yes. Late payment fee revenues at the current rate of 1.5% were calculated as a
8 percent of total revenue, using the same kWh sales forecast that I mentioned
9 earlier with respect to bad debt expense. As a result, late payment fee revenues at
10 the current rate are overstated by \$7.4 million in 2010 and \$7.0 million in 2011.
11 FPL is reflecting this adjustment as part of FPL witness Ousdahl's Exhibit KO-
12 16, *Identified Adjustments*.

13
14 **REBUTTAL TO TESTIMONY OF OPC WITNESS KIMBERLY H.**

15 **DISMUKES**

16
17 **Q. OPC witness Dismukes raises concerns regarding the January 1, 2006 sale of**
18 **the natural gas business from FPL to FPLES. Is it appropriate to raise such**
19 **concerns at this time?**

20 A. It is absolutely inappropriate to raise concerns and propose changes regarding a
21 matter that was part of the 2005 Rate Case Proceedings, and was ultimately
22 resolved and settled upon as part of the Stipulation and Settlement Agreement.
23 FPSC Docket Nos. 050045-EI and 050188-EI, Order No. PSC-05-0902-S-EI

1 dated Sept. 14, 2005, Attachment A, page 20, paragraph labeled "18", says "This
2 Stipulation and Settlement will resolve all matters in these Dockets pursuant to
3 and in accordance with Section 120.57(4), Florida Statutes. This Docket will be
4 closed effective on the date the FPSC Order approving this Stipulation and
5 Settlement is final." As such, FPL believes this matter does not warrant any
6 further response.

7 **Q. Ms. Dismukes recommends that the gross margins associated with the FPL**
8 **gas contracts sold to FPLES should flow back to the ratepayers. Do you**
9 **agree?**

10 **A.** No, this is not correct. As stated earlier, the matter related to the sale of the FPL
11 gas contracts to FPLES was resolved per the Stipulation and Settlement
12 Agreement. Since 2006, FPLES has been responsible for all activities related to
13 the Gas Business and has assumed all related risk. FPL has not been involved in
14 this business since that time. As such, the gross margins realized from the Gas
15 Business are unrelated to FPL and its rate payers. No adjustment is necessary
16 contrary to Ms. Dismukes' recommendation.

17 **Q. Ms. Dismukes comments on a surge protection service advertisement that**
18 **was presented by a customer at the service hearing conducted in Plantation,**
19 **Florida. The FPLES advertisement indicates that billing for this service is via**
20 **the FPL electric bill. She alleges that FPL is not compensated by FPLES for**
21 **use of its billing service. Do you agree with this conclusion?**

22 **A.** No. For those FPLES programs that utilize the FPL bill, FPLES compensates FPL
23 accordingly for billing, collection and any other related costs.

REBUTTAL TO TESTIMONY OF FPSC WITNESS RHONDA L. HICKS

1

2

3 **Q. FPSC witness Hicks reported that from July 1, 2007 through June 30, 2009**
4 **the FPSC logged 14,700 complaints against FPL. Can you please comment**
5 **on this data?**

6 A. Yes. First of all I would like to point out that Ms. Hicks' data includes contacts
7 received by the FPSC from FPL customers regardless of whether they were
8 actually complaining or merely inquiring about a matter. For this reason, I will
9 refer to these contacts as "complaints/inquiries." There were 14,700
10 complaints/inquiries during this time period. This equates to approximately 7,350
11 complaints/inquiries per year or about 0.16% of our customer base filing a
12 complaint/inquiry. It also demonstrates that 99.84% of our customers had no
13 reason to contact the FPSC.

14 **Q. Ms. Hicks also testified that 12,236 out of the 14,700 complaints/inquiries**
15 **were transferred directly to the company for resolution via the Commission's**
16 **Transfer-Connect Program. Do you have any comments about this?**

17 A. Yes. We are happy to participate in the Commission's Transfer-Connect
18 Program. This is an excellent and innovative process that allows us to quickly
19 and efficiently address our customers' concerns. FPL continues to adopt
20 innovative ways of enhancing the service we provide, such as with our interactive
21 voice response system (IVR), which has recently been ranked #1 in the industry in
22 a recent industry survey. Using the Commission's warm transfer process, we

1 were able to resolve over 80% of the concerns expressed by our customers
2 through this process during the time period mentioned.

3 **Q. Ms. Hicks also mentioned that of the 14,700 complaints/inquiries, Staff**
4 **determined that two appear to be violations of Commission rules. Can you**
5 **please expand on this?**

6 A. One of the apparent rule violations was for failing to respond to a customer when
7 they requested an application for one of our programs. Our investigation revealed
8 that a technical problem prevented the automated issuance of the application.
9 Once we identified and corrected the problem, a process was put in place to
10 prevent a recurrence. The second apparent rule violation was for improperly
11 disconnecting service. Our process is to protect an account from disconnection for
12 an identified disputed balance during the resolution of the complaint. In this
13 instance the customer's complaint regarding a transferred balance was opened on
14 October 22, 2008 and was closed by the FPSC on November 26, 2008. At the
15 customer's request, the case was re-opened on April 27, 2009. Due to an
16 oversight, the account was not updated with the re-opened complaint information
17 and service was disconnected the next day.

18
19 Although FPL's target is zero violations of Commission rules, the two apparent
20 infractions mentioned above represent only 0.014% of the total
21 complaints/inquiries during the aforementioned two year period. To provide
22 perspective during this same time period FPL processed tens of millions of
23 transactions.

1 **Q. Do you have any additional complaint data that compares FPL to other**
2 **Florida IOUs?**

3 A. Yes. I am sponsoring Exhibit MMS-4, *Complaints for Florida Investor Owned*
4 *Utilities*, which is a summary of logged complaint data per 1,000 customers for
5 the five Florida Investor Owned Utilities. The data shows that FPL has the
6 second lowest level of logged complaints when compared to the other utilities.

7 **Q. Are there any issues or concerns with Exhibit RLH-1 presented by Ms.**
8 **Hicks?**

9 A. Yes. On Exhibit RLH-1, page 6, there is a line item that displays "Total
10 Complaints Late Responding: 31". Our records do not reflect that FPL has
11 submitted any late responses to the FPSC on customer complaints/inquiries during
12 the time period mentioned.

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

14 A. Yes.

1 BY MR. BUTLER:

2 Q Ms. Santos, are you also sponsoring an exhibit
3 that was attached to your rebuttal testimony?

4 A Yes.

5 Q And was that exhibit prepared under your
6 direction, supervision or control?

7 A Yes, it was.

8 Q And do you have any changes to it?

9 A No, I don't.

10 MR. BUTLER: Madam Chairman, I would note that
11 this exhibit is identified in her rebuttal testimony as
12 MMS-4, and it has been premarked for identification as
13 Exhibit 341.

14 ACTING CHAIRMAN EDGAR: So noted.

15 (Exhibit No. 341 marked for identification and
16 admitted into the record.)

17 BY MR. BUTLER:

18 Q Ms. Santos, would you please summarize your
19 rebuttal testimony?

20 A Yes.

21 Good afternoon, Commissioners. My rebuttal
22 testimony covers several topics that have been raised by
23 the Intervenor witnesses. I would like to briefly
24 address the following topics: our advanced metering
25 infrastructure project, bad debt expense, late payment

1 charge revenue and FPL Energy Services, or FPLES.

2 On the topic of FPL's AMI project, Witness
3 Kollen unrealistically assumes that the savings from the
4 AMI project can be realized in proportion to the number
5 of meters that have been installed. This ignores the
6 way that the AMI project works.

7 AMI is a long-term project in which savings
8 are realized after several complex, interdependent
9 components and processes are fully developed, tested and
10 implemented and deployment at the FPL regional work area
11 is achieved.

12 The metering deployment by itself is not the
13 sole driver to achieve savings. There is a considerable
14 amount of work that must be completed in order to fully
15 utilize the features that make AMI meters so attractive,
16 including integrating complex software to many legacy
17 and several new systems in order to maintain the
18 integrity of customer spills and to allow the
19 scalability required for mass employment, creating
20 sophisticated databases to manage and store an
21 extraordinarily large amount of meter data, completing
22 significant cyber-security measures to protect the
23 integrity of our customer data and systems, developing a
24 significant number of new processes and systems to
25 maximize new functionality, and establishing and

1 training the organization needed to support new
2 processes and systems.

3 Only when the AMI meter saturation in a region
4 is nearly complete, the deployed meters are validated
5 and used for billing and the remaining workload
6 associated with non-AMI meters is optimized will it be
7 possible to achieve the workforce savings associated
8 with AMI.

9 We have properly projected the investment and
10 savings for AMI in the test years, and Mr. Kollen's
11 adjustments would reflect a situation that simply will
12 not exist.

13 On the topic of bad debt expense, Witness
14 Brown points out that the level of kilowatt hour sales
15 and the real price of the electricity used to predict
16 bad debt are higher than those used in FPL's final
17 projection for the test years. However, the way she
18 proposed to adjust for this is incorrect.

19 She fails to note that the regression model
20 also includes economic variables such as the
21 unemployment rate. With all of the variables updated to
22 the same vintage, bad debt expense actually increases by
23 four and a half million in 2010 and 1.6 million in 2011,
24 compared to the original filing.

25 Moving to the topic of late payment charge

1 revenues, Ms. Brown criticizes our assumption that the
2 late payment charge will result in a 30 percent
3 reduction in late payment, and offers as an alternative
4 the use of the 2007 to 2008 late payment rate average
5 which doesn't take into account a price change.

6 It is quite a stretch in her reasoning to
7 equate a historical average with a price-altering
8 behavior change. The purpose of changing the late
9 payment charge to having a minimum of \$10 is to change
10 behavior and induce more timely payment.

11 FPL's analysis fully supports our assumption
12 that 30 percent of the customers will change their
13 payment behavior. It would be inappropriate for the
14 Commission to approve the \$10 minimum late payment
15 charge which is intended to change customer behavior
16 without also recognizing that behavior change in the
17 projected late payment charge revenues for the test
18 years.

19 If FPL's conservative 30 percent adjustment
20 for behavioral change were not factored into late
21 payment charge revenues, then the projected revenues
22 would be unreasonable and unfairly high and FPL would
23 have to withdraw its proposal to change the current late
24 fee charge structure.

25 Now, on the topic of FPLES, Witness Dismukes

1 questions the transfer of in-territory gas contracts to
2 FPLES on January 1st, 2006. However, this exact issue
3 was fully addressed in testimony FPL filed in our 2005
4 rate case, and was resolved as part of the stipulation
5 and settlement agreement approved by the Commission on
6 September 14th, 2005. Since 2006, FPLES has been
7 responsible for the gas business and has assumed all
8 related risk. As such, the gross margins realized from
9 the gas business are unrelated to FPL.

10 Furthermore, contrary to Ms. Dismukes'
11 assertions FPL -- I've got three more lines, but that's
12 fine. I understand.

13 ACTING CHAIRMAN EDGAR: These is no gong, but
14 there is the end of the red light. Thank you.

15 Mr. Butler?

16 MR. BUTLER: I would tender the witness for
17 cross-examination.

18 ACTING CHAIRMAN EDGAR: Commissioner Skop?

19 COMMISSIONER SKOP: I think if the Intervenors
20 might indulge me, I'd like to maybe go first because I
21 have some questions I'd like to ask of Ms. Santos.

22 ACTING CHAIRMAN EDGAR: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Madam Chair.

24 Good afternoon. Ms. Santos, you attended the
25 Plantation service hearing, correct?

1 THE WITNESS: Yes, I did.

2 COMMISSIONER SKOP: And you gave a
3 presentation at that service hearing, correct?

4 THE WITNESS: Yes.

5 COMMISSIONER SKOP: Did you happen to listen
6 to the sworn testimony that Ms. Stephanie Nagle gave at
7 the Plantation service hearing?

8 THE WITNESS: I listened to all of them,
9 Commissioner. I'm not sure that I recall specifically
10 what she said.

11 COMMISSIONER SKOP: All right. As a point of
12 reference, Ms. Nagle is an FPL residential customer and
13 she lives in the Mirror Lake neighborhood of Plantation,
14 Florida. Does that help you in any way remember some of
15 her comments?

16 THE WITNESS: If I can get my notes from the
17 filing that might help me.

18 What I have here are the customers that had
19 service issues, those are the ones that I have comments
20 on. I don't show her as one of the ones having a
21 service issue. Is that right?

22 COMMISSIONER SKOP: I believe that's
23 incorrect, but I will get to my point here shortly.

24 Did you subsequently review the transcript of
25 the direct testimony that Ms. Nagle gave at the

1 Plantation service hearing?

2 THE WITNESS: No.

3 COMMISSIONER SKOP: But you're vice-president
4 of customer service, is that correct?

5 THE WITNESS: Yes. I mean, I was at all of
6 the hearings. We took notes, I've got information on
7 all of the customers that had service issues, we
8 followed up on all of them. I focused on customers that
9 had service issues that we had to address.

10 COMMISSIONER SKOP: Well, for the record, I
11 believe had you reviewed the transcript that you would
12 find that Ms. Nagle has service issues that need to be
13 addressed.

14 And, briefly stated, just in the interests of
15 time, at the service hearing, I guess Ms. Nagle asserted
16 that the Mirror Lake neighborhood was hit very hard by
17 Hurricane Wilma. She also asserted that an FPL
18 employee, I can't pronounce the name, but I have it, she
19 asserted that FPL employee advised her that post-
20 restoration, nothing new had been done in the Mirror
21 Lake neighborhood in the four years since Hurricane
22 Wilma.

23 Ms. Nagle also asserted that she experienced
24 numerous outages and power interruptions at her service
25 location, and finally Ms. Nagle considered the quality

1 of service to be inadequate.

2 So in light of that, have you subsequently
3 reviewed the FPL actions taken after the service hearing
4 to address Ms. Nagle's quality of service complaints?

5 THE WITNESS: Now I understand why it's not on
6 this list that I have. Those types of issues were
7 handled by Witness Spoor, because he's the one that
8 handles reliability type issues and I handle the
9 customer issues that are related to things like billing
10 and those types of things.

11 COMMISSIONER SKOP: So to my prior question, I
12 guess you would not have reviewed the customer service
13 complaint filed with the Public Service Commission by
14 Ms. Nagle?

15 THE WITNESS: That is correct.

16 COMMISSIONER SKOP: Would it surprise you that
17 I received a telephone call from Ms. Nagle yesterday
18 evening, a voice message, indicating her continued
19 problem at her service location?

20 THE WITNESS: That would surprise me, because
21 I did follow up with the department that handles all
22 service reliability issues, and my understanding was
23 that all of the customers that had reliability issues
24 had been addressed.

25 COMMISSIONER SKOP: Let's briefly, I guess,

1 and subject to check, I have the customer service
2 complaint here, but I do, in light of the phone call or
3 message that I received last night, feel it's
4 appropriate to illustrate this point and a follow-up
5 point so my message is crystal clear as to my
6 expectations.

7 One of the issues identified -- and again, we
8 probably don't speak the same language. I use words
9 like *discrepancies*, *deficiencies* and *complaints*, not
10 words like *opportunities* and *inquiries*, so I'm going to
11 just make it clear.

12 On 07/17, 2009, this was after the Plantation
13 service hearing, the company planned to complete some
14 tree-trimming work by the end of July. Following on to
15 that, there was internal PSC correspondence with the
16 customer and also an exchange of some e-mails in
17 response to the customer complaint that was filed. Part
18 of the response, 07/17, 2009, "Service loose connection,
19 conductor damage," identification of "line-clearing
20 opportunities" on July 8, 2009, additional during the
21 weekend of July 31, 2009, visual inspection of the
22 lateral line. The inspection identified additional
23 locations, it required line clearance.

24 Moving forward, and I need to find the other
25 document and I may need a moment, but there were

1 reported outages on August, the week of August 6, 2009,
2 to September 17, 2009. The customer experienced one
3 outage, its duration was, I guess, an hour and seven
4 minutes. The alleged cause was contact with the
5 lateral.

6 Following that there was momentary outages in
7 August and three momentary outages in September. There
8 was some explanation of lightning and weather.

9 And I guess most recently there was inspection
10 completed by September 28, 2009. The inspection
11 identified tree conditions near FPL facilities as well
12 as a fuse switch that needed replacement. A work
13 request was issued to address the improvement
14 opportunities identified. Again, I would defer to those
15 as "deficiencies" or "discrepancies."

16 And then on September 29th also apparently
17 there is some work identified by the inspection, it has
18 been scheduled to be completed by October 23rd. Are
19 you aware whether that work has actually been completed?

20 THE WITNESS: My understanding when I spoke to
21 the department that handles that was that all of those
22 issues have been addressed, but I will take that back
23 and ensure that that happens.

24 COMMISSIONER SKOP: Apparently there's
25 supposed to be a thermavision inspection on the lateral

1 line and any improvement opportunities should be
2 addressed accordingly.

3 Again, I'm pretty open about taking complaints
4 from consumers and I try and give them the benefit of
5 the doubt and advocate on their behalf. I spoke to Ms.
6 Nagle previously as a result of a complaint she
7 initiated and I was quite surprised, to say the least,
8 to get a phone call, a message late yesterday evening
9 after we got out of hearing that these concerns of hers
10 have still not been addressed.

11 So again, it gives me pause and concern, as I
12 will get to in a moment, that these are quality of
13 service issues.

14 And I'm trying to find the document that I had
15 and it may be in here and if you'll give me one second.
16 It actually indicated how many outages Ms. Nagle had and
17 she seemed to have quite a few momentary service
18 interruptions in the months of August and September, and
19 I can't seem to find that, it may be here. Give me one
20 second.

21 Yes, there was a response comment to the
22 customer inquiry response generated by FPL, and it
23 identifies some of the outages on the various dates,
24 07/17, 2009; 06/30, 2009; 06/23, 2009. It also reflects
25 a record of momentary power interruptions during the

1 same time period from August '08 to August '09. In
2 June, there were 15 of those and in July there were
3 eight of those, of this year. Some of those were
4 attributable to lightning and weather conditions and
5 others were attributed to conditions and weather.

6 But again, it seems to be a vegetation
7 management issue, and if thunderstorms cause winds to
8 gust and trees move, the root cause really isn't the
9 weather or lightning, it would seem to be lack of
10 vegetation management.

11 So again, it seems Asplundh has been out
12 there, but it seems to me that there are some facility-
13 related issues outside of vegetation management to the
14 extent that if Ms. Nagle's concerns are accurate, that
15 post-restoration, all they did was restore service and
16 there hasn't been really any investment in terms of
17 addressing infrastructure in that area to improve her
18 quality of service.

19 So I'll leave it to you. I got the phone
20 call. Perhaps you could personally call Ms. Nagle and
21 speak to her or have the appropriate FPL manager do
22 that. I think she would perhaps like some personal
23 attention, but I'm going to get to my other point.

24 At the Plantation hearing do you also remember
25 hearing from, I think that there were quite a few

1 customers, I think probably 30, that was, I think, the
2 last service hearing we had, so it seemed like the
3 duration of it was curtailed to some degree, but do you
4 remember hearing comments from Flora Almany [phonetic]
5 and also Henry Sopeta [phonetic]?

6 THE WITNESS: Those names don't stick to my
7 mind, but go ahead.

8 COMMISSIONER SKOP: Subject to check, I
9 believe those were the second, Ms. Almany was the second
10 witness to speak and Mr. Sopeta was the 13th witness to
11 speak, whereas Ms. Nagle was the 25th witness to speak
12 in sworn testimony before the Commission.

13 At this point, Mr. Santos, I would like to ask
14 our staff to pass out a document which has previously
15 been entered into the correspondence side of the record,
16 and we will give that to the parties as the basis for
17 discussion.

18 ACTING CHAIRMAN EDGAR: Ms. Bradley?

19 MS. BRADLEY: I see what this is and I already
20 asked Florida Power & Light if they would provide a full
21 and complete set of this document and I think they have
22 made copies of that if you'd rather have the whole
23 thing.

24 COMMISSIONER SKOP: I would love to have the
25 whole thing. Again, the question of authenticity is an

1 issue, but I'm about ready to do some testimony in
2 regards to where this document originated in line with
3 some other concerns I have, so either/or. If they have
4 that they can produce it; if not, I can work with what
5 provided to my office anonymously which I had a duty to
6 put in the correspondence side of the record, which my
7 office did.

8 Mr. Butler, would you like to briefly respond
9 what you'd like to address?

10 MR. BUTLER: What you have distributed, and I
11 think what was sent to your office, is a page, the last
12 page identified as page 1 of 4, is actually apparently
13 the first page out of an earlier version of a document,
14 that's kind of a living document maintained. We have
15 copies of sort of the final version of that document and
16 we could distribute it.

17 The information that's on here, my
18 understanding, is all accurate. I mean, it's still on
19 the later one, so you can work from this if you want.

20 COMMISSIONER SKOP: I'd like to do that, Ms.
21 Bradley, but I'd also like to request that FPL provide
22 that document in its entirety to the parties, the
23 Intervenors and to the Commission and Commission staff.

24 MS. BRADLEY: We would appreciate that.

25 COMMISSIONER SKOP: Thank you.

1 Ms. Santos, I'll give you an opportunity to
2 look at what is marked, which is the last page of that
3 handout, and it is page 1 of 4. Do you recognize that
4 document?

5 THE WITNESS: Yes, sir, I do.

6 COMMISSIONER SKOP: Can you please describe
7 what that document is?

8 THE WITNESS: Yes. If you remember the last
9 time that I was before you doing my cross-examination
10 direct, I explained that the employees that work in the
11 field with our customers, that have direct contact with
12 our customers, invited our customers to the service
13 hearings. And what this document is is the tracking
14 document of that effort.

15 COMMISSIONER SKOP: And let's talk a little
16 bit about this document. I guess the title is *Quality*
17 *of Service Hearings*, would that be correct?

18 THE WITNESS: Yes.

19 COMMISSIONER SKOP: And the subtitles are
20 customer commendations, is that correct?

21 THE WITNESS: Uh-huh.

22 COMMISSIONER SKOP: Do you see the column,
23 "Originating BU"?

24 THE WITNESS: Yes.

25 COMMISSIONER SKOP: Would that be originating

1 business unit?

2 THE WITNESS: Yes.

3 COMMISSIONER SKOP: Are each of those
4 respective entities in that column FPL --

5 THE WITNESS: Departments, yes.

6 COMMISSIONER SKOP: Departments, so External
7 Affairs, which I spoke to you yesterday, and Customer
8 Field Service Operations, those are all FPL departments,
9 is that correct?

10 THE WITNESS: That is correct.

11 COMMISSIONER SKOP: And I guess the customer
12 name, do you see the stakeholder name?

13 THE WITNESS: Yes, that's the customer.

14 COMMISSIONER SKOP: Those are respective
15 customers, right?

16 THE WITNESS: Yes.

17 COMMISSIONER SKOP: And then do you see the
18 second column that says "Owner"?

19 THE WITNESS: Yes.

20 COMMISSIONER SKOP: What is the owner?

21 THE WITNESS: Those are the employees that
22 have contact with the customer.

23 COMMISSIONER SKOP: So they own the customers?

24 THE WITNESS: I think this is just like, I
25 don't know what you want to call it, maybe process

1 jargon or whatever.

2 COMMISSIONER SKOP: Would *handler* be a better
3 term?

4 THE WITNESS: I'm sorry?

5 COMMISSIONER SKOP: *Handler*?

6 THE WITNESS: No, no, no, it's the owner of
7 the entry. This is who was owning the entry in the
8 document.

9 COMMISSIONER SKOP: But Ms. Nagle, and again,
10 we don't have the complete copy, Ms. Nagle is not listed
11 in any of those entries, is that correct?

12 THE WITNESS: That's correct.

13 COMMISSIONER SKOP: Do you see the third
14 customer down under the stakeholder name?

15 THE WITNESS: Yes.

16 COMMISSIONER SKOP: And that name, for the
17 record, is?

18 THE WITNESS: Flora Almany.

19 COMMISSIONER SKOP: Would you be surprised
20 that Ms. Almany appeared as the second witness at the
21 service hearing?

22 THE WITNESS: No, not at all.

23 COMMISSIONER SKOP: Can you look two lines
24 down to Mr. Sopeta, do you see that name?

25 THE WITNESS: Yes.

1 COMMISSIONER SKOP: Would you be surprised to
2 know that Mr. Sopeta appeared as the 13th witness at the
3 customer service hearing?

4 THE WITNESS: No, I would not.

5 COMMISSIONER SKOP: I guess my question gets
6 to this, and I have not seen the complete document.
7 Again, I had a fiduciary duty under Florida statute and
8 the rules that I'm governed by to put this into the
9 record. I don't have the ability to call an anonymous
10 person and authenticate something. That's just fraught
11 with peril, given the rules that we have to play by.

12 What concerns me here is how much effort is
13 FPL expending under the auspice of External Affairs --
14 and there's another article floating around about FPL
15 recently hired for External Affairs to reach out to
16 customers and do the things, develop these community
17 relationships; but what is the fundamental value to the
18 ratepayer by lining up a bunch of people that appear to
19 be favorable to FPL's position in this document in
20 anticipation of bringing them down to the service
21 hearing?

22 THE WITNESS: We believe, Commissioner, that
23 it's very important for this Commission to be able to
24 listen to all customers, not just customers that have
25 complaints, so -- we think it's very important for you

1 to listen to those customers that have experienced good
2 service with us so you can see the totality of our
3 customers.

4 COMMISSIONER SKOP: Well, constantly I have to
5 hear comments from, whether it be corporate
6 communications or others that, given the rules that we
7 have, I'm barred from responding to other than being in
8 a public forum, so this is my opportunity.

9 But what I see here is expenses and effort
10 moving forward towards finding people that want to speak
11 favorably towards their quality of service, and I can't
12 help but wonder, what's more important, making your
13 customers happy in terms of resolving the complaints
14 that have been lodged -- and again, I got a phone call,
15 an unexpected phone call last night from Ms. Nagle who
16 is still upset way back from June. And then I see
17 something like this, and frankly, I'm speechless. It's
18 embarrassing.

19 THE WITNESS: There is no doubt that the most
20 important thing for us is to take care of our customers
21 and resolve their issues. Unfortunately, I can't talk
22 to you about Ms. Nagle's concerns because I am not the
23 person responsible for reliability so, unfortunately, I
24 can't do that, but I can tell you that that is our
25 first, most important thing that we do.

1 COMMISSIONER SKOP: Well, do you think it
2 would be, I guess more constructive to devote more
3 effort towards resolving customer concerns and expending
4 effort and time trying to develop these relationships
5 with people in the community?

6 THE WITNESS: Definitely. And actually if you
7 take a look at my direct testimony I talk about, I think
8 it's like page -- in the 20s, like 23 or so, about a
9 process that we use that is very similar to this that we
10 use every single day, every single day, across our call
11 centers, across the employees that have contact with the
12 field.

13 We are taking down not only commendations, but
14 also any dissatisfaction that we're hearing from our
15 customers, and I have a process in place where we're
16 taking a look at those dissatisfactions every single day
17 and seeing what we can do about it. We're making
18 proactive calls to our customers.

19 So what you're seeing here is just sort of a
20 slice of a piece of what we did for the quality of
21 service hearings to ensure that this Commission would
22 see, would hear from customers that had good service
23 experience, but every single day we are taking care of
24 our customers, identifying issues and resolving their
25 concerns.

1 COMMISSIONER SKOP: Okay. And it's always
2 good to hear accolades from customers. Again, my
3 concern would be that I would like to see, if this
4 tracking work is done, that Ms. Nagle would perhaps have
5 her name on there one day with some positive,
6 constructive comments.

7 THE WITNESS: That would be great.

8 COMMISSIONER SKOP: But as it stands, again,
9 I'm the one that takes the phone calls, I'm happy to do
10 so, but again, I'm very disappointed with the fact that
11 what has been previously addressed and should be crucial
12 and paramount to the company in light of the pending
13 rate case of addressing customer concerns in a timely
14 manner, would be, to me, my targeted focus as opposed to
15 compiling lists of people that might want to come to
16 speak at such hearings.

17 THE WITNESS: I agree with you 100 percent.
18 I'm very disappointed, myself. I will make sure that we
19 take care of it.

20 COMMISSIONER SKOP: Let's move on to my final
21 point, and Plantation service hearing seems to be the
22 focal point of all my concerns, and then I will turn it
23 to over to the Intervenors.

24 But at the Plantation service hearing do you
25 also remember Representative Sands appearing?

1 THE WITNESS: Yes.

2 COMMISSIONER SKOP: And he had concerns with
3 regard to the Appliance Guard Program that was offered
4 by FPL?

5 THE WITNESS: Yes.

6 COMMISSIONER SKOP: Or Florida Power & light
7 Energy Services, Inc., is that correct?

8 THE WITNESS: Yes.

9 COMMISSIONER SKOP: Do you have your
10 deposition with you?

11 THE WITNESS: I do. Let me try to find it.

12 Yes, I do.

13 COMMISSIONER SKOP: If I could ask you briefly
14 to turn to page 47 and page 48 and starting at line 19
15 of page 47, and then I will ask you to turn to lines 1
16 and 2 of 48.

17 You were previously president at FPL Energy
18 Services from sometime in 2005 through March of 2009, is
19 that correct?

20 THE WITNESS: That's correct.

21 COMMISSIONER SKOP: Now if I could also ask
22 you to turn to page 46 of that deposition, lines 11
23 through 13.

24 THE WITNESS: Yes.

25 COMMISSIONER SKOP: I guess you were asked a

1 question by Ms. Hartman as to whether you happen to know
2 the gross profit margin on the products or services that
3 FPL Energy Services offers, and I think that your
4 response was that you did not, is that correct?

5 THE WITNESS: That's correct.

6 COMMISSIONER SKOP: But you were president
7 during the majority of the time in which those products
8 were offered, is that correct?

9 THE WITNESS: Yes. If you can hold on, let me
10 make sure that I remember what specific products she was
11 asking me about, because it was a little confusing
12 exactly what was being asked.

13 I think the issue here, Commissioner, and I
14 didn't have the information, you know, with me. I
15 usually have, you know -- I don't know all those numbers
16 off the top of my head.

17 COMMISSIONER SKOP: And that's fine. I mean,
18 do you happen to know whether those -- and let me ask
19 this question first.

20 The Florida Public Service Commission doesn't
21 have, doesn't regulate those products that are offered
22 by FPL Energy Services, Inc., is that correct?

23 THE WITNESS: That's right.

24 COMMISSIONER SKOP: Do you happen to know if
25 those products are high margin products?

1 THE WITNESS: There's a lot of different
2 products. That's the problem with the question. There
3 is a lot of different products and they are all very
4 different, so there's not one answer.

5 COMMISSIONER SKOP: Let's turn to one that's
6 offered directly by FPL Energy Services real quick, and
7 I will just illustrate a few more points and I'll turn
8 this over.

9 I believe it's in -- this is going to be a
10 little hard to find because the pages are not Bates-
11 numbered, but it's in Late-Filed Exhibit 5 to your
12 deposition, and it's one --

13 THE WITNESS: The bill statement advertising?

14 COMMISSIONER SKOP: Yes, it says, "Bill
15 inserts for the Cert Shield program."

16 THE WITNESS: I'm sorry, the bill statement
17 advertising margin that you see there is for FPL, not
18 FPLES.

19 COMMISSIONER SKOP: I understand that. I was
20 trying to use that as reference point to direct your
21 attention to a page that's not numbered, so if I could
22 ask you to turn ahead one, two -- eight pages ahead,
23 please?

24 THE WITNESS: Is that the last page of that
25 exhibit? Because mine is double-sided, so maybe that's

1 my problem.

2 COMMISSIONER SKOP: Probably four, then, if my
3 math is correct.

4 What I'm looking at, just to make sure we're
5 on the same page, the top left looks like an
6 advertisement that is entitled, "Protect Your Investment
7 Before Damage Happens," is that correct? It's a picture
8 of, like a cutaway of a house?

9 THE WITNESS: Yes.

10 COMMISSIONER SKOP: Do you see the, I guess
11 the caption entitled "Electric Meter Protection"?

12 THE WITNESS: Yes.

13 COMMISSIONER SKOP: Can you go down to the
14 third bullet?

15 THE WITNESS: Yes.

16 COMMISSIONER SKOP: Can you read that for me,
17 please?

18 THE WITNESS: "\$8.95 plus tax per month on
19 your FPL bill." Is that it?

20 COMMISSIONER SKOP: I think we must be on a
21 different page.

22 THE WITNESS: What does yours say?

23 COMMISSIONER SKOP: Mine says, and there's two
24 different versions of this so maybe it's an older
25 version.

1 THE WITNESS: 9.95?

2 COMMISSIONER SKOP: Yes, 9.95.

3 THE WITNESS: Yes, there's different versions,
4 you're right.

5 COMMISSIONER SKOP: If you find the 9.95 one
6 that might be helpful.

7 Can you read the bullet just above that 9.95?

8 THE WITNESS: "Maintained and monitored by
9 FPL."

10 COMMISSIONER SKOP: Let me make sure I get
11 this straight. This product is offered by FPL Energy
12 Services, Inc., which is a non-regulated affiliate of
13 Florida Power & Light, so the ratepayers neither share
14 in any revenue from that, is that correct?

15 THE WITNESS: That's correct.

16 COMMISSIONER SKOP: So with respect to that
17 bullet where it says "Maintained and monitored by FPL,"
18 am I correct to understand that the regulated utility is
19 actually monitoring and maintaining equipment for the
20 benefit of an unregulated affiliate?

21 THE WITNESS: Any work that's done by the
22 utility for FPLES is charged to FPLES.

23 COMMISSIONER SKOP: That's one of those cross-
24 subsidy issues that are very thorny without proper cost
25 accounting that I don't have any transparency into

1 what's going on.

2 So let me move on to the other product which I
3 do have concerns with, and there's a couple of these
4 products, and the issue that I took with that one is
5 that one is one that's actually offered directly and not
6 by a third party, but I'd like to pass out one other
7 document, please, and we won't mark this, but I'd like
8 you to take a look at it.

9 I'll give you a moment to read what I believe
10 is a four-page article.

11 THE WITNESS: I have seen this, so I'm good.

12 COMMISSIONER SKOP: Again, this is an article
13 that I guess appeared in the *Palm Beach Post*, and I'm
14 going to use it to address some prior comments that you
15 had made in terms of, I believe your Late-Filed Exhibit
16 4 to your deposition, and it was about customer
17 complaints and the number of inquiries.

18 But if I could, I guess the first part of this
19 article is about one of the customers, Mr. Crisman, and
20 I guess there's a, on the first page there's a caption
21 or a quote that starts with, "They told me."

22 And if you could just generally read that and
23 I would like to ask, I don't need you to read it into
24 the record, but I'd like you to read it so I can ask you
25 a question about it.

1 How would you respond to Mr. Crisman's
2 characterization of your product offering?

3 THE WITNESS: Not good. He had a terrible
4 experience.

5 COMMISSIONER SKOP: The next paragraph right
6 below that in terms of the number of complaints that
7 have been lodged with Florida agencies, do you see that?

8 THE WITNESS: Yes.

9 COMMISSIONER SKOP: And the most frequent
10 complaint, according to this article, and again, not
11 asserting that as true, but the most common complaint
12 was that claims were denied. Do you see that?

13 THE WITNESS: Yes.

14 COMMISSIONER SKOP: Do you have any reason to
15 doubt the accuracy of that statement?

16 THE WITNESS: Well, there was a couple of
17 things from this article that we definitely do have
18 concerns about. One of them is the whole issue of the
19 rating, the Better Business Bureau rating that is
20 mentioned later on in the article, and when Assurant,
21 the company that provides this service, went to the
22 Better Business Bureau, the Better Business Bureau
23 changed their rating to an A, and there's a letter to
24 the editor that went to the *Palm Beach Post* from
25 Assurant, from their senior vice-president, talking

1 about that.

2 Like that, there are several areas where there
3 is a lot of miscommunication and things like that. One
4 of the things I can tell you about this issue is that
5 when we talked to this customer and to Assurant to try
6 to understand what was going on, there were issues about
7 Assurant not having the data from the customer, so the
8 customer was saying that they kept calling back and
9 nothing was being done and the records were not there.

10 So there was definitely a lot of issues. So
11 very quickly this issue was resolved to the customer's
12 satisfaction and was a very unfortunate event, no doubt.

13 COMMISSIONER SKOP: I guess, again, the reason
14 I'm asking you about this, Ms. Santos, is, given your
15 prior service as the president of that unregulated
16 affiliate and this is when these products were, I guess,
17 offered during that time.

18 I guess noting that the frequent complaints
19 were that the claims were denied and given the numerous
20 exclusions and limitations associated with this
21 Appliance Guard product offering, do you feel this
22 product is illusory?

23 THE WITNESS: Well, I've already told you that
24 this was definitely a bad customer experience, so
25 there's nothing that can change that, and all we could

1 do at the time was to do what we call service recovery
2 and try to make good for the customer.

3 When we look at Appliance Guard and in the
4 Late-Filed Exhibit No. 4, I filed the complaints that we
5 had seen for Appliance Guard. As a percentage of total,
6 percentage of complaints year-to-date 2009, as a
7 percentage of customers billed, what we have seen is a
8 4.34 percent complaint rate.

9 So this is one of those numbers that you
10 definitely would love for it to be zero. It is a little
11 bit higher than the other programs, so I do have some
12 concerns and we've been working through those, but it's
13 not a rate that is exorbitant that would cause me to say
14 this program has to stop.

15 As you can see in that same late-filed exhibit
16 we had some issues with another product that we ended up
17 terminating because that one we definitely did have
18 issues around, which was the *Miami Herald* billing.

19 So that one, I mean, that's an example of one
20 where we did see high complaint rates and we terminated.
21 So this one is a 4.34. It's not what I would want it to
22 be at, but it's not at the point that we would have to
23 terminate. So it's just something that we have to work
24 through.

25 COMMISSIONER SKOP: I think we both agree that

1 the Commission does not regulate this particular product
2 offering, but are you generally familiar with the
3 consumer protection provisions found in Chapter 501 of
4 Florida statutes?

5 THE WITNESS: I am not.

6 COMMISSIONER SKOP: If I could look at the
7 bottom of the first page of this article where Customer
8 Crisman turned to FPL, and at the top of the second page
9 of this article, I guess it was alleged that he was on
10 hold for substantial periods of time. Do you see that?

11 THE WITNESS: Yes, and we could not find that.
12 We looked for it; we could not find it. I don't want to
13 say that it was a lie. All I can tell you is that I did
14 look for that and did not find it.

15 COMMISSIONER SKOP: I think you've already
16 addressed what was perhaps a mistake in the article or
17 an inaccuracy about the D-minus rating.

18 THE WITNESS: Yes.

19 COMMISSIONER SKOP: So we'll move on to the
20 next customer that in this article, which is Mr. Raposa
21 [phonetic]. I believe that's on the third page. Do you
22 see that?

23 THE WITNESS: On the third page, hold on. I'm
24 sorry, where are you on the third page? I see the John
25 Cassidy -- oh, got it.

1 COMMISSIONER SKOP: And apparently he had
2 signed up for the Appliance Guard warranty for his
3 air-conditioning and hot water heater, is that correct,
4 according to this article?

5 THE WITNESS: Yes.

6 COMMISSIONER SKOP: Do you see the quote from
7 him in that article?

8 THE WITNESS: Yes.

9 COMMISSIONER SKOP: Would it be correct to
10 understand that if this quote is accurate that he might
11 have opted to enroll in this program because FPL was
12 putting their name behind it?

13 THE WITNESS: It sounds that way, yes.

14 COMMISSIONER SKOP: So perhaps -- would you
15 characterize his experience as positive?

16 THE WITNESS: No.

17 COMMISSIONER SKOP: And are you aware or is it
18 correct or do you have any reason to doubt that this
19 individual customer filed a complaint with the Florida
20 Attorney General's Office?

21 THE WITNESS: I don't have any reason to doubt
22 that.

23 COMMISSIONER SKOP: Let's move to the last
24 customer, Ms. Greenberg, who I guess is identified as a
25 former Assistant Attorney General.

1 THE WITNESS: Uh-huh.

2 COMMISSIONER SKOP: Can you look at the quote
3 from her -- actually not the quote, but the second-to-
4 last paragraph on that page where she canceled the
5 program?

6 THE WITNESS: Yes, she canceled the program.

7 COMMISSIONER SKOP: Would you, I guess, agree
8 that, if the article is accurate, that she thought the
9 program was extremely misleading?

10 THE WITNESS: Well, I guess that's what it
11 says here that she said. I turned in to this Commission
12 the information that customers receive when they sign up
13 for the program, and it's a pretty extensive brochure --
14 well, it's not even a brochure, actually it's a whole
15 package and it's very extensive. It details out all the
16 exclusions, and I'm not an attorney and it's something
17 that I, myself, could easily read and understand.

18 So I think this is one of those where it's an
19 unfortunate situation that the customer did not take the
20 time to read it and understand it, but I believe that
21 what we're providing customers up front is pretty
22 inclusive and understandable.

23 COMMISSIONER SKOP: Like I say, this is really
24 not an issue because I don't regulate that specific
25 program.

1 THE WITNESS: No, I understand.

2 COMMISSIONER SKOP: But the concerns that
3 Representative Sands mentioned, when I looked at the
4 terms and conditions on that program, which are real
5 fine print, I had the same concerns about what does it
6 cover. So that's where my comment relating to was this
7 a high margin project came from, is this an illusory
8 product came from, is this a predatory product to the
9 extent that if it's offered to seniors, again, if
10 somebody has a warranty on their existing program and
11 they are being offered another warranty, that would be a
12 redundant warranty.

13 That's a concern in passing, but I guess where
14 I'm at with this, again, there were problems with
15 Sunshine Energy and, again, the Commission chose to
16 terminate that program. There seems to be some concerns
17 here. They all stem or systematically come from the
18 marketing group.

19 So again, I'm at a loss to say, I don't have
20 any direct access to tell you not to offer this product
21 anymore, or your other product offerings, but what I do
22 have the ability to do as Commission and what I do
23 regulate is your ability to offer these products through
24 your billing inserts and to bill your customers on your
25 bills.

1 And I have some serious concerns about these
2 product offerings. Now, they may be a high margin
3 product that your shareholders benefit from, but not at
4 the expense of consumers, and I'm seeing too many red
5 flags here. So I'll leave it to you guys to make a
6 critical decision as to what your best internal
7 practices are, but part of me is to the point where I
8 think that perhaps we ought to spin off an issue on the
9 Commission's own motion to take a look at whether you
10 should be allowed to offer these products and bill them
11 and leverage the regulated services to make profit for
12 your unregulated affiliates. I think that was
13 Representative Sands' concerns, to the extent that he
14 thought if you're profiting from it, that ought to go to
15 the ratepayers.

16 So again, I have some concerns here, I wanted
17 to take some time. This article had come out subsequent
18 to the Plantation service hearing. I can't vouch for
19 the accuracy of it, but it raises some serious concerns.
20 So again, somebody needs to get a handle on that
21 marketing group. Thank you.

22 ACTING CHAIRMAN EDGAR: Commissioner
23 Argenziano?

24 COMMISSIONER ARGENZIANO: Thank you, and I
25 wasn't going to ask any questions, but since

1 Commissioner Skop brought up something that -- during
2 the service hearings, if you recall, I had a problem
3 with -- and let me preface this by saying, I too want to
4 hear the good, I want to hear all sides. I think that's
5 extremely important for all of us. I think all of us
6 care about all the issues on each side, whether it's
7 good, it's bad, I have a problem, I need some help or
8 they've done a great job.

9 But at the time when you were having these
10 service hearings, and I remember I could attend, before
11 I broke my leg, I was out a few, and then by phone, and
12 I noticed a pattern of that happening.

13 What I meant by "that happening" was that it
14 seemed that people were arriving very early and signing
15 up very early to speak in favor. They had found good
16 things and many of them were for contributions, but some
17 had mentioned also that they were there to tell us about
18 the quality of service or the communications or the
19 relationship they had with the company and that they
20 thought it was a very good one.

21 But what you said a little while ago that it
22 was a, number one, it was a slice of what we did for the
23 service hearings, this was, and it seems that the
24 company, really -- and I understand wanting to have
25 people there to show that you're doing a good job or

1 that are approving of the relationship they're having
2 with the company.

3 But I guess what it comes down to now, knowing
4 the questions I asked at that time and then subsequently
5 even sent a letter to the Chair of this Commission
6 saying, I think this is wrong, and the reason I think
7 it's wrong, because a lot of people are coming to speak
8 about contributions, which let's put on the end of the
9 meeting, if anything. Let's hear from them and -- if it
10 wasn't for quality of service.

11 Some were speaking for quality of service, but
12 at the time I remember thinking that a lot of people
13 that came that were probably on this list that you had
14 contacted to come to these meetings, and I think one,
15 and I can't remember the name and I probably have it
16 written down somewhere, told me that they were told to
17 arrive a little bit early, and knowing that now and if
18 that's the case, then that disturbs me, because you just
19 said that you wanted to hear from all sides, whether it
20 was the good and the bad, and effectively what happened,
21 by telling people to come early and sign up early, there
22 were sometimes two hours of people who came early who
23 maybe were alerted to come early and sign up early.

24 And if you remember, Mr. Beck, I even asked
25 you if we could switch, if anybody had a problem, but

1 let's move the list around, then, because it seemed to
2 be a lot of people and elderly people that were coming
3 were leaving because there was two hours of people
4 coming to talk about either contributions or they were
5 -- now to find out some of them were called, and that's
6 okay, I'm not saying there's anything wrong with that,
7 but perhaps there was not enough effort.

8 I mean, if you let people, if you've told
9 people m"Come early," for the purpose of taking up a lot
10 of time, and the reason I'm just saying this is because
11 if you truly want to hear from all sides of the people
12 it wasn't happening at all those meetings. A lot of
13 people had to leave.

14 And I just wanted to make that point because
15 it bothered me at the time. Not that I didn't want to
16 hear the good, because I do, I think that's very
17 important in what we have to consider, but in going
18 forward I would hope that if you're going to continue
19 calling people to say, come and speak, if you're think
20 we're doing a good job, come and speak on our behalf,
21 that everybody knows what time to get there and sign up,
22 because it really was very, very lopsided, and it makes
23 me think that maybe you didn't want to hear and you were
24 trying to crowd out the other people who had the
25 negatives.

1 THE WITNESS: No, that was definitely not the
2 intent. We did tell customers the process, so we did
3 tell them that it's first come, first served, you sign
4 and you will be called according to -- so I think
5 people decided to do that.

6 COMMISSIONER ARGENZIANO: It was little more
7 than emphasize it, it was a process of, "Get there
8 early," and that's what I heard.

9 And I'm just saying that because now, in
10 looking at this sheet and knowing my concerns as it was
11 occurring, and I wanted to make it clear that, yes, I
12 want to hear from everybody, but sometimes we heard, and
13 I think the first couple of hearings it was mostly about
14 contributions, financial contributions rather than
15 quality of service.

16 Later on it became more about quality of
17 service, and that's okay, I want to know that, but it
18 just seemed to me that it may have been done in a way
19 that it was to crowd out those who may have wanted to
20 speak negatively. And I would just ask you that, moving
21 forward, that if you have hearings again that maybe it's
22 a little bit more fair in that respect.

23 THE WITNESS: That was definitely not our
24 intent.

25 COMMISSIONER ARGENZIANO: Okay.

1 ACTING CHAIRMAN EDGAR: Commissioner Skop?

2 COMMISSIONER SKOP: Thank you, Madam Chair. I
3 just wanted to follow up on that one specific point.

4 Again, I attended all of the service hearings,
5 and I think that, in light of the concerns that were
6 raised by my colleague, Commissioner Argenziano, and the
7 Attorney General's Office, I guess this document
8 essentially validates those concerns in some ways.

9 I never said anything during those hearings.
10 I suspected, but again, I gave the benefit of the doubt.
11 But having sat through that entire process, and actually
12 Plantation was one of the better ones, it was more
13 balanced and I think by that stage, it was one of the
14 last hearings, so a lot of the recruitment may have
15 subsided by then.

16 But again, it's somewhat disturbing to find
17 some factual basis behind some of the concerns that were
18 expressed by my colleague, by others, that the process
19 was being, I don't know the right word to use, but
20 recruitment or what-have-you.

21 Certainly you have an interest as a company to
22 bring people to support your position, but it becomes a
23 fairness and equity issue, too. I remember certain
24 hearings that we got at least 25 people before we heard
25 the one comment that had to do with customer quality of

1 service issue.

2 So those early hearings that prompted I think
3 the concerns to begin with, I had the same concerns. I
4 did not say anything at the time, but I felt compelled,
5 in light of what was anonymously sent to my office and
6 put in the record, which was now authenticated by the
7 company, which I do appreciate stepping up and accepting
8 ownership of that, but again, in light of those and in
9 light of the representations that there was no hands-on
10 by the company in terms of this process, I felt it
11 necessary to speak my opinion. So thank you.

12 ACTING CHAIRMAN EDGAR: Commissioners,
13 anything further at this time?

14 Mr. Moyle?

15 MR. MOYLE: Could we maybe get the complete
16 document? There's been questions asked about it and I
17 anticipate there will continue to be some more, and I
18 think Mr. Butler indicated there's a complete document.
19 It would be helpful to get a copy of it.

20 ACTING CHAIRMAN EDGAR: I think I heard Mr.
21 Butler say just a little bit ago that he was going to
22 have that distributed.

23 Do you have it available?

24 MR. BUTLER: We can pass those out at this
25 time if that's the Chair's pleasure.

1 ACTING CHAIRMAN EDGAR: There seems to be a
2 desire to that effect, so yes, please.

3 (Brief pause.)

4 ACTING CHAIRMAN EDGAR: Mr. Beck, I think
5 we're at a point for you to begin your cross. Are you
6 ready?

7 Commissioner Skop?

8 COMMISSIONER SKOP: Thank you, Madam Chair. I
9 just want to, for completeness of documents, but again,
10 there are some addresses and phone numbers on here and I
11 don't know if that's going to be a privacy issue or not.
12 So I'd like to just bring that up. It starts on the
13 second page.

14 ACTING CHAIRMAN EDGAR: Commissioner, I'm
15 sorry, were you posing a question, and if so, to whom,
16 so we can try to get you an answer.

17 COMMISSIONER SKOP: Yes, I'm just posing a
18 question at large as to the best practice. Again, I'm
19 for full transparency, obviously this is public record,
20 but I think the page I had really didn't have any
21 address or phone number information on it, so this gives
22 me a quick concern as to are there any customer privacy
23 rights implicated, and if so, what do we do about it at
24 this point.

25 ACTING CHAIRMAN EDGAR: Okay, let's start

1 here. Mr. Butler, and Mr. Beck, if you do have
2 something to say.

3 Mr. Butler?

4 MR. BUTLER: Commissioner Skop, we share your
5 concern. We were anxious to get this document available
6 to the parties as quickly as possible, but -- my
7 goodness, sorry.

8 ACTING CHAIRMAN EDGAR: Take a moment.

9 MR. BUTLER: My apologies.

10 We share your concerns, Commissioner Skop, on
11 wanting to get this available to the Commissioners and
12 the parties promptly. We would be amenable to whatever
13 would be an appropriate way of protecting this.

14 We had considered and would be certainly
15 willing to certainly pick these back up and we could do
16 a request for -- or a notice of intent for confidential
17 classification on, I guess it would be that column where
18 the address information appears and provide them with
19 that column highlighted and confidential, but we were
20 hoping to avoid the complexity of that.

21 ACTING CHAIRMAN EDGAR: Commissioner
22 Argenziano?

23 COMMISSIONER ARGENZIANO: Isn't that already
24 public information? We have those addresses from the
25 hearing, also?

1 COMMISSIONER SKOP: Madam Chair, to
2 Commissioner Argenziano's point, I guess the question
3 is, I don't know. It would depend on which of those
4 actually decided to show up and speak.

5 Again, part of the problem here is with the
6 dissemination of this, the cat is already out of the
7 bag, so filing a notice of confidentiality to redact
8 that column does nothing, because then you won't have
9 the names of the people. So again, I'm not sure how you
10 address it. I feel sorry for the people that were put
11 in the database, but, again, the ownership was FPL's and
12 I guess it is what it is, but I just wanted to bring
13 that up as a concern.

14 ACTING CHAIRMAN EDGAR: Mr. Butler, anything
15 further?

16 MR. BUTLER: Nothing further.

17 ACTING CHAIRMAN EDGAR: Mr. Beck?

18 MR. BECK: Madam Chair, I'd like to ask for a
19 five-minute break if we could.

20 ACTING CHAIRMAN EDGAR: I think we can do that
21 as we always try to accommodate those requests. So it
22 is 4:30ish, and we will come back at 20 to the hour.

23 MR. BECK: Thank you.

24 ACTING CHAIRMAN EDGAR: Thank you. We are on
25 break.

1 (Brief recess.)

2 ACTING CHAIRMAN EDGAR: Let's go ahead and
3 gather. We're back on the record after a short break.

4 And, Mr. Beck, I believe that we ended with
5 you and we're going to start with you.

6 MR. BECK: Thank you, Madam Chair. I have no
7 questions.

8 ACTING CHAIRMAN EDGAR: Thank you very much.
9 Ms. Bradley?

10 MS. BRADLEY: Thank you, and thank you for the
11 short break.

12 CROSS EXAMINATION

13 BY MS. BRADLEY:

14 Q Ms. Santos, have you got a copy of the full
15 document?

16 A Yes, ma'am.

17 Q Who prepared this document?

18 A The person that I had coordinating the
19 hearings was in charge of preparing the document.

20 Q I'm sorry, who was that?

21 A The person that I had coordinating the
22 hearings.

23 Q And what was that person's name?

24 A Carmen Herrera.

25 Q And I didn't understand what you told

1 Commissioner Skop about the "Owner" column. Those are
2 employees of yours?

3 A Those are employees that work with our
4 customers throughout the various areas that we serve
5 that have customer contact.

6 Q Over in the -- a few columns over there's one
7 labeled "Participation Percent." What does that mean?

8 A That was the employees' thought as to whether
9 the customer was going to be attending or not.

10 Q So somebody they weren't sure about, they
11 could go into --

12 A Low.

13 Q And then you have medium?

14 A Correct.

15 Q Which it says 33 to 74 percent?

16 A Just giving a percentage. We're very, you
17 know, quantitative.

18 Q And then I think on the page that you were
19 shown before, those said confirmed?

20 A Confirmed was if a customer said that they
21 were planning to attend.

22 Q Now, in the "Originating Business Unit" you've
23 got Customer Service?

24 A Yes.

25 Q And those are the people that are under you?

1 A Yes.

2 Q And then it looks like, I know I saw several
3 other units, External Affairs?

4 A Yes. That's probably most of it.

5 Q I'm sorry, I didn't understand you?

6 A It was either Customer Service or External
7 Affairs, that's my recollection. We can go through and
8 make sure.

9 Q I see Customer Service, Field Operations and
10 then I see Customer Service Performance and Planning.
11 Is that two different units?

12 A Two different departments within Customer
13 Service.

14 Q And you oversee all of that?

15 A Yes, both of those.

16 Q What is the duties of the Customer Service
17 Field Operations Unit?

18 A The Customer Service Field Operations Group is
19 in charge of dealing with the customers face-to-face on
20 a myriad of issues, so there, for example, the ones that
21 deal with our major accounts, all of our large customers
22 that have a single point of contact, so they'll handle
23 anything from a billing inquiry to a reliability issue,
24 to whatever that customer need is.

25 That department also has groups. So they have

1 the large accounts, they have the small/medium business
2 accounts and residential, but it's all the face-to-face
3 fieldwork that we do with our customers.

4 Q And what does External Affairs do?

5 A External Affairs is not under me, but what
6 they do is deal with the various parties throughout the
7 state of Florida regarding all the local issues, all the
8 type of local issues that come up.

9 Q And how is the Customer Service Field
10 Operations you described a few minutes ago distinguished
11 from the Customer Service Performance and Planning Unit?

12 A The Customer Service Performance and Planning
13 Unit is the group that does our performance and
14 planning, our budgeting, all the metrics. They also
15 have the Customer Advocacy Group.

16 Q Were those the only units that were involved
17 in this?

18 A I'm pretty sure.

19 Q And you did this for each one of the service
20 hearings, correct?

21 A Yes.

22 Q Whose idea was it to create this tracking
23 document?

24 A I really don't remember if it was the person
25 in charge or myself. We do this, this is sort of just a

1 way that we do business, and I had mentioned earlier
2 that, in my direct testimony I talk about a system that
3 we have that actually uses even these same words, uses
4 the words "customer commendations," and then we have
5 customer dissatisfaction where we track every single day
6 positive comments that we get from our customers and any
7 dissatisfaction issues.

8 So this just sort of came about as the way
9 that we run our business. It really was just sort of an
10 extension of that. I mean, we knew that we had all
11 these hearings, so there was a lot of coordination and
12 it just sort of made sense for us to have some kind of
13 tracking so that we knew what was going on and we had a
14 way to know what we were expecting.

15 Q I haven't counted up all these people, but how
16 many people were involved in this project?

17 A How many people?

18 Q Your employees.

19 A I haven't counted that, Ms. Bradley, so I
20 wouldn't be able to give you a number.

21 Q Do you remember during your direct testimony I
22 asked you about contacting people for the service
23 hearings?

24 A Yes, I do.

25 Q And I asked you, you said you had one person

1 working on coordinating this?

2 A One person coordinating, that's correct.

3 Q And I asked you if you or this person called
4 anybody and you said, definitely not?

5 A We definitely did not, neither of us called
6 anybody.

7 Q Don't you think that would have been a good
8 time to have mentioned the fact that you had all these
9 other people doing that and putting together the
10 tracking documents and arranging that?

11 A I was answering the question that I was asked.

12 Q In full candor, wouldn't you want the
13 Commission to know what you were doing on that?

14 A I have the transcripts of my cross-examination
15 in front of me so I can read to you exactly what I said,
16 and what I said was exactly correct.

17 Q When I asked you about it, you said you
18 contacted all of your employees by mailouts and various
19 other things?

20 A Yes, ma'am, and I also said that the employees
21 that have contact with our customers throughout the
22 communities that we serve told their customers about the
23 service hearings, and that's what this document exactly
24 shows you. It's just a tracking of that activity.

25 Q But I don't see Ms. Nagle's name on here

1 anywhere, so it wasn't all the customers?

2 A These are customers that we had talked to,
3 invited them to go to the hearings because we knew that
4 they had good experiences with us.

5 Q And you didn't do anything similar, did you,
6 for those that maybe didn't have as good a customer --

7 A We actually did a very similar activity for
8 those that had dissatisfaction and we reached out to
9 customers, we ensured that we were resolving their
10 issues. So we had a very similar process also for
11 customers that had issues.

12 Q And do you have a tracking document like this
13 for them?

14 A I don't have it with me. We did do one. I
15 would have to check and see if it's still available. I
16 don't have it with me, but it actually looks very
17 similar to this.

18 Q Do you remember the customers that, after
19 somebody said something about getting a call or
20 something from your company, do you remember a couple of
21 ladies that said, "We didn't get calls"? Do you
22 remember that?

23 A I don't. I'm sorry, I'm not sure.

24 MR. BUTLER: Madam Chairman?

25 ACTING CHAIRMAN EDGAR: Mr. Butler.

1 MR. BUTLER: I would object to the extreme
2 vagueness and generality of the question. If Ms.
3 Bradley can refer either to a quality of service hearing
4 transcript or where it occurred or somebody's name or
5 something, but just a couple of customers that said
6 something, it's very hard for Ms. Santos to respond to.

7 ACTING CHAIRMAN EDGAR: Ms. Bradley, can you
8 try to be more specific?

9 BY MS. BRADLEY:

10 Q Do you remember the ladies that said, after
11 hearing the person that said he got a call from Florida
12 Power & Light, said, "We didn't get any telephone calls
13 from Florida Power & Light," about the service hearings?

14 A Vaguely.

15 MR. BUTLER: I would make the same objection
16 to that question.

17 MS. BRADLEY: I think it's been answered.

18 BY MS. BRADLEY:

19 Q The people that were calling, I mean, you said
20 you think your person that was coordinating it put all
21 this together. Did that include coordinating with the
22 other -- External Affairs?

23 A Yes.

24 Q Did she apprise you or inform you of what she
25 was doing in this regard?

1 A Yes, she did.

2 Q So you knew about all this the whole time?

3 A Yes, I did, definitely. That's why I told you
4 that, I actually used the word *definitely*. I said,
5 definitely we told our customers about the service
6 hearings.

7 Q Who else did you inform that this was being
8 done?

9 A Who else did I inform?

10 Q Did you inform any of your supervisors that
11 this was being done?

12 A Yes, I did.

13 Q And who were those?

14 A My boss, Mr. Olivera.

15 Q I believe I asked you who put this together
16 and you said you couldn't remember whether it was your
17 idea or your person's idea. Could it have been Mr.
18 Olivera's idea?

19 A No, I don't think so. As to whether to use
20 this tracking mechanism, I just don't remember.

21 Q Whether to make these calls?

22 A I'm sorry?

23 Q Whether to make the calls to these people?

24 A No. I mean, we decided that that was the
25 right thing to do. I mean, I said earlier that it's

1 very important for this Commission to hear from all of
2 our customers, from customers that have had good service
3 with us and also from customers that have complaints. I
4 think it's unfortunate that most of the time the
5 Commission gets to hear from customers that have
6 complaints, because that's what usually happens, and
7 this is a really good opportunity, since the Commission
8 is out in the communities, to hear from customers that
9 have good service. So we thought it was the right thing
10 to do for that to happen.

11 Q When you had sent out flyers and various other
12 things that you mentioned before to all of your
13 customers, did you think that these people would not
14 feel strongly enough about it that you should make an
15 extra call to them?

16 A Well, I can share with you what other parties
17 have done and what we saw being done by other parties,
18 which I alluded to. Actually I mentioned it the last
19 time I was here during cross-examination.

20 Q I'm sorry, could you please answer my question
21 first?

22 A Can you repeat it again?

23 MR. BUTLER: I'm sorry, I think that Ms.
24 Santos should be allowed the opportunity to respond to
25 Ms. Bradley's questions. They're pretty broad and vague

1 and I think it calls for an opportunity to respond to
2 the question.

3 ACTING CHAIRMAN EDGAR: Ms. Bradley?

4 MS. BRADLEY: If I can remember it I'll try to
5 repeat it. I think it was very clear.

6 I'm just drawing a blank. I guess they were
7 successful.

8 MR. BUTLER: I move to strike that comment.

9 ACTING CHAIRMAN EDGAR: Let's just move along.

10 THE WITNESS: Can I finish?

11 BY MS. BRADLEY:

12 Q I can't remember the question and you were
13 going off onto something else, but I would appreciate an
14 answer to my question first, if you remember it.

15 MR. BUTLER: I move to strike those comments.

16 ACTING CHAIRMAN EDGAR: Ms. Bradley, do you
17 have a question that you would like to ask this witness
18 at this time?

19 MS. BRADLEY: Yes, but I can't remember what
20 it was. I don't know whether the court reporter can
21 read something like that back for me or not.

22 (Whereupon, the court reporter read the
23 pending question as follows: "Question, When you had
24 sent out flyers and various other things that you
25 mentioned before to all of your customers, did you think

1 that these people would not feel strongly enough about
2 it that you should make an extra call to them?")

3 ACTING CHAIRMAN EDGAR: Thank you.

4 MS. BRADLEY: Thank you.

5 THE WITNESS: So in answering that I wanted to
6 share what we saw happening with -- that other parties
7 were doing, so while we felt it was very important for
8 us to ensure that this Commission was going to have the
9 ability to hear from customers that had positive
10 experiences, because unfortunately this type of hearing
11 is prone to get people that have complaints. I mean,
12 that's usually what you get. So you have to make an
13 extra effort to get people that have positive service.

14 And other parties, such as the Florida Retail
15 Federation, was putting out e-mails to their
16 stakeholders specifically asking them to attend, to urge
17 them to attend. I've got the e-mails here if anybody
18 would like to see it. I have an e-mail from AARP, also
19 requesting parties to attend. The one from the Retail
20 Federation is very pointed, has almost a script as to,
21 you know, what customers, how customers should consider
22 in forming their opinions.

23 So this is what we saw happening. So other
24 stakeholders were rallying customers to attend, so we
25 felt it was very important for this Commission to see

1 the other side.

2 BY MS. BRADLEY:

3 Q So that was a "no" to my question?

4 A I felt that, yes, that we needed to do
5 outreach in order to ensure that this Commission would
6 be able to hear testimony from customers that have
7 positive experience.

8 Q So that was a "no" to the fact --

9 A Yes, it was a "no" to the fact that it wasn't
10 enough.

11 Q And you realize AARP is not a party to this
12 proceeding?

13 A I didn't say they were a party to this
14 proceeding. I said that they were just a party.

15 Q A party to what?

16 A A group.

17 Q Do you understand that in this type of
18 proceedings when we refer to "party," we usually mean a
19 party to this proceeding?

20 A Okay, I apologize, then, if I used the wrong
21 word.

22 Q I just wanted to clarify that.

23 A Sure.

24 Q Did you report back to Mr. Olivera as to the
25 efforts and how many people were going to testify and

1 what group they fell under?

2 A In a very high level I just told him what we
3 were doing. I didn't give him the details, I didn't
4 give him these reports. I didn't give him any numbers
5 or anything like that. Just very general.

6 Q How did your people decide who to contact
7 about this?

8 A They contacted the customers that they knew
9 that had good experiences with them.

10 Q And it looks like you had a variety here,
11 commercial, residential, government, civic?

12 A Yes.

13 Q And you made sure you had some of each one of
14 those groups, correct?

15 A I think we definitely wanted a good
16 representation.

17 MS. BRADLEY: If I might have just a moment to
18 look through my notes?

19 ACTING CHAIRMAN EDGAR: Yes.

20 MS. BRADLEY: Thank you.

21 (Brief pause.)

22 BY MS. BRADLEY:

23 Q Did you see the article that was in the *South*
24 *Florida Sun-Sentinel* on September 13th? Let me give you
25 a copy of this.

1 A Yes, I did.

2 Q You're aware of this?

3 A Yes.

4 Q And do you have any reason to doubt the
5 information provided in that?

6 A I did not verify this information, and some of
7 this information I wouldn't even be able to verify. So
8 we did not verify it, so I can't speak to the accuracy
9 of it.

10 Q For the civic organizations and all that you
11 contacted, a lot of those, and local governments, those
12 were entities that you, I think they even testified that
13 your company made contributions to, correct?

14 A Many of those did, yes.

15 (Brief pause at 5:10 p.m.)

16 (The transcript continues in sequence with
17 Volume 46.)

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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)


3 COUNTY OF LEON)

4 I, CLARA C. ROTRUCK, 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 27th day of October, 2009, at
16 Tallahassee, Leon County, Florida.

17
18
19
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21 _____
22 CLARA C. ROTRUCK
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