BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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

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

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PROCEEDINGS:	SPECIAL AGENDA
COMMISSIONERS PARTICIPATING:	CHAIRMAN NANCY ARGENZIANO COMMISSIONER LISA POLAK EDGAR COMMISSIONER NATHAN A. SKOP COMMISSIONER DAVID E. KLEMENT COMMISSIONER BEN A. "STEVE" STEVENS III
DATE:	Wednesday, January 13, 2010
TIME:	Commenced at 9:30 a.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LINDA BOLES, RPR, CRR JANE FAUROT, RPR RAY CONVERY, RPR

P R O C E E D I N G S

CHAIRMAN ARGENZIANO: We're going to call our meeting to order. Welcome to everyone. I see we have some guests also from AARP. Welcome to your state government and your Public Service Commission. We're glad you're here today.

And what I was going to do is just open -- if the Commissioners have any opening comments.

Commissioner Stevens.

COMMISSIONER STEVENS: Thank you, Commissioner.

And, again, I know I sound like a broken record player, but I want to express my appreciation to staff. Every one of these guys have helped me a lot get through a lot of information in a very short period of time and they've been very patient with some of the questions that I've asked. So thank you very much. And they've done an outstanding job putting this together. Thank you.

CHAIRMAN ARGENZIANO: Thank you.

Commissioner Edgar.

Commissioner Klement.

COMMISSIONER KLEMENT: Thank you, Madam Chair. I would like to reiterate that also, the appreciation to all the staff who helped me understand many of these --

all of these complex issues in order to be able to be up to speed. It's been a long process, but a very valuable one. So thank everyone.

CHAIRMAN ARGENZIANO: And not just to the AARP members, anyone else who's here today visiting their, their Public Service Commission, welcome. We're glad you're here today.

I'm just going to say about, we're probably going to do lunch around 1:00. I know there was some discussion of maybe calling out for like pizza or something where our staff can get it ahead of time so we can have lunch immediately and get back as quick as possible because it's going to be a long day. So, staff, about, probably about 12:30 would be a good time to call. And then we'll get together with what everybody wants and all that stuff. And hopefully 1:00 we break for lunch, eat lunch and get back here at 2:00 and give staff some time to do what they need to do. So just for planning purposes.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Madam Chair.

I just wanted to take this opportunity in opening comments this morning to thank our dedicated staff for all of their hard work that they've put forth in this rate case. As we get ready to move forward with deciding the case before us today, I look forward to deciding that case on the merits in a fair and impartial manner.

Before we get into that, however, there are a couple of points that I think would be good to warrant clarification for the members in the audience, for people that may be listening in relation to what it is that we're here to decide today in this base rate proceeding. So I'd like to take this opportunity, Madam Chair, if I could, to ask some questions to Mr. Willis, if that would be appropriate. And just let, give a background explanation on cost recovery and such, if that would be appropriate. All right. Thank you.

Mr. Willis, I just wanted to, to walk through a couple of points. This is a base rate proceeding for the base rate component of a customer's bill; is that correct?

MR. WILLIS: That's correct, Commissioner.

COMMISSIONER SKOP: Okay. And this proceeding is limited to strictly base rates.

MR. WILLIS: It's limited strictly to base rates.

COMMISSIONER SKOP: Okay. And basically base rates, we have a base rate and all the clauses on the bill, and basically the clauses are about 61 percent of the consumer's bill, with the base rates being the remainder subject to taxes and such; is that correct?

MR. WILLIS: They're between 51 and 60 percent, I believe.

COMMISSIONER SKOP: Okay. That's the clauses, not the base rates.

MR. WILLIS: The clauses. Yes.

COMMISSIONER SKOP: Okay. So the remainder, portion of that, 30 or something percent, is the base rates; is that --

MR. WILLIS: That's correct.

COMMISSIONER SKOP: Okay. All right. Just with respect to the cost recovery for fossil generating assets, could you briefly explain how the Commission goes through the need determination approval process and the ultimate cost recovery for fossil generating assets placed in service?

MR. WILLIS: As far as the need determination, before a fossil fuel plant is actually, construction is actually started, the Commission does make a determination on whether or not that plant is needed. Once the plant is, has been determined that there's a need, the company will commence construction on a timeframe.

During the construction period, the

Commission's practice is normally to allow AFUDC to be accumulated. Which AFUDC is the allowance for funds used during construction, which is normally the utility's cost of capital for their debt and equity being put into the project to be capitalized under the cost of construction. The total cost of construction plus the allowance for funds used during construction would normally be capitalized at the point the plant goes into commercial service. That would normally -- could end up in a, in a rate case proceeding.

COMMISSIONER SKOP: Okay. Thank you. And then with respect to the AFUDC that you mentioned, the carrying costs that are incurred while the plant is being constructed, what is the current AFUDC rate for FPL?

MR. WILLIS: Mr. Slemkewicz may know that.

MR. SLEMKEWICZ: No, I do not know what the current rate is off the top of my head.

COMMISSIONER SKOP: Subject to check, would it be about 11.75 percent or --

CHAIRMAN ARGENZIANO: I think we have --

COMMISSIONER SKOP: I think we have the answer.

CHAIRMAN ARGENZIANO: I think we have the answer coming up from staff.

MR. MAUREY: Andrew Maurey, Commission staff. It's 7.41 percent.

COMMISSIONER SKOP: Okay. And that's the weighted cost of capital.

MR. MAUREY: Weighted cost of capital.

COMMISSIONER SKOP: Okay. All right. Great. Thank you.

Now with respect, as you mentioned, for generating assets that are placed in service pursuant to being approved via a need determination process, the company is not allowed to recover its costs other than the AFUDC which is capitalized, but the cost of the project is actually recovered once the fossil generating asset is placed in service; is that correct?

MR. WILLIS: That's the normal course of business for the Commission is to allow that when they go in commercial service.

COMMISSIONER SKOP: Okay. And that would either be via a GBRA adjustment or a rate case proceeding; is that correct?

MR. WILLIS: That's, that's correct. That's been past practice.

COMMISSIONER SKOP: Okay. Now with respect to the case before us today, the WCEC 1 and 2, which is West County 1 and 2 generating plants which are assets in, I believe, Palm Beach County, those were already included with the GBRA -- or actually they will be included in the test year in the GBRA adjustment for 2010 because they will be placed in service in 2010, and that's pursuant to the 2005 settlement agreement; is that correct?

MR. WILLIS: The company received those through the generation base rate adjustment in 2009 and they will be rolled into the 2010 test year.

COMMISSIONER SKOP: Okay. And then with respect to WCEC 3, the WCEC 3 generating asset is scheduled to come into service in the 2011 test year, and that would be the subsequent year adjustment that FPL is seeking in this rate case; is that correct?

MR. WILLIS: FPL is not requesting West County 3 through the 20011 test year. Their case is filed, requested that they get that through the generation base rate adjustment if it's continued.

Staff's recommendation indicates that if the generation base rate adjustment is not approved but the 2011 subsequent test year is, that the West County 3 be included in that 2011 subsequent test year.

COMMISSIONER SKOP: Okay. Thank you. Now with respect to the Riviera Beach and the Canaveral repowering, those plants are not due to come into service for quite some time; is that correct?

MR. WILLIS: My recollection is, well, 2012, 2013, I believe.

COMMISSIONER SKOP: Okay. Now with respect to the rate case before us today, the rate case before us today has nothing to do with the cost recovery for the repowering on Riviera Beach and Canaveral; is that correct?

MR. WILLIS: They are not included in this rate case.

COMMISSIONER SKOP: Okay. So, again, this has absolutely nothing to do, this rate case proceeding has absolutely nothing to do with the cost recovery for those two proposed plants; is that correct?

MR. WILLIS: Cost recovery has not been requested in this rate case.

COMMISSIONER SKOP: Okay. Now in, in fairness, to your knowledge has the Commission ever denied the cost recovery for prudently incurred costs associated with placing a new generating asset into service?

MR. WILLIS: Commissioner, no, not to my knowledge.

COMMISSIONER SKOP: Okay. Great. Now just, Madam Chair, just two more points.

If we can briefly talk about nuclear cost recovery, and if, if Mr. Willis might be able to just give a little bit insight how costs are recovered under the nuclear cost recovery clause and statute.

CHAIRMAN ARGENZIANO: Excuse me one second. Just to make sure, can all the people in the back hear okay? If not, raise your hands. Everybody is okay? All right. Just checking. Thank you.

Mr. Willis.

MR. WILLIS: Okay. Commissioner, the nuclear cost recovery statute, the statute does provide that any preconstruction costs will be collected upfront through the capacity cost recovery clause. The utility each year will be able to collect the allowance for funds used during construction to build that power plant. When it goes into commercial service the statute provides that the cost of the construction plant will be rolled into base rates at that point in time.

COMMISSIONER SKOP: Okay. So with respect to nuclear cost recovery or the recovery of costs for nuclear related construction, that's governed by the statutory provision that provides for complete cost recovery of both the preconstruction costs and the actual construction costs irrespective of plant completion; is that correct?

MR. WILLIS: That's correct.

COMMISSIONER SKOP: Okay. All right. Now with respect to the two new nuclear units, Turkey Point 6 and 7, would it be correct to understand that the current base rate proceeding before us has nothing to do with the recovery of costs for those two projects?

MR. WILLIS: They have not been included in this rate case.

COMMISSIONER SKOP: Okay. And that's because they're handled by the nuclear cost recovery clause; is that correct?

MR. WILLIS: That's correct.

COMMISSIONER SKOP: Okay. All right. Thank you.

Now just one or two more additional points, again, background for the people in the audience. With respect to the three solar projects that have been approved by the Commission that FPL has either placed in service or will place in service in the near future, can you briefly discuss the cost recovery mechanism for those solar projects?

MR. WILLIS: Solar projects normally would go through a clause and not through a base rate proceeding.

COMMISSIONER SKOP: Okay. So just to be clear, the three solar projects that FPL has been, already had approved by the Commission, this base rate proceeding, basically the costs associated with those solar projects would not be recovered in this base rate proceeding; is that correct?

MR. WILLIS: That's correct.

COMMISSIONER SKOP: Okay. Great. All right.

Just I guess in summary then, as it pertains to this base rate proceeding irrespective of any representations that have been made, that this base rate proceeding has nothing to do with the recovery of costs for the Riviera Beach and the Canaveral plants; is that correct?

MR. WILLIS: They are not included in the rate case.

COMMISSIONER SKOP: Okay. And this rate base proceeding or base rate proceeding has nothing to do with the recovery of costs for the Turkey Point 6 and 7 proposed nuclear generating units; is that correct?

MR. WILLIS: And, again, they're not included in the rate case.

COMMISSIONER SKOP: Okay. And this base rate proceeding has nothing to do with recovery of costs for FPL's three solar projects.

MR. WILLIS: And, again, they're not included in the rate case.

COMMISSIONER SKOP: Okay. Now in fairness to FPL, with respect to what the Commission may decide in this base rate proceeding, this base rate proceeding could have some impact on FPL's ability to reach out into the financial markets on a forward-going basis to, you know, basically fund its capital projects, is that generally -- I mean, FPL is a strong company today and I have no doubt they'll be strong tomorrow, but if you could just elaborate on that briefly.

MR. WILLIS: Well, Commissioner, depending on the Commission's actions, if, if the Commission actions, I suppose, were detrimental to the company, they would, they could possibly face problems going out to the market to obtain any kind of equity or debt funding for future projects. I mean, that, that could be an effect, if that's what you're asking.

COMMISSIONER SKOP: Okay. But FPL is, FPL today is a very strong, financially sound company; is that correct?

MR. WILLIS: Yes, it is.

COMMISSIONER SKOP: Okay. And that's based on the Commission's sound regulatory practices for the most part.

MR. WILLIS: Yes. That's correct.

COMMISSIONER SKOP: Okay. All right. Now --

CHAIRMAN ARGENZIANO: Commissioner Skop, that may be a little confusing. I understand where you're trying to go, but it depends on what the Commissioners vote on today.

COMMISSIONER SKOP: Right.

CHAIRMAN ARGENZIANO: We -- if we did something that could harm the company, we would hope that we would have discussion about that before we did that.

COMMISSIONER SKOP: I understand.

CHAIRMAN ARGENZIANO: It's not just because we have a rate case before us that we would harm the company. I don't want to leave people thinking that.

COMMISSIONER SKOP: Right. And I just have two, two points, and I agree wholeheartedly.

With respect to funding capital projects though, you know, certainly having free cash flow from operations allows you to fund capital projects internally. But alternatively a company typically goes out to the capital markets and borrows either debts or bonds to fund capital expansions; is that correct?

MR. WILLIS: Resources, internal funds generated from the company and outside market sources, be it either debt or equity.

COMMISSIONER SKOP: Okay. And just one final point, Madam Chair.

Just based on that point, irrespective of the projects that the Commission has approved and what mechanism, what mechanism is used to fund those projects once they are built, the company typically does not recover those costs, with the exception of the nuclear cost recovery or solar projects, but for fossil projects does not recover those costs until the assets are placed in service; is that correct?

MR. WILLIS: That's correct.

COMMISSIONER SKOP: Okay.

MR. WILLIS: That's been the case with the generation base rate adjustment too.

COMMISSIONER SKOP: And then with respect to all the projects that were mentioned, the Commission currently has adequate cost recovery mechanisms to provide for the recovery of those projects once they're placed in service; is that correct?

MR. WILLIS: I believe so.

COMMISSIONER SKOP: Thank you, Madam Chair.

CHAIRMAN ARGENZIANO: Commissioners, anything else? Okay. Let's get started. Thank you, Commissioner Skop.

If staff would move to Issue 1. And the same thing as yesterday, Commissioners, whatever you feel comfortable with, if we can take things in block, that doesn't mean that we can't discuss them individually, take things in block and vote on them. And for the ones that you would like separated, there are a couple of issues that I might want separate, to vote on separately, please let me know. And we'll start with Issue 1.

Commissioner Skop.

COMMISSIONER SKOP: Yes, Madam Chair.

I just wanted to mention too also for the benefit of my colleagues, I presented another handout sheet, and I know staff has done a similar one. So I just wanted to mention that for the record.

CHAIRMAN ARGENZIANO: And at the proper time you'll go through that with us?

COMMISSIONER SKOP: Yes, ma'am. Thank you.

CHAIRMAN ARGENZIANO: Okay. Thank you.

Staff, if you could start with Issue 1. And I guess we'll take the 1, 3 -- 1 to 3 together and proceed that way. Thank you.

MS. BENNETT: Thank you, Madam Chair.

Commissioners, I'm Lisa Bennett with the General Counsel's Office.

Issue 1 is does the Commission have legal authority to use a 2010 projected test year? Staff recommends that the Commission does have the legal authority. And that's based --

CHAIRMAN ARGENZIANO: Let, let me do this. Excuse me. Let's let everybody grab their papers and then take a seat again because there -- it's hard to hear you with the papers rustling and people moving around, and I want to be able to hear everything. We're almost there. It's only fair to let everybody get their papers and to be able to take a look at them.

I think it quieted down enough. Thank you. Proceed, please.

MS. BENNETT: Issue 1 is does the Commission have the legal authority to approve a 2010 projected test year? Staff recommends that the Commission find that you do have the authority, and that's been a standard that has been recognized by the Florida Supreme Court.

CHAIRMAN ARGENZIANO: Any, any questions, Commissioners? Any comments? Okay. Proceed.

MR. PRESTWOOD: Good morning, Commissioners.

CHAIRMAN ARGENZIANO: Good morning.

MR. PRESTWOOD: I'm Clarence Prestwood with the staff.

Issue 2 deals with the year 2010 as whether it's appropriate for the test year in this case. And the staff recommends that it is the appropriate year for the test year in this case.

CHAIRMAN ARGENZIANO: Any, any questions? Okay. Proceed to Issue 3.

MR. STALLCUP: I'm Paul Stallcup of the Commission staff. Issue 3 addresses whether FP&L's 2010 forecast for the number of customers kWh sales and kW is appropriate for ratemaking purposes. Staff recommends based on the information in the record that Florida Power & Light's forecast is appropriate.

CHAIRMAN ARGENZIANO: Okay. Commissioner Stevens, then Commissioner Skop, and then I have a question.

COMMISSIONER STEVENS: Thank you, Commissioner, and I'll be brief.

COMMISSIONER ARGENZIANO: You don't have to be.

COMMISSIONER STEVENS: I think I'll be brief.

COMMISSIONER ARGENZIANO: You don't have to be. You can ask what you need to ask.

COMMISSIONER STEVENS: Can, can you guys explain the reanchoring adjustment and whether or not we took that as staff into effect on our recommendation and how that relates to the OPC's recommendation?

MR. STALLCUP: Yes. The reanchoring

adjustment is an adjustment frequently made in economic forecasting. An economic model by its very definition is a simplification of reality. In Power & Light's model the energy forecast and net energy, net energy for load per customer model is driven by price and economic variables and weather variables. That doesn't necessarily capture every factor that could affect energy sales. That deletion or omission of certain variables is called model error, and the reanchoring adjustment takes the output of the model and trues it up to the latest available actual data such that the forecast from the model runs continuously from the last available piece of historical data. The difference between those two is called model error, and the reanchoring adjustment removes that model error.

COMMISSIONER STEVENS: And so did we take into consideration in our recommendation or staff's recommendation to us that reanchoring?

MR. STALLCUP: Yes, we did.

COMMISSIONER STEVENS: Okay. Thank you. Thank you, Chairman.

COMMISSIONER SKOP: Madam Chair, I'll yield to you and pick up last.

CHAIRMAN ARGENZIANO: Okay. I have a question in regards to the long-term average on the vacancy rates, and I guess maybe, maybe you can help me here. I'm trying to, to come to grips with it.

Basically if the long-term average that's used here really applies to the 2010 and 2011 as far as the minimal use, given the fact that from what I understand there's quite an exodus of people that occurred in the last several years of the State of Florida, and I didn't know if that, to what degree that was taken into consideration or how it fits into the minimal use issue and the vacancy rate.

MR. STALLCUP: I think I can explain that to you. Power & Light when they ran their basic forecast noted that at the end of two thousand and -- well, starting really in 2007, 2008, then carrying forward through the test year there was a growing number of what they called minimal use customers. Basically what these are are unoccupied residences that are still connected to the grid but only drawing a minimal amount of power for the purpose of keeping the structure ventilated, perhaps security lights, that sort of thing. Because these residences are only drawing a small amount of power, it reduces the average use per customer that Power & Light forecasts and bases its sales forecasts upon.

This minimal use customer adjustment is

designed to account for what we call an abnormal number of minimal use customers. Now if you want to measure the effect of something that's abnormal, the first thing you've got to do is figure out what constitutes normal so that you can draw a difference between what you would normally expect and what you're seeing now.

The way that Power & Light defined what normal was is that they went back to Census data, U.S. Census data, and I think it was for the period 2002 through two thousand -- no, two thousand -- yeah, 2002, 2003, and noted that during that particular time period the vacancy rates in Florida were very near their long-term average.

So what Power & Light did is they used that 2002 to 2003 time period as their definition of what normal was for the purpose of calculating the minimal use adjustment.

CHAIRMAN ARGENZIANO: See, that's, that's where my question comes in. It's been to me far from normal the last several years. 2002 and 2003 were, that was before many things happened, before the economy changed, before there was -- I've just been reading a PSC study that showed that so many, I think it was 2 million people, and of course there's people that come back in, but there was more of an exodus. And I don't know -- what I'm trying to say is I don't know if using 2002 and 2003 are appropriate, given what's happened to the State of Florida since then.

MR. STALLCUP: The use to which that 2002, 2003 data was put was to define the extent of which the rates that we're seeing now, which are roughly about 9 percent I think, are different from the historical period upon which the econometric model was based for sales. That model is based on data that went from 1998 through 2008. So what the model is looking at is how sales reacted during that ten-year period to things like weather and so forth.

So from the point of view of consistency of what the model is based on and the minimal use customer adjustment, there is consistency between the basis of that adjustment and the data used within the model.

I would agree with you that historically a normal vacancy rate may not look too much like what it's going to look like in the future, but the adjustment that Power & Light made is an attempt to accommodate that.

CHAIRMAN ARGENZIANO: Okay. Thank you. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. Just to follow up on that line, on Page 17, the last paragraph before the section titled Analysis, it discusses the forecast errors in FPL's methodology versus OPC Witness Brown's methodology. Would it be correct to say that FPL's methodology in its forecast overshoots or overestimates the data; whereas, the OPC Witness Brown's undershoots? Is that the correct way to interpret the forecast error?

MR. STALLCUP: I'm not real sure what you mean by forecast error in that respect.

CHAIRMAN ARGENZIANO: Commissioner Skop, could you rephrase or make it clearer?

COMMISSIONER SKOP: Okay. Well, I'm reading on Page 17 at the second to the last paragraph, "FPL's methodology results in a forecast error of only .1 percent through midyear 2009, while OPC Witness Brown's methodology results in a forecast error for the same period of approximately -1.5 percent."

MR. STALLCUP: Yes.

COMMISSIONER SKOP: It seems to me that OPC's analysis or forecast is perhaps more conservative and undershoots the actual versus FPL's may be a little bit more aggressive and slightly overshoots the actual. Is that the correct way to interpret that?

MR. STALLCUP: The Power & Light adjustment did depress net energy sales more than would the approach taken by Public Counsel. That's correct.

COMMISSIONER SKOP: Okay. All right. Thank you.

CHAIRMAN ARGENZIANO: Any other, any other questions? I would ask that staff separate Issue 3. And if we vote, Commissioners, on 1 and 2, and then I'd like to vote on 3 separately.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you. If there are no further questions, incorporating your suggestion I'd respectfully move to approve the staff recommendation as to Items 1 -- or Issues 1 and 2.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Hearing a second. Any discussion or comments? All in favor, say aye.

(Simultaneous vote.)

Same, same sign for opposed. Motion to adopt 1 and 2 has passed, and we'll move on to Issue Number 3. Do I have a motion?

COMMISSIONER SKOP: Madam Chair, I'd respectfully move on Issue 3 to deny staff recommendation and adopt the position of Public Counsel.

CHAIRMAN ARGENZIANO: Now is there any comment or discussion? Now is the time.

Commissioner Edgar.

COMMISSIONER EDGAR: Just a question.

CHAIRMAN ARGENZIANO: You're recognized.

COMMISSIONER EDGAR: If I -- thank you -- could ask staff to share with us briefly what the impact of that change would be.

MR. STALLCUP: The effect of adopting Public Counsel's recommendation would be to increase megawatt hour sales by approximately 1 percent. That would increase the test year revenues by approximately $40 million. It would also have an effect on the billing determinants used to calculate rates.

COMMISSIONER SKOP: Madam Chair.

COMMISSIONER STEVENS: Do you need a second?

COMMISSIONER SKOP: Hold on for a second.

CHAIRMAN ARGENZIANO: One second.

Commissioner Skop.

COMMISSIONER SKOP: I'm confused by I guess the staff response. I'm trying to understand. Because if that were correct, I would perhaps rethink my motion, but I think I've got my motion correct.

My understanding from OPC's position is, is that the change to adopt the OPC position would result in a net reduction in the overall revenue requirement or the annual revenue requirement of approximately

$63.5 million; is that correct? And that would be --

MR. STALLCUP: The effect of Public Counsel's recommendation would be to reduce the difference between revenue requirement and what revenues would be at current rates. That is it would reduce the need to increase rates to satisfy revenue requirements.

COMMISSIONER SKOP: Okay. So basically what you're saying is, is that OPC's forecast causes a reduction in the overall revenue requirement; is that correct?

MR. STALLCUP: Basically, yes.

COMMISSIONER SKOP: Okay. All right. Thank you.

CHAIRMAN ARGENZIANO: Commissioner Edgar, did you have another question or comment?

COMMISSIONER SKOP: I do have one.

CHAIRMAN ARGENZIANO: Okay. And then Commissioner Stevens.

Commissioner Skop.

COMMISSIONER SKOP: Thank you.

Just in relation, I think you mentioned that it would cause megawatt hour sales, adopting OPC's position and its forecast indicates that for two thousand and I believe 10, the forecast megawatt hours would increase by about 1 percent; is that correct?

MR. STALLCUP: Correct.

COMMISSIONER SKOP: Okay. In light of the recent peak usage that Florida has experienced recently there's been heavy demand on the system. Is there any reason to believe that, you know, that that 1 percent -- I mean, how hard is it to -- how far off is 1 percent for, in total production? I mean, is that something that if you have an extended period of either cold weather or hot weather in the summer, that you're certainly going to be within that reason, bound of reasonableness for accepting OPC's position?

MR. STALLCUP: Weather can account for variations in megawatt hour sales of greater than 1 percent. However, it's typically driven by summer weather rather than by winter weather. The winter peaks tend to be rather short-lived.

COMMISSIONER SKOP: Okay. But at least in this current year, 2010, the test year, I mean we've had a substantial period of peak load that has broken records. So, I mean, there is some support that would, you know, if we were looking at which forecast is more accurate, certainly weather and, you know, other things in the record tend to speak into having, exercising discretion to use our judgment as to which forecast might be the most appropriate to use in the current conditions.

MR. STALLCUP: Certainly the recent cold weather has increased sales.

COMMISSIONER SKOP: Okay. All right. Thank you, Madam Chair. I'm comfortable with my motion.

CHAIRMAN ARGENZIANO: Okay. There's a motion.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion, questions, debate?

Okay. Hearing no discussion, all in favor of the motion, indicate by saying aye.

(Simultaneous vote.)

All those opposed, same sign. Show the motion passing.

And, staff, if we could move now to Issue 4.

MS. BENNETT: Issue 4 is does the Commission have the legal authority to use a 2011 subsequent test year? Staff recommends that the Commission does have the legal authority to approve a 2011 subsequent test year in the appropriate case, and that's supported by statute, rule and Supreme Court decisions.

CHAIRMAN ARGENZIANO: Commissioners?

COMMISSIONER SKOP: Madam Chair, I have no questions on Issue 4.

CHAIRMAN ARGENZIANO: Anyone else?

Okay. We can move on to Issue 5.

MR. PRESTWOOD: Commissioners, Issue 5 deals with the policy side of whether to allow 2011 subsequent test year. And I'll mention that Issue 6 deals with the specific numbers. Staff is recommending against the use of 2011 as a subsequent test year on the basis that there's been no showing of extraordinary circumstances of why back-to-back rate increases should be used. And by necessity by using a subsequent test year predictions or forecasts have to reach further into the future, and by reaching further into the future your projections become less accurate.

CHAIRMAN ARGENZIANO: Commissioners?

Commissioner Stevens.

COMMISSIONER STEVENS: I just want to let the Commission know that I do agree with staff. I think it is too volatile. I don't, I don't think we can look at our crystal ball and be close to a prediction.

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: Just to verify. Usually, we usually go one year into the future in projecting; is that correct?

MR. PRESTWOOD: Yes, Commissioner. Typically we've used a single projected test year. But we have in the past, two, two subsequent test years have been used.

COMMISSIONER KLEMENT: And your recommendation is based on the, partially based on the volatile economic times we're in now, correct, that there's a lot of uncertainty and, and instability?

MR. PRESTWOOD: That's correct. It causes the company to project out almost 40 months into the future from the last historical point. And, again, the further you go out, the last accurate your predictions become. And there's, there's been no showing of any kind of extraordinary reason or circumstances that there's a need to do that in this case.

COMMISSIONER KLEMENT: And has there been -- is there much precedent here for back-to-back rate increases such as this?

MR. PRESTWOOD: Not, not in recent years, Commissioner. There have been in, in the past, but it's been many years as they've been allowed.

COMMISSIONER KLEMENT: About how many? More than ten or 20?

MR. PRESTWOOD: To my knowledge, Florida Power & Light was allowed one about 20 years ago. And I'm not sure of the other ones.

COMMISSIONER KLEMENT: Okay. Thank you. That's all for now, Madam Chair.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

I guess just looking at Issue 4, I also join my colleague Commissioner Stevens in sharing the view that the staff recommendation should be supported on this issue at least for the 2011 test year. Again, the costs that are projected are speculative, speculative in nature. There is a lot of uncertainty in terms of what's going to happen in terms of forecast demand and a lot of things. So it would seem to me that in the current economic environment it may be better to have limited proceedings or, you know, back-to-back rate cases, if necessary, to have a better handle on the company's true cost of providing service. It's fair to the company. It's fair to the ratepayers. If their costs increase substantially on a year-to-year basis, certainly they may be legally entitled to recover those prudently incurred costs. It also provides a mechanism for reevaluating other issues that come up based on prevailing economic conditions at the time. But to go a whole year or two years into the future, again, at this point in time, given the turmoil and a lot of things, I think it would be speculative at best, and I would rather handle that from a Commission's perspective in a limited proceeding or another rate case proceeding. Thank you.

CHAIRMAN ARGENZIANO: Okay. Commissioners? Commissioner Klement.

COMMISSIONER KLEMENT: I'd like to ask staff if, if the Commission did deny the subsequent test year, what would be the company's recourse? Could they just file another rate case tomorrow? And realistically when would you expect them back, if not tomorrow?

MR. PRESTWOOD: Commissioner Klement, yes, they could in all likelihood file another complete rate case. In that case though we would have the benefit of at least one more year of actual data, historical data, 2009 to look at. That would, you know, make the, analysis more meaningful.

I, I really can't predict what the company will do because it'll depend on their overall earning situation, you know, in the near future and what they forecast it to be, so.

COMMISSIONER KLEMENT: If I can understand, if you -- if they say, just hypothetically proposed 2011, in 2011 came back, wouldn't we have 2010 data then that, that is known?

MR. PRESTWOOD: Yes, Commissioner. We would have not only -- this case was prepared in the latter part of 2008, so we would have a complete year of 2008 data, a complete year of 2009 data, as well as, depending on when they filed, some part of 2010. Yes.

COMMISSIONER KLEMENT: Correct. Correct. Okay. Good. Thank you.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you.

Just to, to staff again on that point, in terms of the company's position, should it seek relief needed for 2011, then it would have its option, it would be the company's option whether to file a full-blown rate case or just come in for a limited proceeding on the specific issue that it needed cost recovery for; is that correct?

MR. PRESTWOOD: That's correct. It could file a limited proceeding or a full-blown rate case.

COMMISSIONER SKOP: Okay. All right. Thank you.

CHAIRMAN ARGENZIANO: Commissioners, any other questions on this item, on this issue?

COMMISSIONER KLEMENT: Could I hear the motion, please? Is there one?

CHAIRMAN ARGENZIANO: We're not --

COMMISSIONER KLEMENT: We don't -- I'm sorry.

I thought we --

CHAIRMAN ARGENZIANO: Do you want this one separate? Would you want to vote on that issue separately? Any issue that you feel like that you need to vote on --

COMMISSIONER KLEMENT: No.

CHAIRMAN ARGENZIANO: Okay. Then we're going to -- then if not, then we'll just move on to the next issue.

COMMISSIONER KLEMENT: Okay. Sorry.

MR. PRESTWOOD: Issue 6 deals with the specific numbers for 2011, and here again the staff is recommending against the use of 2011. Again, it's been over 40 months since the actual kickoff point from actual historical data that was used. The company has already made a number of adjustments to its 2009 budget year that had to be incorporated, which, which would suggest there are going to be adjustments that are going to be needed to the 2010 test year that will carry into the 2011 test year. So given the economic conditions that we're facing at this time, we simply think that 2011 is just purely too speculative to make a decision on a full-blown rate case and recommend against it.

CHAIRMAN ARGENZIANO: Commissioners?

COMMISSIONER STEVENS: I'm fine. Thank you.

CHAIRMAN ARGENZIANO: Okay. The next issue. Issue 6.

MR. PRESTWOOD: That was 6.

CHAIRMAN ARGENZIANO: 7. 7. I'm sorry.

MR. STALLCUP: Issue 7 deals with the load forecast number of customers and kWh sales for the 2011 test year. Staff recommends that this forecast is too speculative and not appropriate for ratemaking purposes.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you.

Like I say, I'm fine with the staff recommendations on Issues 4 through 7 -- I mean, excuse me, 4, 5, 6 and 7. And if there's no further questions, I'd move to adopt the staff recommendation on those issues.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any questions? Comments?

Okay. All those in favor of adopting that motion, items -- sorry -- 4 through 7.

COMMISSIONER SKOP: It's 4 through 7.

COMMISSIONER ARGENZIANO: Signify by aye.

(Simultaneous vote.)

All those opposed, same sign. Show the motion adopted.

And we'll move on to Issue 8.

MR. WILLIS: Commissioners, before we get to Issue 8, I just wanted to let you know that with your vote there later on you're going to see a Part B as far as staff recommendations go. Part B is now moot. That's the recommendation based on the 2011 test year.

CHAIRMAN ARGENZIANO: Okay. Okay. And also depending on how we vote on Issue 8, if we vote to go with staff's recommendation, then would it, am I correct 9 through 13 would be moot? Okay.

MR. WILLIS: That is correct.

CHAIRMAN ARGENZIANO: Okay. So we're now on Issue 8.

MR. GARL: Thank you, Madam Chair.

Commissioners, I'm Steve Garl from PSC staff.

Issue 8 addresses the generation base rate adjustment or GBRA that was instituted as one element of a stipulated settlement agreement in FPL's 2005 rate case. FPL requests the GBRA be continued. Staff recommends FPL's request be denied. Staff's recommendation is based on FPL being treated as provided by statute and rule and the same as other IOUs who must initiate a rate case for rate increases.

And as Madam Chairman mentioned, acceptance of staff's recommendation will render moot Issues 9 through 14.

CHAIRMAN ARGENZIANO: 14.

Commissioner Stevens.

COMMISSIONER STEVENS: Commissioner, I just want to let the Commission know that I agree with staff. If we adopted this, I think we'd lose a level of oversight and would lose a level of scrutiny, which is in the staff's conclusion. So I'm stealing their words, and I appreciate the recommendation.

CHAIRMAN ARGENZIANO: Thank you.

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: A couple of clarifying points, if I may.

Have we used this for anyone else? Have we allowed this recovery?

MR. GARL: Not to my knowledge. No, sir.

COMMISSIONER KLEMENT: So would this, does this -- if we adopted FPL's request, would this essentially amount to another cost recovery clause type decision?

MR. GARL: Exactly. The way that it would be put together has yet to be determined. In the past it has flowed through the cost recovery clause capacity clause. Once the rates for the GBRA, the adjustment were determined, it was included with the capacity clause cost recovery.

COMMISSIONER KLEMENT: And in Commissioner Skop's opening remarks, in Commissioner Skop's opening remarks reference was made to the percentage of the base rate that is now realized by cost recovery clauses, and I heard a couple of numbers. Is it 60 or is it more than that?

MR. GARL: It's approximately 61 percent, Commissioner.

COMMISSIONER KLEMENT: 61 percent is now recovered already through automatic pass-throughs, virtually automatic pass-throughs.

MR. GARL: I'd hesitate saying automatic. Yes.

COMMISSIONER KLEMENT: Subject to the review by the Commission.

MR. GARL: Not nearly the oversight that's done in a rate case.

COMMISSIONER KLEMENT: Thank you. That's all for now.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

I guess I'm, I agree with my colleague Commissioner Stevens to adopt the staff recommendation on this, and I think it's important to explain my rationale.

I think that GBRA was negotiated by FPL on behalf of the 2005 settlement agreement that the Intervenors and Public Counsel entered into in conjunction with FPL. The mechanism does have some positives. It allows for the recovery of costs once a fossil fuel generating asset is placed in service, but it also is more of an automatic, you know, pass-through. I mean, there is some scrutiny, there is some true-ups, but, again, it's not as heavily scrutinized as it would be in a limited proceeding or in a full-blown rate case. So I do see some perceived benefits. There's not a whole lot of negatives. It's just a matter of what level of review and scrutiny you want to have to look at major costs that are going to go into the rate base on a, on a given thing, whether that's going to be an automatic process or a more thorough process. So I think that that's important to look at.

The other point that I would make in terms of the GBRA adjustment is the approval of the GBRA mechanism by having automatic recovery of costs basically tends to keep a company out for not filing a rate case for long periods of time. So if you were, if the Commission were to adopt this, you know, the next rate case might be, you know, two, three, four years from now. And given the, you know, the turmoil in the capital markets and a whole host of other things, I think having that ability to look at the true costs of providing service, even if we need to do it on an annual basis, which I know Andrew said we're geared up for that, but I don't think anyone wants to go through that process. But, you know, certainly being fair to the company it's very easy for them to come in even if it's for a limited proceeding and request to place the generating assets, the new generating assets that have come into service into the rate base.

And as Mr. Willis, I think, and correct me if I'm wrong, you don't build new generating assets of the size that FPL does without getting a determination of need for the most part from the Public Service Commission. So once we've approved it, we've basically said that you will be legally entitled to incur all prudently and reasonably incurred costs for the asset that's placed in service for the public use. So there's not a whole lot of risk there for the company. It's more of a convenience factor for the company. And to come in with a limited proceeding to scrutinize the cost to make sure that there are no substantial cost overruns I think is a good thing for the Commission, a good thing for the ratepayers to know that we as public service are doing our job.

So, again, I'm in favor of the staff recommendation. And I think that, you know, there's never been an instance in the history of this Commission that we've denied a reasonably, prudently incurred cost for a new generating asset placed in service, so there's no risk to the company by denying a GBRA. Thank you.

CHAIRMAN ARGENZIANO: Thank you. I, I agree with staff's recommendation also. I think that it benefits not only the company and the ratepayer, the consumer to have a more thorough review always for all reasons involved.

But now that we're at that, any other comments? Commissioner Skop. Commissioner Edgar. I'm sorry.

COMMISSIONER EDGAR: That's okay. Very briefly I would just say I'm not -- okay. I don't completely agree with all of the characterizations that have been made as to how the clause process works. But regardless of that, which is just purely for discussion and elaboration, when I came in this morning I was comfortable with the staff recommendation on this grouping of issues and nothing that I've heard has changed that. So I concur with the, with the result that I think that we are working towards here.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

If there are no further questions on this block of issues, I'd move to approve the staff recommendation for Issue 8, thereby making Issues 9, 11, 12, 13 and 14 moot. Is that correct?

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Okay. Anymore discussion on it? Hearing none, all in favor, signify aye.

(Simultaneous vote.)

Opposed, same sign. Show that motion passing.

And we'll move on to Issue 15.

MR. LAUX: Mark Laux --

CHAIRMAN ARGENZIANO: We need to hear you.

MR. LAUX: Aha. Mark Laux, Commission staff.

Issue 15 addresses the question of what methodology should be applied to certain wholesale sales and how they should be separated. Staff is recommending that these particular sales should be separated and not revenue credited.

Given your earlier vote, the information in staff's recommendation for the 2011 year adjustment would not need to be voted on.

CHAIRMAN ARGENZIANO: Commissioners? Sorry. We'll move on to -- I'm sorry. Down on this end? No?

Hearing none, let's move on to the next issue.

MR. LAUX: Issue 16 addresses what methodology should be used for the cost of service study to separate sales and assets between the wholesale and retail jurisdiction. There is no opposition to the methodology that was used.

CHAIRMAN ARGENZIANO: Any questions?

Commissioner Skop.

COMMISSIONER SKOP: Madam Chair, I don't have any questions.

CHAIRMAN ARGENZIANO: Okay. Your motion?

COMMISSIONER SKOP: If there are no questions from my colleagues -- yes, ma'am.

I'd move to approve the staff recommendation on Issue 15, noting that Part B is moot, and also move to approve the staff recommendation on Issue 16.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Okay. Any discussion? All those in favor, aye.

(Simultaneous vote.)

All those opposed, same sign. Show the motion adopted.

And we are now on Issue 17.

MR. VICKERY: Good morning, Commissioners.

CHAIRMAN ARGENZIANO: Good morning.

MR. VICKERY: Paul Vickery with Commission staff.

Issue 17 concerns FPL's electric service and whether or not the quality and reliability of the electric service being provided is adequate. Staff is recommending that FPL's electric service be determined as adequate based upon an analysis of customer complaints, the service hearings that were held, and the objective measurements of the electric industry metrics that were examined. Staff is available for any questions that you may have.

CHAIRMAN ARGENZIANO: Members?

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

On Page 62 of the staff recommendation where we discussed quality of service, I just wanted to take a moment to offer some comments on the staff recommendation.

I support the staff recommendation with the caveat that staff notes that vegetation, excuse me, the staff notes that vegetation related outages and momentary power interruptions caused by vegetation do appear to be increasing and staff will continue to monitor.

You know, I've seen that problem, having gone to the customer service hearings. There are areas that are in need of addressing the quality of service issues. I mean, FPL has a very large service territory throughout the state, they can't be everywhere at once, but there are areas down in their home service area that we've heard loud and clear from customers, I continue to hear loud and clear from customers that there are problems at the distribution level. And I don't believe that adequate attention is being paid by the company to addressing those issues in a timely manner.

You know, I've had a situation where I've had to mention the plight of Ms. Nagel. Well, we heard from her at the service hearing, and three months later at the evidentiary hearing I'm still hearing from her saying she's having service quality problems. So, again, you know, there's always going to be problems, there's always going to be storms, there's always going to be acts of God that are unforeseeable.

But, you know, I would note that FPL by its own admission in the record is six months behind where it needs to be in its storm hardening/vegetation management program, and that's of concern to me. And I think that I'm going to address that on some subsequent issues, but I just wanted to comment that I feel that there needs to be a little bit more attention paid to the important things of providing quality service to your customers and addressing some of these vegetation issues, addressing some of these distribution issues, instead of spending time on discretionary issues that really don't have anything to do with ensuring that customers have adequate, reliable and affordable service. Thank you, Madam Chairman.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: Thank you, Madam Chair.

Acknowledging Commissioner Skop's concerns for vegetation issues, I would like to commend the company for the level of service that is reflected in the ratings that were provided in the hearing and by staff. For a company the size of FPL, it's amazing that they are able to do that. It shows that they're concerned for customer service. And certainly no one is perfect. There are going to be anecdotal issues here and there. And I hope the company will be diligent in pursuing individual cases such as the one Commissioner Skop mentioned to provide, to work for 100 percent customer satisfaction, although we know no one who's human is able to do that but we all strive for it. And we should acknowledge the company's efforts. Thank you.

CHAIRMAN ARGENZIANO: Thank you, Commissioner Klement.

I just have a comment. While there was a, I think a small pocket of problems there that I think the company will pay attention to because their workers -- I have found, I have to say, that the workers, and it may not be in all areas, there may be small pockets, but to know that looking at it as a whole there were some small pockets and it seemed to be that some of them were in the older neighborhoods, and I believe the company had made, made assurances to us that they were going to be working on that and I appreciated that.

I think at some of the service hearings I was impressed with the fact that there was one lady that did come in and have a problem and the company helped her right away. They went out and pulled out some lighting and so on for her on her porch. And I was impressed with that, I have to say.

But looking at it on a grand scale I have to commend the company because their quality of service, that is directly to the workers that are out there. Those, those workers that are out there in most places, it may not be for your home or your home because there may be one of those places where we are seeing small pockets, but overall I commend the workers of FPL for providing that quality of service.

So with that said, any other comments? And, Commissioner Skop, do you have a motion?

COMMISSIONER SKOP: Yes, Madam Chair. I'd basically move to approve the staff recommendation on Issue 17.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion, comments?

Okay. All those in favor, aye.

(Simultaneous vote.)

All those opposed, same sign. Show that motion adopted.

And we're now on -- now do we, are we going to -- Mr. Devlin, are we going to hold on, on this issue or are we going to take it right now?

MR. DEVLIN: I would, I would suggest, Madam Chairman, to defer certain issues relating to the theoretical reserve, and that would be Issue 19F and then the related issues to that, if I could find my notes, 19F, 51 and 131, those three particular issues, like we did with Progress. I would suggest we --

CHAIRMAN ARGENZIANO: Hang on. Would you repeat? 19F.

MR. DEVLIN: 19F.

CHAIRMAN ARGENZIANO: 51.

MR. DEVLIN: 51, 131. 131.

CHAIRMAN ARGENZIANO: Okay.

MR. DEVLIN: Those three. And, but the other depreciation related issues we should probably go forward with and resolve.

CHAIRMAN ARGENZIANO: Go through right now. Okay. Very good.

And at the right time, if anybody needs a break, please indicate. And to our court reporter, when it's time, please just let me know. We'll probably, probably try to take a break at 11:00, at least a ten-minute break. Is that good with everybody? Unless you need to go before, let me know.

Okay. Let's move on with Issue 19A.

MS. LEE: Commissioners, Pat Lee of staff.

Issues, Issue 19A addresses capital recovery schedules. Staff's recommended capital recovery schedules are shown on Table 19A-1, which is Pages 76 and 77. These recovery schedules address unrecovered costs relating to plant retirements of Cape Canaveral, Riviera, the nuclear uprates and some obsolete meters.

OPC does not disagree with these capital recovery schedules and proposes to take, transfer a portion of the reserve surplus which is addressed in 19F to offset the unrecovered costs of these unrecovered -- of these capital recovery schedules.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Just, Ms. Lee, with respect to the tables for Issue 19A, and I believe those are shown on Pages 76 and 77 respectively of the staff recommendation.

MS. LEE: Correct.

COMMISSIONER SKOP: I think if I understand what staff is trying to present here is that in the case before us there is a theoretical depreciation reserve surplus, and these pages on 19A represent a depreciation deficit. And what I think staff is trying to do is net the surplus with the deficit so that everything's, that the actual surplus is known to the Commission; is that correct?

MS. LEE: Correct. That is the whole purpose of capital recovery schedules. These are investments that are going to be retired that will not be recovered.

COMMISSIONER SKOP: Okay. I did have one question on the, the cost code 370, which is the meter.

MS. LEE: Yes.

COMMISSIONER SKOP: And the entry there is obsolete by advanced metering infrastructure, AMI.

MS. LEE: Correct.

COMMISSIONER SKOP: So basically we're allowing the company to fully depreciate the old meters or accelerate the depreciation or just write off the old meters. Is that correct? Is that what that total unrecovered costs of $101 million reflects there?

MS. LEE: Other than -- I wouldn't characterize it as accelerating. These are meters that are going to be retired as a result of bringing in new meters because of the AMI, bringing in the smart meters, and we are recovering these over their remaining useful life, if you will.

COMMISSIONER SKOP: Okay. I guess that's where I'm a little confused. Because the meters are being retired and, you know, I'm not completely into the complete nuts and bolts of the depreciation but I know enough to be dangerous, I guess. Those meters that are being retired have not for the most part reached the end of their economic useful life. So in a sense the depreciation, remaining depreciation, the depreciation in the remaining life for those meters is kind of being written off and reflected here; is that correct? Is that --

MS. LEE: The remaining life is much shorter now than it was. But, yes, they are being written off over the remaining period that these meters will be in service. These meters are being retired because of a new technology, the smart meters coming in, and as a result their remaining life has been cut short.

COMMISSIONER SKOP: Okay. So that's just basically netting out then the remain life depreciation against the surplus.

MS. LEE: Correct.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: Commissioners, anything further? No?

Okay. We can move on.

MS. LEE: Commissioners, Issue 19B addresses FP&L's mathematical calculation of the average remaining life. Staff recommends that FP&L's calculation can lead to questionable results and can understate the average remaining life. Staff recommends a remaining life calculation based on using the average age. And I have a curve shape and, a selected curve shape in determining the average remaining life. This is the same approach that was used in the PEF rate case and the approach that has been recommended by OPC.

CHAIRMAN ARGENZIANO: Commissioners? Okay.

Then we will move on -- I'm sorry. Okay.

We'll wait for Commissioner Edgar and make sure. Any questions?

COMMISSIONER EDGAR: I'm good. Thank you.

COMMISSIONER ARGENZIANO: That's okay. I wanted to make sure you're good.

COMMISSIONER EDGAR: Thank you very much.

CHAIRMAN ARGENZIANO: Okay. We'll move on to 19C.

MS. LEE: Issue 19C, Commissioners, addresses the appropriate depreciation parameters, that is the remaining life, salvage reserve and resulting depreciation rates for production plant. Staff's recommendations are shown on Table 19C-2, Pages 101 to 120.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Ms. Lee, on this particular issue I believe there's, there's another handout that staff had provided that compares the positions of each of the parties, the, a current approved, the OPC, FIPUG, the company and what staff ultimately recommended I think is this big --

MS. LEE: The monster spreadsheet?

COMMISSIONER SKOP: It's not as big as my sheet I made, but it's something, something similar.

This one right here.

MS. LEE: Correct.

COMMISSIONER SKOP: Okay. All right.

COMMISSIONER ARGENZIANO: Yes. But you need a magnifying glass to read the numbers.

MS. LEE: I apologize, Commissioners.

COMMISSIONER STEVENS: That's a good spreadsheet.

CHAIRMAN ARGENZIANO: There's a lot of stuff on there.

COMMISSIONER SKOP: All right. So, so that just adds to the, more detail to the data that we already have up to Pages 120.

MS. LEE: Correct.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: And I, I want to take a minute on this issue and just go over, if we can -- if can you, I've got the sheet in front of me, but if you could make it clear -- not the monster sheet, the smaller sheet. If we could go over the positions of the parties and then I just have a comment.

In other words, the, staff's recommendation differs by, let's see here, for the combined cycle units -- hold on one second.

MS. LEE: Yes. Yes, madam Chairman.

CHAIRMAN ARGENZIANO: If you could do that.

MS. LEE: FP&L proposed, excuse me, FP&L proposed a 25-year lifespan for combined cycle units. OPC did not really address the combined, the lifespan for combined cycle units, although it did suggest that 30 or 35 years would be reasonable. FIPUG proposed 35 years and the South Florida Hospital proposed 40 years. Staff is recommending 30 years.

And that 30 years is based on testimony that the combined cycle units for FP&L are used mainly in heavy cycling, and the manufacturer information seems to imply that for heavy cycled units a lifespan 25 to 30 years would be appropriate. And --

CHAIRMAN ARGENZIANO: Wait a minute. I read something. I thought the industry standard was 35 years. Are you saying that for heavily -- I may have the issues mixed up and that's why I want to ask.

MS. LEE: Yes, ma'am. According to Witness Hardy, FP&L Witness Hardy, he said that the manufacturer had estimated a design life for combined cycle units of 30 years for baseload and as short as 25 years if they were heavily cycled.

CHAIRMAN ARGENZIANO: And you said 20 years for --

MS. LEE: 25.

CHAIRMAN ARGENZIANO: 25 years. Okay.

MS. LEE: If they are heavily cycled. 30 for baseload.

Now FP&L currently has and they are asking to retain a 25-year lifespan for their combined cycle units, for their new ones. They do have some combined cycle units that have exceeded a 25-year lifespan. Staff thinks that it is time to move incrementally to a longer lifespan. We aren't ready to move ten years, but we think moving the right direction will be going to 30 years. And 30 years was suggested as being appropriate or being reasonable, a reasonable incremental adjustment made by OPC.

CHAIRMAN ARGENZIANO: And that, the numbers you had mentioned were for the combined cycle.

MS. LEE: Correct.

CHAIRMAN ARGENZIANO: The large oil and gas-fueled steam units?

MS. LEE: For the large oil and gas-fired steam units FP&L proposed a 35-year lifespan, OPC proposed a 50-year lifespan, FRF agreed with OPC, and staff recommended 50 years, a 50-year lifespan.

CHAIRMAN ARGENZIANO: And the coal.

MS. LEE: And the coal-fired units, FP&L was recommending 40 years, OPC was at 60 years, FIPUG was at

55 years, FRF agreed with the position of OPC, and staff is recommending a lifespan of 50 years.

CHAIRMAN ARGENZIANO: Thank you.

Members, any, any questions?

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

I guess I, you know, I see the various positions of the parties. I think I would, I would note for the record, you know, FPL has a well-documented, their Power Generation Division has a well-documented track record of excellent operational performance. So, again, I think that there is some discretion. The company obviously best knows how it cycles its units. You know, hindsight and armchair quarterbacking is, you know, out there. Everyone has a difference of opinions.

You know, in Florida they do have different locations, some are more southern than some of the other operators in the northern parts of the state. There could be slight differences in corrosion and, you know, all the salt in the air and such or coastal areas.

I think that from my perspective I'm comfortable with staff's adopting a conservative approach of moving towards a longer life, not necessarily on the combined cycle plant themselves adopting the company -- I mean, the Intervenors' perspective. But, again, departing what the company wanted, adding to it in the direction of the Intervenors, but not really kind of going all the way out there. And certainly, you know, that could be adjusted in any future depreciation case studies. It would have to be done based on operational fleet experience.

MS. LEE: Yes. And, remember, FP&L will be in for a new depreciation study in three years.

COMMISSIONER SKOP: Okay. All right. So, I mean, I think that, you know, it's a step in the right direction. It respects some of the concerns of the Intervenors and those advanced by Public Counsel. But at the end of the day, FPL's Power Generation Group, again, their operational performance in that business segment is excellent, and I think it's best left to them to kind of give their best judgment as addressed, or adjusted by staff as to what the appropriate useful life would be for the combined cycle units. Thank you.

CHAIRMAN ARGENZIANO: And just for clarification, because it can get confusing, what may work in one area geographically may not work in another. So there's not just one set number.

MS. LEE: Absolutely.

CHAIRMAN ARGENZIANO: Okay.

MS. LEE: And that is really why staff -- lifespans are your fundamental building blocks to develop your remaining life, but we really don't like recommending lifespans because they do vary from company to company depending on their unique circumstances.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And I'll just give a quick illustrative example of that. The Lauderdale plant is probably within two nautical miles of the ocean.

CHAIRMAN ARGENZIANO: Salt water.

COMMISSIONER SKOP: Yeah. The Riviera Beach plant is basically a couple of hundred yards from Lake Worth Inlet, Canaveral is pretty close to the ocean. So, again, those operational experience, there was substantial discussion during the evidentiary proceeding that really that shouldn't make a difference. But I think at the end of the day and, you know, and two conflicting opinions, the tie should go to those actually operating their unit and their judgment. And, again, their operational performance of the Power Generating Division at FPL is excellent in my opinion. Thank you.

CHAIRMAN ARGENZIANO: Commissioners, any other comments, questions?

All right. We can --

MS. LEE: Commissioners --

CHAIRMAN ARGENZIANO: Sorry.

MS. LEE: Excuse me. No. I just want to point out one thing, and that is on Table 19C-2 the reserve position that staff is recommending, you will see it noted in the columns as theoretical reserve. I'm not going to talk a lot about this, but what staff has done in 19F and in 19E on the theoretical reserve calculation, we have brought each account's reserve to a theoretical level and calculated the imbalance, the reserve imbalance by account and then netted that to a bottom line. That's what you're going to see in 19E and 19F. By doing that, every account needs to be restated to its theoretical level, and these are the resulting rates using that. Now this is different from what OPC recommended. OPC was not restating the reserves but was amortizing the reserve surplus.

CHAIRMAN ARGENZIANO: Uh-huh.

MS. LEE: And it's my opinion that you don't want to leave the surplus in the rate plus amortize it at the same time. That's almost hitting them twice.

CHAIRMAN ARGENZIANO: Any questions? Okay. Thank you.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And I think that was the point I was trying to make earlier, and correct me, Ms. Lee, if I was wrong, basically what you've reflected is looking at the current existing depreciation deficit and matching that against the calculated surplus to make a net surplus, a net adjusted surplus.

MS. LEE: Correct.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: Okay. Next.

MS. OLLILA: Commissioners, Sue Ollila for Commission staff.

Issue 19D addresses the depreciation parameters for the transmission, distribution and general accounts. Staff's recommendations are in Table 19D-3, which is contained on Pages 143 and 144. Staff is available for questions.

CHAIRMAN ARGENZIANO: Commissioners?

Okay. Staff, I asked the same thing. I believe that in this issue on 19D OPC was the only other, was the only one of the Intervenors to, to add.

MS. OLLILA: That's correct, Chairman.

CHAIRMAN ARGENZIANO: Can we go through the differences, please, between staff's recommendations so that we have a full understanding of the two positions?

MS. OLLILA: Sure. Okay.

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: Could, could they also summarize the differences between what the company proposed?

CHAIRMAN ARGENZIANO: Yes. That's what I mean.

COMMISSIONER KLEMENT: Okay.

CHAIRMAN ARGENZIANO: That's what I meant, the companies, staff's.

COMMISSIONER KLEMENT: And the two.

CHAIRMAN ARGENZIANO: Absolutely. All parties.

MS. OLLILA: Okay. In order to make this simpler, yesterday we provided this sheet, and this will show the, the curve shape in the average service life. And this along with the average age of plant --

COMMISSIONER KLEMENT: I don't know that I have that.

COMMISSIONER SKOP: You have some small print.

MS. OLLILA: Sorry about that.

CHAIRMAN ARGENZIANO: No. No. Not that one. I believe it's this one, Commissioner Klement.

MS. OLLILA: Yes, ma'am.

CHAIRMAN ARGENZIANO: If he doesn't have this, let's make sure we get him a copy. Sometimes it takes a while digging through the pile here. Commissioner Klement.

COMMISSIONER KLEMENT: I can't find it.

CHAIRMAN ARGENZIANO: Okay. Can we get a copy for the Commissioner?

MS. OLLILA: Okay. This spreadsheet goes through the curve in the average service life, and those are the two, two of the three building blocks for the remaining life, which is, which is what you all vote on.

The third piece of what constitutes the remaining life is the average age of the plant, and that's, that's a calculation that FPL did and it's contained in their backup material.

There's also another piece, and that's the net salvage. And it's your pleasure; we can do the remaining life first and then go through the net salvage which is contained on the monster spreadsheet.

CHAIRMAN ARGENZIANO: Okay. That would be great. Thank you.

MS. OLLILA: Okay. The first, the first few accounts, the accounts that begin with three five are transmission accounts. The first account is the easements, 350.2. And the only difference here between -- FPL, OPC and staff all propose the same curve shape. In the average service life FPL proposed 50 years, OPC proposed 95 years, and staff recommended 75 years. Excuse me. Would you like me to briefly explain why staff recommended 75 or --

CHAIRMAN ARGENZIANO: I think on this issue I would because it's significant.

MS. OLLILA: Okay.

CHAIRMAN ARGENZIANO: It's so different. Well, not that staff is so different. I mean, from the -- each, each recommendation, each party's opinion vary.

MS. OLLILA: Well, the, the narrative part of my explanation is contained on Page 125. And what it really boiled down to was that not all of FPL's easements are perpetual. There are some that they, they would like them to be perpetual but they're not. And that was, that was the primary reason -- and I made -- and it is a judgment call, that 75 years -- that 95 years was too long, 50 is too short. 75 seemed to be a reasonable compromise.

CHAIRMAN ARGENZIANO: Thank you.

Commissioners, any, any questions on that? Okay.

MS. OLLILA: Okay. The next account, 352, structures and improvements, there was no proposal from OPC. I reviewed FPL's data and agreed with their proposal.

353 is station equipment, and for this account FPL proposed a curve of R1.5 and a 38-year life, OPC proposed an L1 curve and a 43-year life, and staff's recommendation is the R1.5 curve, but a 40-year life, which is in between the FPL and OPC proposal.

CHAIRMAN ARGENZIANO: Okay. Maybe a better way of doing this is the first one was a keen issue to me. Instead of having staff go through every one of them, are there any particular ones that, that the Commissioners want to go through? I really wanted to hear -- I didn't want to have to put you through that because I did look, review the chart and thought that that was the most, the one that varied the most in numbers, and that I thought was good. So if there are no other questions to that, we don't have to put staff through all that and then we can take it from there. Is that okay? All right. Then thank you. So we won't have you read every one of them. That, that was fine. And if you would continue. Not with this -- the next issue.

MS. OLLILA: Okay. There are also the net salvage recommendations which are contained beginning on

Page 10 of the monster spreadsheet. And if there are any particular ones that you have questions on, if you would like me to go through them quickly. Just, just to give you an idea, OPC provided 14 net salvage recommendations, and I can go through those individually if you like or --

CHAIRMAN ARGENZIANO: Which page are we on in our -- has anybody got the page number of the salvage open? I've got 127 and I'm not finding it.

MS. OLLILA: Well, it's an account-by-account analysis.

CHAIRMAN ARGENZIANO: I'm sorry. On the monster spreadsheet.

MS. OLLILA: Oh, Page 10.

CHAIRMAN ARGENZIANO: But I meant OPC's and FPL's position on -- hold on one second. Let me find it. It would be -- I've got it on 121. I'm sorry. Okay.

MS. OLLILA: Yeah. This is a difficult spreadsheet to go through.

CHAIRMAN ARGENZIANO: I'm going to adjust my reading glasses for the next time.

And you were saying? I'm sorry. I didn't mean to cut you off.

MS. OLLILA: OPC provided net salvage proposals on, for 14 separate accounts.

CHAIRMAN ARGENZIANO: And the --

MS. OLLILA: And, I apologize, I'm just trying to find myself in, in here.

CHAIRMAN ARGENZIANO: We, I think we all are on this one trying to find it.

MS. OLLILA: Okay. Let me just find the first account. Okay. The first account is station equipment on Page 11, and it is actually the first account. The company currently has a net salvage of 5 percent and it proposed a -10 percent, OPC proposed 0 percent, and staff recommends -2 percent.

CHAIRMAN ARGENZIANO: Okay.

MS. OLLILA: And basically after reviewing the data staff believed that the net salvage should be reduced but thought that, that FPL's proposal was, was too drastic and went with a compromise in essence.

CHAIRMAN ARGENZIANO: Okay.

MS. OLLILA: Okay.

CHAIRMAN ARGENZIANO: Members, any -- Commissioners, any, any questions? Commissioner Skop, on any --

COMMISSIONER SKOP: Yes, Madam Chair.

COMMISSIONER ARGENZIANO: You're recognized.

COMMISSIONER SKOP: Thank you, Madam Chair.

If they could just explain that last part again in terms of they thought that the company's position was, was too drastic and they adopted a compromise. Can you elaborate a little bit more on what you just said in the last part of your statement?

MS. OLLILA: Yes, sir. FPL proposed that the net salvage be reduced from a +5 percent to a -10 percent. And the data didn't, didn't in staff's view support that great a reduction in net salvage. The net salvage is decreasing, is becoming more negative. But in an effort to not move drastically and because 15 points is actually a large difference, and mindful of OPC's arguments to reduce it to 0, staff thought -2 percent. Could you go with, with 0 percent? Absolutely. Could you go with -4? Yes. It's a judgment call at this point.

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: Commissioners?

MS. OLLILA: The next, the next account is 354, towers and fixtures.

CHAIRMAN ARGENZIANO: Let me ask the Commissioners if it's their will to go through every account?

COMMISSIONER STEVENS: No, ma'am.

COMMISSIONER EDGAR: I don't need it.

CHAIRMAN ARGENZIANO: Okay. Then, then let's not do that, I think. If there's something specifically -- Commissioner Skop?

COMMISSIONER SKOP: Madam Chair, I think you mentioned we were going to take a break at 11:00. If I might be able to get a moment before there, I'd like to maybe just review the depreciation schedules beforehand.

CHAIRMAN ARGENZIANO: Okay. That would be a good idea. Let's just take, let's -- it's -- how about we come back at five after. Give everybody time. We're on recess.

(Recess taken.)

Okay. We are back. And any discussion needs to go outside the room so we can hear.

Okay. Where did we leave off? Commissioner Skop, did you, did you have something that you wanted to, to do or say?

COMMISSIONER SKOP: No, Madam Chair. I was just, I was just looking at the issues, and I guess staff could proceed on in the block that we're --

COMMISSIONER ARGENZIANO: Okay. Is everybody comfortable at this point?

Okay. Staff, if you would just proceed.

MS. OLLILA: Okay. What I did during the break was I looked at the net salvage recommendations more closely to perhaps give you a better idea of, of where staff's recommendations came out. And essentially in some accounts staff agreed with OPC and recommended OPC's net salvage recommendation. In other accounts staff did not, and in those cases either recommended a compromise or agreed with FPL's position.

CHAIRMAN ARGENZIANO: Okay.

MS. OLLILA: There was one account where FPL recommended a decrease in net salvage, and OPC's recommendation was, yes, there should be a little decrease in net salvage. Staff didn't agree that there should be any decrease in net salvage at this point, so staff kept it the same.

COMMISSIONER ARGENZIANO: Where it was. Okay.

MS. OLLILA: So there, there is a range, which doesn't help, but.

CHAIRMAN ARGENZIANO: Okay. Okay. Commissioners?

Okay. I think we can move on.

MS. OLLILA: Okay. The other part of 19D includes accounts that are amortizable, and these are accounts that are amortized under Commission rules. A good example would be office equipment.

There are other accounts for which FPL proposed the same type of amortization, and these accounts had their amortizations originally approved in the 2005 stipulation. There was no testimony on this issue from anybody really, and staff recommended that these amortizations continue.

CHAIRMAN ARGENZIANO: So let me ask you, when you mentioned the 2005 stipulation, you're saying there are certain ones. Could you tell us the certain ones that were stipulated on in 2005?

MS. OLLILA: Yes, ma'am. These are, excuse me, these are on Page 141, Tables 19D-1 and 19D-2.

CHAIRMAN ARGENZIANO: Okay.

MS. OLLILA: And actually 19D-2 is probably the perfect example of stipulation, of amortizations that were stipulated to in 2005 for which staff is recommending that they continue.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: And am I correct that that's on Page 141 on that 19D-2?

MS. OLLILA: Yes, sir.

COMMISSIONER SKOP: Okay. Great. Thank you.

MS. OLLILA: And that is really 19D in a nutshell, a large nutshell.

COMMISSIONER ARGENZIANO: Okay. Any questions? Members? Commissioners. I'm sorry. I keep calling you members. You are members I guess. We're all members, but you're Commissioners. Seeing no questions, let's -- we had to -- we were going to hold 19F. So we're going to move then to, if there are no questions, to 19G. 19E. I'm sorry. No. Yes. E.

MS. LEE: 19E, Commissioners, is the calculation of the theoretical reserve and determination of the total reserve imbalance, which in the case of FP&L is a reserve surplus.

On Table 19-1, actually it should be 19E-1, on Page 146 the imbalance is shown for each function with a total reserve imbalance of $1.2 billion.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Just a question to, to Ms. Lee. With respect to the theoretical depreciation surplus, I know that there was a lot of testimony that was taken during the evidentiary hearing, and OPC's position as indicated, the position of the parties was that their depreciation or the depreciation study advocated by their witness indicated a depreciation, a theoretical depreciation reserve or surplus -- excuse me, let me get my technology -- theoretical surplus of $2.7 billion. And then I know that the company's position was substantially lower than that. And I think the staff, based on the record evidence, concluded as shown on Page 146 that the total reserve imbalance was approximately $1.2 billion. Is that correct?

MS. OLLILA: That is correct.

COMMISSIONER SKOP: Okay. Now, you know, I'm trying from my perspective to reconcile, you know, what the appropriate numbers should be based on the, the record evidence before the Commission. I had thought during the record evidence and in reading the transcript that OPC or at least one of the parties somewhat conceded that the reserve might be somewhat less than 2.7 billion. Can, can staff elaborate on that a little bit just to clear that issue up?

MS. LEE: The calculation of the theoretical reserve imbalance or the theoretical reserve period is based on what the party recommended or proposed as far as average service life, average remaining life, net salvage. To the extent that either, any of those three parameters differed, so will the calculation of the theoretical reserve.

As you already recognized, in production plant, for example, combined cycle, staff recommended lifespans that were different from OPC. Also, net salvage, the net salvage values weren't necessarily always in line with OPC's proposals either in production or in transmission, distribution. All of those factors weigh in in your, in your calculation, your actual calculation of the theoretical reserve. That's why you have the differences in numbers.

COMMISSIONER SKOP: Okay. And so staff, based on its analysis, feels that pursuant to the Table 1. -- or 19.1 on Page 146 feels that the appropriate reserve imbalance is approximately $1.2 billion; is that correct?

MS. LEE: Correct. Based on the parameters, the depreciation parameters staff is recommending in the previous issues. Yes.

COMMISSIONER SKOP: Okay. And if -- you know, again, there's -- when you have different studies, obviously there's reasonable uncertainty and the company has its position, staff has its position, OPC and Intervenors have their position. But if, for instance, the number that staff has arrived at is lower than it should be, ultimately that will be corrected within the next depreciation study, which would show an even greater surplus.

MS. LEE: Absolutely.

COMMISSIONER SKOP: Okay. So there is a mechanism for truing that up as we go forward.

MS. LEE: Absolutely.

COMMISSIONER SKOP: And I think that you previously stated the next depreciation study is going to be in three years?

MS. LEE: Three years. It's four years from the last filed study, which was in 2009.

COMMISSIONER SKOP: Okay. And then, and then also too with the adjustment that staff has made to this number offset by the depreciation deficit, the net number of the theoretical depreciation reserve surplus is just somewhat over $800 million total; is that correct?

MS. LEE: That is correct.

COMMISSIONER SKOP: Okay. All right. Thank you.

CHAIRMAN ARGENZIANO: Commissioners?

COMMISSIONER STEVENS: Thank you, Commissioner. That's right on point.

CHAIRMAN ARGENZIANO: All right. Let me see if I have any questions.

Okay. We can -- well, then we have to -- we're going to take 19F separately. So we want to go, we'll need a --

COMMISSIONER SKOP: I'll make a motion.

CHAIRMAN ARGENZIANO: -- a motion. Okay.

COMMISSIONER SKOP: Thank you, Madam Chair.

If there are no further questions, I'd move to adopt the staff recommendation on Issues 19A, 19B, 19C, 19D and 19E.

COMMISSIONER STEVENS: Second.

COMMISSIONER EDGAR: Okay. Any discussion or questions or debate? Hearing none, all those in favor, say aye.

(Simultaneous vote.)

Opposed, same sign.

I'm sorry?

MS. OLLILA: Excuse me, Commissioners. 19G is the implementation date.

CHAIRMAN ARGENZIANO: We forgot. All right. We'll do that, we're going do that separately. Okay.

MS. OLLILA: Sorry about that.

COMMISSIONER EDGAR: All those opposed, same sign. I think it didn't go that way. So hearing none, the motion is approved.

And now we're on 19G.

MS. OLLILA: Sue Ollila again for staff.

19G is the proposed implementation date for the depreciation rates. Staff recommends January 1st, 2010, which is the same date recommended by FPL and OPC.

COMMISSIONER ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Madam Chair, I'd move to approve staff recommendation on Issue 19G.

COMMISSIONER STEVENS: Second.

COMMISSIONER ARGENZIANO: All those in favor, say aye.

(Simultaneous vote.)

Opposed, same sign. Show the motion passed. That was a smooth way of saying we didn't forget 19G.

Okay. All right. Let's just keep trucking on to, I guess, Issue 40. I'm sorry. I've got the wrong -- sorry? No, it is 40. Okay. 19G to 40. I'm right.

COMMISSIONER STEVENS: Yes, ma'am.

CHAIRMAN ARGENZIANO: Okay. Thank you.

MR. HIGGINS: Good morning, Commissioners. Devlin Higgins with Commission staff.

Item Number 40 concerns FPL's proposal that its current annual fossil dismantlement accrual be revised. Staff recommends the Commission revise the company's current annual fossil dismantlement accrual. The specific amount of the annual accrual is addressed in Issue 42.

CHAIRMAN ARGENZIANO: Commissioners, do you need a minute or are we okay?

Okay. We can move to 41.

MR. HIGGINS: Item 41 concerns FPL's proposed fossil dismantlement reserve reallocations. Staff recommends the Commission approve the reserve reallocations presented in Table 41-1 of the staff recommendation.

CHAIRMAN ARGENZIANO: Commissioners? Everybody is okay?

Okay. We'll go to 42.

MR. SPRINGER: Good morning, Commissioners, I'm Michael Springer on behalf of Commission staff.

Issue 42 addresses the appropriate annual provision for dismantlement. Staff recommends $18,468,387 as in Table 42-2.

CHAIRMAN ARGENZIANO: Commissioners?

Okay. Let's move to Issue 43.

MR. HIGGINS: Item Number 43 concerns the assumptions made in FPL's fossil dismantlement study. Staff is recommending that the assumptions made in FPL's 2008 fossil dismantlement study with regards to site restoration are reasonable.

CHAIRMAN ARGENZIANO: Okay. We'll move on to 44.

MR. HIGGINS: Item Number 44 concerns whether the Commission should direct FPL to consider alternative demolition approaches in its future dismantlement studies. As it has in the past, staff recommends FPL consider alternative demolition approaches in future studies.

CHAIRMAN ARGENZIANO: One second. I think I had a note on this one. No, I did not. So if anybody else does -- okay. There we go. Do we have a motion on this block?

COMMISSIONER SKOP: Madam Chair, I have a, before making a motion I would respectfully --

CHAIRMAN ARGENZIANO: Oh, okay.

COMMISSIONER SKOP: -- ask to go back to Issue 42 for a point of clarification.

CHAIRMAN ARGENZIANO: 42. Let's go back to 42. That may be the one I had a question on.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Madam Chair.

On Issue 42, in the first sentence of the staff recommendation it discusses the appropriate system annual provision for dismantlement and the number includes solar, and then it discusses the retail annual accrual amount for 2010 excluding solar. Can staff just explain why solar is included in the first number and not the second?

MR. SPRINGER: Okay. That's a good question. Solar -- we look at fossil dismantlement every four years, and really solar fits into, it's more closely related than looking at it as a nuclear plant. So it's not really fossil. I know that's probably why the issue doesn't actually mention fossil in it, but we, the company when they filed their, their study, they put solar plants with the fossil plants. And so we looked at them. And as you're right, the solar plants, the actually amounts for the solar plants for the dismantlement will be recovered through the Environmental Cost Recovery Clause. But we include them here since we did look at them in the study as well.

COMMISSIONER SKOP: Okay. And I think that part of that may be at least one of the three solar plants is actually integrated in with their fossil plant, I believe it's the Martin plant that has the, using that to provide additional heat input into the steam generator, where the others -- I mean, the steam turbine, whereas the other two solar projects are just standalone solar PVs. So that, that might -- I don't know if that had any influence on staff's thinking and analysis, but I know one of the actual larger solar arrays, the parabolic mirror one, is actually kind of integrated into a combined cycle plant. So I don't know if that made a difference.

MR. SPRINGER: I believe that we, we treated the Martin solar as, separate as solar.

COMMISSIONER SKOP: Okay.

MR. SPRINGER: And so we, we treated it through the Environmental Cost Recovery Clause.

COMMISSIONER SKOP: Okay. All right. Thank you.

MR. SPRINGER: Thank you.

CHAIRMAN ARGENZIANO: Okay. We're ready for a motion on that block.

COMMISSIONER SKOP: Madam Chair, I'd move to approve staff recommendations on Issues 40, 41, 42, 43 and 44.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? Hearing none, all in favor, say aye.

(Simultaneous vote.)

Opposed, same sign. Show the motion passing.

And let's move to rate base, Issue 46.

MS. GARDNER: Commissioners, I'm Betty Gardner of Commission staff.

Issue 46, should the net overrecovery/underrecovery of fuel, capacity, conservation and Environmental Cost Recovery Clause expenses be included in the calculation of working capital allowance for FP&L? Staff recommends an increase of 101,971,000 for overrecovery of fuel and conservation costs in the calculations.

CHAIRMAN ARGENZIANO: Commissioners? No? Did you say yes or no?

COMMISSIONER STEVENS: No questions.

CHAIRMAN ARGENZIANO: Okay. Let's move on to 47. Thank you.

MR. CLEMENCE: Good morning, Commissioners. Walter Clemence with Commission staff.

In Issue 47 staff is recommending that the costs for AMI have been properly included in the rate case. FPL plans to install smart meters for all of its over 4 million residential and small commercial customers. AMI is expected to provide cost savings to the company and may provide customers with information on how to better manage their energy usage in the future.

Further, staff is recommending that FPL should provide the Commission with a yearly progress report on the implementation of AMI in the energy, energy conservation cost recovery docket.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Just with respect to the implementation of FPL's AMI initiative or advanced metering infrastructure, replacing the meters with smart meters, there will be subsequent benefits to the ratepayers or benefits to the ratepayers in subsequent years by making that change to the extent that one would hope to see some productivity improvements and not having to read meters and being able to read meters remotely. Is that staff's understanding.

MR. CLEMENCE: Definitely. FPL is expecting to obviously reduce meter readers. These can be read remotely. They're also expecting increased productivity within the call center. The call center employees will have better information, will be able to more quickly respond to customer inquiries. They're also expecting other reductions as well.

COMMISSIONER SKOP: Okay. But those expected benefits are, are in the future and are not included or incoporated in the rate case before us today; is that correct?

MR. CLEMENCE: There are some savings included in the 2010 test year. There are greater savings in the future.

COMMISSIONER SKOP: In the out years. And those will be recaptured in the, in the next rate case, the next proceeding.

MR. CLEMENCE: Yes, sir.

COMMISSIONER SKOP: All right. Great. Thank you.

CHAIRMAN ARGENZIANO: Okay. Issue 50.

MS. GARDNER: Issue 50, are FP&L's requested levels of plant-in-service appropriate? Staff recommends a reduction of $1,251,217,394. Table, I have Table 50-1 on Page 198 that reflects a breakdown of that reduction.

CHAIRMAN ARGENZIANO: Commissioners? We're looking at the table. Okay.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Just on Table 50-1 it shows that the, all costs for aviation have been removed from, from plant-in-service for 2010 test year; is that correct?

MS. GARDNER: Yes.

COMMISSIONER SKOP: Okay.

MR. SLEMKEWICZ: John Slemkewicz with staff.

I would just like to point out that this will tend to be a fallout issue because it does include the impacts of a few other issues that you will vote on later.

CHAIRMAN ARGENZIANO: Later. Uh-huh. Okay.

Anything else, Commissioner Skop?

COMMISSIONER SKOP: No. I believe that was my only question. I know staff noted on Page 198 also that this item has some relation to 1980 with the capital recovery schedules for the retirements of the, or near-term retirements of Cape Canaveral, Riviera, St. Lucie and Turkey Point, you know, issues in the AMI project. So I think that -- I just wanted to make sure that I fully understood the numbers. Thank you.

CHAIRMAN ARGENZIANO: Okay. Issue 51. Oh, I'm sorry. That's right. That's one of our last. Thank you. Let me -- I didn't use my usual marker here.

Okay. Then we're going to Issue 52.

MS. GARDNER: Issue 52, is FP&L's proposed adjustment to construction work in progress for the Florida EnergySecure line, the gas pipeline, appropriate? Staff recommends that the adjustment is not appropriate and should not be reported to the Commission on the monthly earnings surveillance report.

CHAIRMAN ARGENZIANO: Any questions on 52? Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And with respect to the staff recommendation, is the recommendation founded on the premise that the Commission denied the determination of need for the pipeline or is there additional rationale that the staff provided?

MS. GARDNER: That's the rationale we used.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: Thank you. 55, Issue 55.

MS. GARDNER: Issue 55, are FP&L's requested levels of construction work in progress appropriate? Staff recommends a reduction of $20,715,000. And I have a table on Page 208 that reflects the breakdown, which also goes back to other issues that will be covered.

CHAIRMAN ARGENZIANO: Any questions?

Okay. Let's move on to 56. Thank you.

MS. GARDNER: Are FP&L's requested levels of property held for future use appropriate? Staff recommends a reduction of 4,200,000.

CHAIRMAN ARGENZIANO: Why? I thought I would just throw that in there. Any questions? I'm teasing you. Any questions, Commissioner Klement?

COMMISSIONER KLEMENT: No.

COMMISSIONER ARGENZIANO: Okay. Hearing none, let's move on to 58.

MS. GARDNER: 58, is FP&L's proposed accrual of nuclear end of life materials and supplies and last core nuclear fuel appropriate? Staff recommends that the current accrual is appropriate.

Secondly, staff recommends that the additional expenses requested by the company in the amount of $6 million for last core and 137,000 for materials and supplies should be removed from this rate base proceeding.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

With respect to the staff recommendation, I believe staff is recommending in addition to the first part that they remove the additional expense in, for the 2010 and 2011 test years in the amount of $6 million for last core and I think 137 for end of life materials. They're going to be removed from this base rate proceeding. But I think staff is also recommending that they be addressed when the company files its 2010 nuclear decommissioning study, and at that point they would be addressed in terms of what was appropriate.

MS. GARDNER: That is correct. That's the most appropriate docket to address, address these issues.

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: Okay. Thank you.

59.

MS. GARDNER: Should, should nuclear fuel be capitalized and included in rate base due to the dissolution of FPL Fuels, Incorporated? Staff recommends that the nuclear fuel assets should be capitalized and included in rate base for the projected test year.

CHAIRMAN ARGENZIANO: Okay. Thank you. I hear no questions.

Issue 60.

COMMISSIONER STEVENS: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: On Issue 60, the, the numbers that I have in my worksheet under the FPL section, the 370 and the 404 match the staff's recommendation. Is that a typo?

COMMISSIONER ARGENZIANO: Staff.

MS. GARDNER: That's correct.

COMMISSIONER STEVENS: Okay.

COMMISSIONER ARGENZIANO: So it's correct that it's a typo?

MS. GARDNER: No. It's correct that the 370,962 that is included in the FP&L position is the same as staff based upon the reduction, the recommendation that staff is recommending, the $3,771,000 reduction.

COMMISSIONER STEVENS: So should the yes under FPL be no?

MS. GARDNER: Okay. Basically for the

2010 projected --

COMMISSIONER STEVENS: Maybe I misunderstand it.

MS. GARDNER: Okay. For the 2010 projected test year they're stating that the appropriate amount is 374,733,000. Staff is saying, no, that amount is not appropriate.

COMMISSIONER STEVENS: Okay.

MS. GARDNER: But is recommending the reduction of 3,771,000 from that amount to bring us to that 370,962,000.

COMMISSIONER STEVENS: Okay.

MR. SLEMKEWICZ: And in their brief Florida Power & Light agreed with that adjustment. That's why their number and our number, our adjusted number are the same.

COMMISSIONER STEVENS: So FPL and staff agree here.

MR. SLEMKEWICZ: That's correct.

COMMISSIONER STEVENS: Okay. That's, that's just what I wanted to make sure. Thank you.

COMMISSIONER ARGENZIANO: Thank you.

Issue 61.

MS. GARDNER: Should the unamortized balance of the FP&L Glades Power Park be included in rate base?

Staff recommends that the unamortized balance for Glades Power Park in the amount of $34.1 million be included in rate base and amortized over five years.

CHAIRMAN ARGENZIANO: I don't see any questions. Thank you.

63.

MS. GARDNER: 62 is a fallout issue.

CHAIRMAN ARGENZIANO: Did we just do 62?

COMMISSIONER KLEMENT: I thought we did 61.

COMMISSIONER STEVENS: 61.

CHAIRMAN ARGENZIANO: I'm sorry.

MS. GARDNER: I just did 61.

CHAIRMAN ARGENZIANO: We're on 62. Thank you. I'm jumping ahead. On Issue 62, a fallout issue, and we'll just go to 63, which is also a fallout issue.

MS. GARDNER: Is also a fallout issue?

CHAIRMAN ARGENZIANO: Okay. So we need a motion, and understanding that we're taking up Item 51, Issue 51 later.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. If there are no further questions from my colleagues, I'd respectfully move to approve the staff recommendation for Issues 46, 47, 50, 52, 55, 56, 58, 59, 60, 61, 62 and 63, noting that the Commission has denied the subsequent test year for 2011 and it'll make that portion of those staff recommendations moot.

CHAIRMAN ARGENZIANO: Do I have a second?

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion or debate?

Hearing none, all in favor --

COMMISSIONER STEVENS: Is --

CHAIRMAN ARGENZIANO: I'm sorry. Commissioner Stevens.

COMMISSIONER STEVENS: Is Item 50 also a fallout from what we do later?

MR. DEVLIN: Commissioner, I was going to interject on that point. Good catch.

COMMISSIONER STEVENS: Okay. Thank you.

MR. DEVLIN: I believe Issue 50 should have been labeled a fallout issue as well, which means subject to the change.

COMMISSIONER STEVENS: Thank you.

CHAIRMAN ARGENZIANO: Very good catch.

COMMISSIONER SKOP: Thank you, Commissioner Stevens.

COMMISSIONER STEVENS: Yes, sir.

COMMISSIONER SKOP: I'll reflect that to be embodied in my motion.

CHAIRMAN ARGENZIANO: All those in favor, aye.

(Simultaneous vote.)

All those opposed, same sign. Show it adopted.

And we are now on cost of capital on Issue 64, which is on Page 228.

Would you mind taking that for a moment? I'll be right back.

COMMISSIONER SKOP: All right. If, if staff is ready to proceed, we'll start with Issue 64, accumulated deferred taxes under the cost of capital section.

MS. SALNOVA: Good morning, Commissioners. Natalia Salnova, Commission staff.

Issue 64 addresses the appropriate amount of accumulated deferred taxes to include in the capital structure for 2010 projected test year. Based on staff recommendations, the appropriate amount of accumulated deferred income taxes is $2,885,287,055 for the projected 2010 test year. The appropriate amount of accumulated deferred income taxes may change based on decisions in other issues.

COMMISSIONER SKOP: Thank you. Any questions from my colleagues on Issue 64?

Hearing none, if staff could please introduce

Issue 66.

MS. SALNOVA: Issue 66 addresses the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the 2010 projected test year. Staff recommends 5,416,335 investment tax credits at a cost rate 8.64 percent for the projected 2010 test year as shown on Schedule 2A. Again, the appropriate amount of ITCs may change based on decisions in other issues.

COMMISSIONER STEVENS: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Stevens. Excuse me.

COMMISSIONER STEVENS: If, if I can ask, help me understand the difference between staff's recommendation and the OPC request under A, 2010, of 63 million.

MS. SALNOVA: The difference results from --

COMMISSIONER STEVENS: Did that include the aviation expenses, the OPC number?

MS. SALNOVA: No, it does not.

COMMISSIONER STEVENS: Okay. I'm sorry. Go ahead.

MS. SALNOVA: The way staff computed the ITC cost rate is through -- okay. I apologize. ITC's weighted, weighted average cost rate is 8.64 percent, and it was computed by computed weighted average of common stock, preferred stock and long-term debt, and the difference here is that OPC suggests to include short-term debt as well.

COMMISSIONER STEVENS: Okay. That's the difference, the inclusion of short-term debt.

MS. SALNOVA: That's the main difference.

COMMISSIONER STEVENS: Okay.

MS. SALNOVA: And the cost of equity is slightly different for OPC as well. They're proposing 9.5 percent and staff proposes 10.75 percent.

COMMISSIONER STEVENS: Why is it inappropriate to include the short-term debt?

MS. SALNOVA: The reason why is because ITCs are related to long-term items, and that's the reason why.

COMMISSIONER STEVENS: Okay. Thank you.

Thank you, Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

I may have an additional follow-up question on Issue 66, but at this point we can move forward to Issue 67.

CHAIRMAN ARGENZIANO: Okay. You want to go forward before you ask your question?

COMMISSIONER SKOP: Yes.

CHAIRMAN ARGENZIANO: Okay. Let's go to 67, unless there's any other questions on 66.

Okay. 67.

MR. SPRINGER: Good morning, Commissioners. Issue 67 addresses the appropriate cost rate for short-term debt. Staff recommends 2.11 percent for 2010.

CHAIRMAN ARGENZIANO: Questions?

COMMISSIONER STEVENS: No, ma'am.

COMMISSIONER ARGENZIANO: Okay. You want to go back to -- no? Oh, okay. I thought you wanted to -- okay. I get it.

Let's go to 68, please.

MR. SPRINGER: Issue 68 addresses the appropriate cost rate for long-term debt. Staff recommends 5.49 percent for 2010.

CHAIRMAN ARGENZIANO: Questions? Hearing none, okay.

69.

MR. SPRINGER: Issue 69 addresses if rate base and capital structure have been reconciled appropriately. Staff believes that FPL did reconcile the rate base and capital structure over all sources of capital as appropriate in this instance.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Just a, a quick question. Up at the top of Page 247 it's stated that FPL, FPL did not furnish the information requested by staff concerning adjustments by plant to the balances of the ADITs and the ITCs, the tax credits and the accumulated. What, what impact could this have had on this issue?

MR. SPRINGER: Really what, what staff likes to do is get specific adjustments from, from the company. And in this instance, the company's accounting functions, they did not trace their sources. They believed that the sources are fungible, which means, you know, that they don't have a specific class of capital that they look at to, to do these adjustments. So that's, that's where staff was requesting this. But they just did not, they don't look at it that way, so they don't provide it that way. And that's the reason why we're looking at opening up a generic docket and addressing this on not only FPL's behalf but on all the IOUs that use this because this, this came up recently in a TECO motion for reconsideration.

COMMISSIONER STEVENS: Right. Right. Thank you.

Thank you, Madam Chair.

CHAIRMAN ARGENZIANO: Could, could staff clarify for me the concern of customer deposits and how that is used to reconcile the company's -- how does that -- the problem I think that a few of the parties had with that, I was reading through again, and I just don't have a clear picture of why that shouldn't matter or should matter.

MR. SPRINGER: Customer deposits like deferred taxes and ITCs are, actually deferred taxes and customer deposits, they're considered low-cost sources of capital. And when you do an overall sources of capital, it actually reduces those balances, so it reduces the benefit to the customer. Normally we just want specific adjustments for those different accounts, and we were originally -- and even in TECO's original filing we had done it over investor sources.

Because of normalization violations, when the IRS -- when you change the way that you look at that, way of looking at the -- accumulate the depreciation of investment, of income taxes, excuse me, there could be a way that the customer would not get the full benefit of it. So what we looked at is there again, excuse me, there again we wanted to open up a generic docket to review this because of the fact that not only does it affect FPL, it affects all the major IOUs. And we want to come with, just not having one little issue here addressing this issue. We want to go ahead and actually have all parties and input to understand the best possible way to deal with this on a going forward basis. And, and as you can see on the table on Page 249, we calculated pro rata adjustments over all sources and then we calculated pro rata adjustments over investor sources only like we had done previously in other dockets, and the difference really wasn't a whole lot.

If you look at the handout that staff provided for FPL ROE scenarios, one basis point equals, based on staff's recommendation, one basis point equals $1,284,076. So that, that would be the amount that each basis point would equal in revenue requirements. And so that's what we really were looking at as seeing that this really wasn't a large amount of difference and that this was appropriate in this instance.

COMMISSIONER ARGENZIANO: So then you're saying that staff is using the customer deposits, the ADIT and the ITC to reduce the pro rata adjustments to reconcile the company's capitalization to race bates -- to base rates, base rates?

MR. SPRINGER: They are being reconciled to rate base. Each one of those categories, the customer deposits, they're being reduced based on being reconciled to the rate base, but they are being represented in the capital structure.

MR. MAUREY: If I may make one, one clarification. When Mr. Springer referenced the one basis point change being $1.2 million, that's one basis point change in ROE. We're talking about one basis point change here in this schedule on 249 in the overall cost of capital. The impact is going to be much less than the 1.2 million referenced here for ROE.

MR. SPRINGER: I apologize.

MR. MAUREY: And the point that he was making was that the risk of a normalization violation, losing the ability for the company to recognize deferred taxes is significant. And we want to pursue this in a, in a generic proceeding where all companies and all parties have equal access to the, to the discussion, but we didn't want to risk losing ADITs going forward over what was not, not a very material amount.

CHAIRMAN ARGENZIANO: When reading the other parties' opposition in doing that -- I don't know how to ask the question right. The OPC and I guess FIPUG took a position, as well as the hospital association, that seems to be the opposite of the outcome that you're saying, you're telling me. And I'd like to know your basis for either not agreeing with them or what you think that their concern does in the final outcome.

MR. MAUREY: Sure. The -- first of all, we did make specific adjustments to ADITs and ITCs and then made only the incremental pro rata adjustment over all sources. So when we removed -- and most of those pro rata sources that are removed are for adjustments to rate base related to CWIP, earning AFUDC, they will all earn the same overall cost and amounts being recovered through cost recovery clauses. Both those categories of costs, when they are recovered eventually they will earn a blended cost of capital that includes ITCs, deferred taxes, customer deposits. In order to keep in balance you have to remove them from the capital structure in the same manner that they earn a return elsewhere in the equation.

And so it's in this manner -- while it appears to disagree with the position of some of the parties, it is consistent when you carry it through where the Environmental Cost Recovery Clause items, fuel items, other items that go through the clauses, as well as CWIP, earning AFUDC, they will all earn the same overall cost of capital.

CHAIRMAN ARGENZIANO: And the argument on the tax, potential violation of the Internal Revenue tax normalization rules, is that a valid one?

MR. MAUREY: Yes.

CHAIRMAN ARGENZIANO: Okay. Any other questions?

COMMISSIONER STEVENS: No, ma'am. I think you hit on the most important thing, the IRS and the normalization rules.

COMMISSIONER ARGENZIANO: Well, according to the IRS I think it is. They come and get you. Okay. Any other questions? Okay. Let's move on.

MR. MAUREY: Commissioners, Issue 70 asks whether FPL appropriately described the 59.6 percent equity ratio reflected in its original MFR filing as an adjusted 55.8 percent equity ratio on the basis of imputed debt associated with PPAs.

It's staff recommendation that FPL has appropriately described. As we discuss in the body of this issue, there are a number of requirements. The financial statements filed in accordance with generally accepted accounting principles or GAAP require certain adjustments. Financial statements filed with this Commission for ratemaking purposes, this Commission requires certain adjustments. They're not the same. So the same capitalization can be reported in two different manners. And based on GAAP accounting, it's approximately 55.6 percent, on S&P or Standard & Poor's adjusted basis it's approximately 55.8 percent. And for, on a Commissioner adjusted basis it's 59, as we'll discuss in the next issue, 71, it's 59.1 percent.

CHAIRMAN ARGENZIANO: Members, I think I'm going to want to vote on this issue separately, so we might want to take it up now if there's any other questions or -- Commissioner Skop.

COMMISSIONER SKOP: I've got one direct line of questioning on Issue 70.

COMMISSIONER ARGENZIANO: You're recognized.

COMMISSIONER SKOP: And then a -- thank you, Madam Chair.

Mr. Maurey, I guess OPC's position on this issue tends to address the imputation of, or debt equity adjustment associated with power purchase agreements. Can you basically speak to that S&P methodology and illustrate how the staff recommendation either aligns or does not agree with OPC's position?

MR. MAUREY: Yes. When Standard & Poor's and other rating agencies review a company's financial position, they will look at off balance sheet obligations such as purchased power agreements and the fixed obligation that, associated with those agreements. They will impute a certain amount of debt into the capital structure and impute a certain amount of interest expense in the income statement. They will recalculate the company's ratios for their own analytical purposes, come up with adjusted ratios for purposes of assessing the credit quality and ultimately assigning a credit rating.

Separate from that, the GAAP requirements are that the company file its book amounts. These purchased power agreements by definition off balance sheet are not part of their book capitalization. So on an SEC basis, Securities and Exchange company (sic.), when they file with those or their annual reports to shareholders, they will not reflect these imputed debt in the actual balance sheet. It'll be in the footnotes, but it will not be in the actual balance sheet or income statement.

And then finally, regulatory Commissions such as this require certain adjustments to the capitalization to rec, normally to recognize items that are removed from rate base that are recovered outside of base rates. For example, storm recovery bonds. On a GAAP basis they're required to be included in the financial statements. They're an obligation, they're on the company's balance sheet. But SEC or, I'm sorry, Standard & Poor's, because those storm recovery bonds are nonrecourse to the company, they will remove them from the balance sheet or from the capital structure.

And finally, on a Commission-adjusted basis, because those storm recovery bonds are recovered through a separate line item on the bill, they're not, they shouldn't be reflected in base rates, they also have to be removed from the capital structure. And so that's why you can look on Page 253 and you can see three different equity ratios. They're all projected equity ratios for 2010, but because of the different requirements and adjustments of GAAP basis, S&P and Commission, they'll be slightly different.

And staff's recommendation actually is consistent with all three. We're recommending that you -- that 59.6, that was the number that was reflected in the company's original filing. And if you look at a report from Standard & Poor's, you will see that they calculate an adjusted equity ratio of 55.8 percent. And if you looked at the company's 10K report it files with the SEC, it will have something close to 55.6 percent.

COMMISSIONER SKOP: Okay. So in summary on Issue 70, basically they've, FPL's accurately reported the 59.6 equity ratio, but then the adjusted equity ratio reflects the debt obligation associated with the power purchase agreements. And we're not really imputing that. That's just adjusted for reporting purposes; is that correct.

MR. MAUREY: That's a good question. Let me clarify. We were not -- there's no imputed equity in this filing, and we're not really recognizing any imputed debt either. This is the actual amount of equity in the company. But because the Commission requires the storm bonds to be removed from the capital structure, they're recovered separate and apart from base rates, they cannot remain in the capital structure, by operation of math that equity ratio increases from 56 percent to 59 percent.

COMMISSIONER SKOP: Okay. Great. Thank you.

CHAIRMAN ARGENZIANO: Is that, is that because there was, that FPL did not specifically adjust equity to recognize for imputed debt? Am I --

MR. MAUREY: They did not. No. They -- the company's argument is that because rating agencies view purchased power agreements in a certain manner, that they impute, the rating agencies impute debt, that they need to keep an equity ratio in a certain range to compensate for that. They did not impute any equity in their filing.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you.

On follow-up, Mr. Maurey, you have been

speaking -- it has been a long morning, so maybe I'm missing something, but you speak to the securitization of storm financing, and I'm not really sure -- in reading the staff recommendation it talks extensively about the power purchase agreements, but can you just help me through the process on how the storm securitization affects Issue 70.

MR. MAUREY: Okay. When a company has two choices for generation, it can either build the capacity or it can enter into purchase power agreements. When it builds that capacity it will finance it with a mix of debt and equity. When it purchases that capacity through long-term contracts, it agrees to a fixed obligation over a long period of time. And in the view of the rating agencies that is a debt-like obligation. It is not a mix of debt and equity as the company would engage if it were to build the capacity itself, but rather a long-term fixed debt-like obligation. And because of that, the rating agencies impute debt and impute interest in the company's ratios when evaluating the company's financial position.

COMMISSIONER SKOP: Okay. So in a constructive regulatory environment as we have here in Florida, because we approve long-term power purchase agreements and that basically those costs are recovered annually, there is little or no risk in denial of recovery of prudently incurred costs for purchased power, is that correct?

MR. MAUREY: That has been the case.

COMMISSIONER SKOP: Okay. And that has been the constructive practice that this Commission has followed historically?

MR. MAUREY: Yes.

COMMISSIONER SKOP: Okay. The part I was missing there, and maybe it was semantics or a slip of words, but you talked about storm securitization being tied into this issue. And then somehow maybe I missed something, but I thought we were talking PPAs and then you jumped to storm securitization.

MR. MAUREY: Well, I apologize for that misunderstanding. The reason I mentioned the storm bonds is because if you look at the table on Page 253 on GAAP on S&P and FPSC they all make certain adjustments, and the reason that the FPSC adjusted basis of 59.6 -- Standard and Poor's backs out those storm recovery bonds, and the Commission backs out the storm recovery bonds but for different reasons. Well, actually it is the same reason, they are nonrecourse to the company. They are going to be recovered in this case through a separate line item charge on the customer's bill.

You are absolutely correct, though, it is a separate argument. The securitization bonds has nothing to do with purchased power agreements. When I was discussing that, I was trying to explain why these ratios are different even though they all report the 2010 equity ratio.

COMMISSIONER SKOP: And I figured that out. I guess that is the Footnote 88 on Page 253 where the statement on the GAAP basis FPL's capitalization will include storm recovery bonds to finance, yadda, yadda. There is a brief explanation there. So thank you for clarifying that point.

My other question on this specific issue as it relates back to Issue 68 for the cost rate of long-term debt, and my question is this: Given FPL's high equity ratio and strong financial position, what would you expect FPL's cost -- or would you expect FPL's cost of long-term debt to increase incrementally if it went to the capital markets to finance the capital projects that have already approved by this Commission?

MR. MAUREY: Well, the markets will demand the rate that -- they will assign a rating to this company and they will demand a certain rate notably based on the outcome of this case. At a 59 percent -- well, that is 59 percent on a commission-adjusted basis, but as far as the investment community is concerned, as far as Standard and Poor's is concerned it is about 56 percent. That is still a high equity ratio over the range of equity ratios, and the company as well as its customers have benefited from that position of financial strength. This company was able to issue long-term debt at favorable terms.

COMMISSIONER SKOP: Okay. And on a forward-going basis certainly they will be able to access the capital markets to finance capital projects, it's just a matter of will there be an incremental increase into the long-term borrowing rate should they incur substantial amounts of debt for the projects.

MR. MAUREY: That's correct.

COMMISSIONER SKOP: Is that fair? So, I mean, do you have any comfort level that it will be 50 to 100 basis points incremental, I mean, is that fair, ballpark, reasonable?

MR. MAUREY: Well, the long-term average before the disruption in the credit markets in 2008 between incremental levels, say between A+ and A, or BBB+ and BBB, those increments may have been ten basis points between those. After the events of the fall of 2008, those spreads expanded, in some cases, dramatically. Now the markets have returned to some degree of normalcy. Those spreads have contracted. I think a 50 to 100 basis point spread is a worst-case scenario.

COMMISSIONER SKOP: Okay. So basically if -- in answering my question, I think what you are saying is that given FPL's strong -- I mean, high equity -- excuse me. Given FPL's high equity ratio and relatively strong financial position, that it should be able to have no problem going to the capital markets to borrow for the capital projects that this Commission has already approved.

MR. MAUREY: It will continue to have access to the capital markets. The one variable will be at what price.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: If I may ask a couple of questions. I remember some of the testimony, and I'm reading over it again, I think it was Witness Woolridge who had indicated that if there wasn't a capitalization strategy that had an appropriate balance of equity and debt in the capital structure that could -- could make rates unnecessarily higher. Is that true?

MR. MAUREY: If you look at a component in isolation, generally speaking because the equity layer is the highest cost component, the higher the equity ratio the hire the cost of capital in isolation. But we are setting rates on the overall cost of capital, and in this particular case because its position of financial strength it has been able to borrow money at lower rates than companies with weaker or thinner equity layers. And we talk about that a little bit in Issue 71.

Not to jump too far ahead, but on Page 261 we discuss how the goal of the appropriate equity ratio is to minimize the overall cost of capital. And in this case, staff itself is recommending an overall cost of capital of 7 percent. That's almost 130 basis points below Tampa Electric's overall cost of capital, and it is 88 basis points below the cost of capital that was approved on Monday for PEF. So even at that level of equity layer this company still has a lower cost of capital, and that's what will directly impact customer rates.

CHAIRMAN ARGENZIANO: Didn't TECO -- you mentioned TECO, but didn't TECO recognize imputed debt?

MR. MAUREY: This Commission did not.

CHAIRMAN ARGENZIANO: Okay. TECO --

MR. MAUREY: Well, they proposed it, but the Commission didn't approve it.

CHAIRMAN ARGENZIANO: Okay. That's what I recall.

One other question in regards to Witness Pollock's testimony that the equity ratio if it was approaching 60 percent would have FPL -- FPL would be one of the least leveraged regulated electric utilities in the nation. Is that also correct and what does that really mean?

MR. MAUREY: On the margin. The equity ratio -- when we get to talk about ROE later, the companies that are behind the range that staff is going to recommend, those equity ratios varied from a low of 42.5 to a high of 66 and averaged 54. The bulk of them were between 50 and 60 percent. So, yes, equity ratios above 60 percent are definitely at the high end of the scale.

One thing staff tried to balance here is that while it is a 59 percent equity ratio for Commission purposes, it's still 56 percent from the investment community's perspective. And when you look at the cost of capital, the overall cost of capital, and the equity ratio as a percentage of total capital at 47 percent, 47 percent is consistent with the relative equity ratio that was approved for PEF on Monday and for Tampa Electric last March. They all have a comparable equity ratio as a percentage of total capital.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

I know Mr. Maurey had jumped ahead to Page 261, which is Issue 71. But if I could on Page 260 -- at the bottom of Page 260 just illustrate, I think, a point that I think Mr. Maurey made in response to my prior line of questioning. At the last sentence of that page, staff notes in the case of FPL, however, due to its strong financial position, it was able to sell 30-year bonds at rates under 6 percent during 2008 and 2009 despite significant disruption in the credit markets.

So I think, Mr. Maurey, would that be accurate to reflect on FPL's strong financial position and its ability to reach out to the capital markets to finance capital expenditures?

MR. MAUREY: Yes.

COMMISSIONER SKOP: Thank you.

MR. MAUREY: And just to add to that point, because of its ability to do that that is why in this issue we are recommending no adjustment to the equity ratio.

CHAIRMAN ARGENZIANO: And the argument or the testimony that indicated that if excessive -- their term -- equity ratio is approved for FPL, it could result in inappropriate cross-subsidization through the cost of capital. Could you reflect a little bit more or speak to that a little bit more for me.

MR. MAUREY: Sure. And that was a serious issue, particularly in the telecommunications industry, where we were seeing wide spreads between the equity ratios maintained at the operating company or the utility and the parent company. That's not the case here.

When you look at a lot of the debt that is used to finance FPL Group's nonregulated activities, that is project specific debt nonrecourse to the parent company. They also have a number of hybrid instruments that when the time comes they will convert to equity. So if you look at the two capitalizations on an apples-to-apples basis from the rating agencies' perspective, the investment communities' perspective, yes, FPL has a higher equity ratio than the company maintains on a consolidated basis and then what it uses to finance its nonregulated activities, but that spread is not nearly as significant or pronounced as a pure book comparison would indicate.

CHAIRMAN ARGENZIANO: And I have got to ask this question because it's there and I remember it and I read it again. OPC's argument was that there was a pretend equity, and we may have touched base on this, but I need some more information on this. Because what they contending is that they seek to add -- FPL seeks to add an increment of pretend equity that they don't have on their books, which means that FPL's actual equity ratio according to OPC is so extravagantly high that it asks the Commission to pretend its actual equity ratio is lower than it really is. Is there a pretend equity?

MR. MAUREY: No, ma'am, not for this company.

CHAIRMAN ARGENZIANO: Why? Can you tell me why there is or isn't? I mean, what if -- what I'm trying to get at is how OPC got to that. And I'm reading and I remember their argument, and I just need staff's -- a little bit more on staff's --

MR. MAUREY: The Office of Public Counsel's argument here, while it is relevant in the TECO case and in the Progress case, it's misplaced here. They have extended it to this company, and it's --

CHAIRMAN ARGENZIANO: And I guess I can't figure out why it's misplaced here. But that's okay. I think -- unless you want to elaborate on that.

MR. MAUREY: Well, I would say that, you know, FPL is asking that its actual equity layer be recognized. They have not made the -- if you looked at the TECO books and you looked at the PEF books, there was a specific adjustment to impute equity into those capital structures. No such adjustment was made in this case. There is no pretend, or phantom, or any other way you want to describe it, there is no imputed equity here.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. Maybe I can add some clarification to a point, because I thought that you raised an excellent point in your opening comment as we discussed these issues. You noted that at least from the evidence and your reading of the record that FPL was one of the lowest leveraged utilities in the nation, and that speaks directly to its high equity ratio. And I think that is a good thing in light of a company that has a legitimate strong -- I mean, a high equity ratio and is in a strong financial position is able to then go out and leverage itself or access the capital markets at attractive rates to borrow additional money to fund its capital projects that will be coming down the line.

So having that strong equity ratio now is not necessarily a bad thing because it puts them in an excellent position, contrary to some of the representations that have been made to the public, of being able to go out and access the capital markets and leverage that equity ratio a little bit to borrow for the capital projects that this Commission will approve the cost-recovery of in future years.

So I think that that strong equity ratio in light of what they have on their plate, in light of what the Commission has already approved for projects under need determinations puts them in an excellent position to be able to go borrow, float bonds, incur long-term debt to finance the cost of these projects and not necessarily have to rely on internal generated cash flow -- and I will get to that when we get into the return on equity issue about my impression of this case as a whole.

But, you know, when you were financing a project you can use internal funds from operations, internal cash flow, or you can go borrow debt. And in this case they have an excellent -- they are in a favorable position with a high equity ratio to go reach into capital markets at attractive rates to borrow long-term debt or float bonds. Thank you.

CHAIRMAN ARGENZIANO: Thank you.

Staff, can you answer another question? Does FPL -- does the Commission assure recovery of the PPA costs through the recovery clause?

MR. MAUREY: The capacity component and the fuel component, yes, are recovered through costs.

CHAIRMAN ARGENZIANO: And are PPAs considered risky?

MR. MAUREY: We're speaking strictly on the financial side. There's some operational risk that the provider won't follow through, but speaking strictly to the financial aspect, as I touched on earlier, the rating agencies treat these as long-term fixed obligations of the companies. Even though commissions have cost-recovery mechanisms available, the rating agencies still look at these as a future obligation of the utility. They have to pay these contracts over time.

CHAIRMAN ARGENZIANO: I understand.

MR. MAUREY: Now recovery, they get recovery, that's true.

CHAIRMAN ARGENZIANO: So if they get their recovery at -- I believe was it's Moody's who thinks PPAs are somewhat positive?

MR. MAUREY: Yes. I mean, there is some risk mitigation from purchase power agreements. They allow the company to have a generation mix that it might not otherwise be able to achieve through a self-build. It also shifts a lot of the construction risk, operation risk, and some other risks onto the provider and away from the company.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you.

To Commissioner Argenziano's point, which I thought was a good one, I tried to kind of flesh that out also earlier. You know, irrespective of what the rating agencies choose to do, S&P has a discrete formula, 25 percent; Moody's just kind of takes it into consideration and views it as a positive. So not all the credit rating agencies do the same thing. But at least in Florida, again, with our constructive regulatory environment we approve long-term purchased power agreements up front so that the companies already have a strong foothold to provide a legal basis for recovery. And on top of that we have our annual fuel and capacity clause proceeding which we approve those costs annually. So it's almost like they have realtime cost-recovery for costs as they occur. I mean, there is some lag there, but, again, that is trued up with interest and such.

But when you put our constructive regulatory environment as we have here in Florida into the mix and our cost-recovery mechanisms through the clauses that comprise 61 percent, approximately, of a customer's bill, I think that the risk associated with the PPA becomes negligible and it is really hard to make that imputation argument that the rating agencies would like to make. And I think that's why in other cases -- and, again, I don't want to get into that -- this Commission has consistently denied that adjustment.

MR. MAUREY: Yes, it has denied imputed equity, and I do want to make one other point. This Issue 70 talks about from a purchased power obligation, but the level of equity when we talk about it in 71, that is just one aspect of the company's explanation for why it needs an equity ratio at a higher end of the range.

The intervenors seem to have attached to that one argument and really have not spent any time with the other explanations that the company provided that it needs to have a position of financial strength to weather challenges, volatile prices in natural gas, storm cost-recovery, disruptions in the credit markets, that it needs to be in a position of financial strength to go through those. That's separate and apart from recovery. They have to be strong to spend the money first and then get recovery later. That's where we get to where staff does not recommend an adjustment in the equity ratio.

Issue 70 deals strictly with this purchased power argument. And as far as that goes, staff is recommending that the company has accurately described it. The intervenors have shaded it a certain way, but there is no imputed equity here. There is nothing to remove as was the case in Tampa Electric and the PEF cases.

CHAIRMAN ARGENZIANO: Are you indicating that the intervenors and their shading of it a different way are not correct at all, that there is not -- some of the questions that I asked, which I'm glad I got some answers that I did not have a clear picture of, and that helped, but it seems that higher rates could come from this, if this is not capitalized, I guess, or the capitalization is not done appropriately. The balance that I was talking about before. And I'm just not sure when we say that -- of course we want the company to be financially healthy, and I think they are. And I hear you telling me I think that they have to be healthier, is that it?

MR. MAUREY: No, no. Let me clarify, then. And, first, let me touch on -- I didn't mean to cast aspersions on any party.

CHAIRMAN ARGENZIANO: No, I didn't mean it that way. I'm just trying to really get down to if you are telling me that you don't think the intervenors have any -- any of their comments could come to fruition, I guess.

MR. MAUREY: Well, I can be specific --

CHAIRMAN ARGENZIANO: Or merit.

MR. MAUREY: -- the position from FIPUG. The Commission should reject FPL's request to impute 949 million of debt. That didn't happen. There is nothing to pull back out. And the same thing with Office of Public Counsel. I mean, I have a great deal of respect for both of those parties; on this particular issue, we don't agree.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you. I think what Mr. Maurey -- and correct me if I'm wrong, and then I have a follow-up question. I think Mr. Maurey stated in a response that in other instances for other companies the argument advanced for Public Counsel might have been appropriate, but in this case FPL already reflects the adjustment that needs to be made, is that --

MR. MAUREY: Well, I guess I should be clear. No adjustment has been made. The management of the company has made the decision that the rating agencies look at these contracts, evaluate them in a certain manner, therefore, we need to have a higher equity ratio because we have those contracts. If an IOU is out there and had zero purchased power, the rating agencies would not be imputing any debt for them, and their ratio could be the same.

But if a company does have purchased power agreements and they receive more than 10 percent of their capacity through those contracts, the rating agencies believe that that is a fixed obligation of the company and they reflect it in their evaluation of those companies.

COMMISSIONER SKOP: Okay. But let's put that in a little bit further perspective not only from a utility's perspective, but also on a state regulatory perspective. If you have a utility that relies heavily on purchased power agreements in lieu of building its own generation, then arguably it would be more apt or one would be more apt to consider an imputation adjustment based on the power purchase agreement because there is more of it, to some degree.

MR. MAUREY: Well, staff has taken the position that that is a management call. If the rating agency is telling a company that it needs more equity because of its purchased power, then the company needs to invest that hard equity in the utility. That was our point.

COMMISSIONER EDGAR: And, Commissioner Skop, if you would let Commissioner Stevens jump in for a moment. Thank you.

COMMISSIONER STEVENS: To build on Commissioner Skop, and to see if I understand this correctly, aren't the purchased power agreements -- don't the companies use these as a hedge?

MR. MAUREY: Well, for short-term purchased power that is accurate. We are talking, though, about long-term purchased power agreements here that are actually displacing capacity. These are contracts -- long-term contracts.

COMMISSIONER STEVENS: Thank you, Madam Chair.

COMMISSIONER EDGAR: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

The issue that I think I was trying to raise that if you have a utility that relied in large part of meeting its base load need by entering into purchased power agreements, that might be a different situation that warranted taking a closer look at whether imputation was appropriate or not. Or, for instance, if you had a different state with a different regulatory environment which was not as constructive as that of which we have here in Florida, which did not allow the annual recovery of purchased power costs, then that might also be a sufficient basis to consider an imputation adjustment. But here you almost get realtime cost-recovery for a long-term purchased power agreement that the Commission has approved, and by virtue of approving it in the first place almost guarantees you are going to get full recovery. It's just we do it annually.

So, again, I find there to be very little risk in the manner in which our utilities enter into power purchase agreements with the exception of one I recently dissented on to the extent that, you know, they are afforded an adequate recovery mechanism, and it is almost -- you know, our clause works well in Florida. Some people criticize it, but for fuel and capacity it avoids the utility having stranded costs.

But the point that I really wanted to make in relation to the equity ratio and why I think staff's position is correct and that OPC's argument is making some points, but I think those points have already been -- I think they are stating points and the points are somewhat moot because that has already been done.

My point is where I think staff is right is that the higher equity ratio that FPL has reflects its strong financial position, and there's interplay between equity ratio and return on equity to the extent that the higher equity ratio the more earnings you are going to get from your return on equity. It is directly proportional.

But when you are in a situation where you have a strong equity ratio -- and, again, the ROE will be determined in a separate issue -- this's not necessarily a bad thing. It doesn't steer the discussion. You can have a high equity ratio and a low ROE versus a low equity ratio and a high ROE and the low equity ratio with the high ROE might generate more funds for the company than a high equity ratio and a low ROE. Is that true, Andrew?

MR. MAUREY: Yes.

COMMISSIONER SKOP: Okay. So, again, it is sometimes getting too hung up on one of the details when they are all inextricably interrelated. It kind of gives the wrong thing. Just like we often get too -- you know, ROE is not an end all be all. But what I'm trying to say is that the high equity ratio that FPL has is not a bad thing because it's indicative of its strong financial strength which will be necessary to be able to further leverage itself.

It has the ability to leverage itself. It has the ability that other utilities have in the state to go out and access the capital markets, to float bonds, to float long-term debt, and it can do so at will. I mean, it is not hamstrung in any way. It has -- you know, all it needs to do is pick up the phone and say we need a couple of million dollars, and I best it has got investment bankers running to it.

So that's indicative of the financial strength that FPL has, and that is reflected in its high equity ratio and that is not a necessarily bad thing. When we get to ROE we will have a little different discussion.

So, thank you, Madam Chair.

CHAIRMAN ARGENZIANO: Thank you. And I understand that my concern is just that it is just too high, and I think I'm just concerned about it. I understand and I appreciate some of the explanations because they have helped me in certain areas, especially with the imputed debt, but I'm just a little bit concerned that the proportion of equity is just too high and that will cause rates to be higher than they need to be. So I am concerned with that, and other than expressing that at this point -- Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And I agree with you. You know, if you have a high equity ratio with a high ROE, certainly consumers could be in a situation as you correctly alluded to of being in the position where they are paying more. They are intertwined. I mean, again, as I think Andrew and I have discussed many times, if you have a high equity ratio and a low ROE or a middle ROE versus --

MR. MAUREY: A fair ROE.

COMMISSIONER SKOP: That's a better way to say it. If you have a high equity ratio and a fair ROE -- that is an excellent way to put it -- versus a low equity ratio and an extraordinary ROE, then, you know, you could be in a situation where the low equity ratio and extraordinary ROE allows the -- makes the ratepayers pay more than they need to. Andrew, is that factually accurate?

MR. MAUREY: Yes.

CHAIRMAN ARGENZIANO: Yes, and we will determine later, I guess, what the Commission thinks is a fair ROE. Okay. Thank you very much. I'm done on the discussion. Any other --

COMMISSIONER EDGAR: Madam Chair, just for myself -- not at this time, but as we do go into the next few issues, I do think, as Commissioner Skop has said, in my mind they are very much interrelated, so I may have some questions on this as we move forward, but I'm ready to move on now, if you are.

CHAIRMAN ARGENZIANO: Okay. Everybody good? All right. Let's move on to Issue 71.

MR. MAUREY: I did touch briefly on 71. In this issue the Commission will decide the equity ratio to be used for ratemaking purposes in this case. And as I mentioned earlier, the staff's recommendation is for an equity ratio of 47 percent as a percentage of total capital, and 59.1 percent as a percentage of investor capital.

Now, when rates are set it is going to be based on that 47 percent. But when the investment community looks at this, they are looking at the investor relationship of investor sources. That is how Value Line reports it, that is how a lot of the outside firms look at it. We are one of the few commissions, however -- just like one of the few commissions that have merger approval authority, we are one of the very few commissions that include deferred taxes, investment tax credits, and customer deposits in the capital structure.

Most commissions use those as a deduction to rate base and apply a relatively higher cost of capital to a lower rate case. We apply a lower cost of capital to a higher rate base. In theory you get to the same place. But why I bring that up is for comparability. Oftentimes when you look at -- you say the 59 percent is pretty high, but if you look at the 47 percent as a percentage of total capital, that is reflective of a lot of our utilities here, and that is lower than the -- that's at the lower end of the range I mentioned earlier between 42 and 66.

Now, in this particular issue the parties recommended equity ratios ranging from as low as 50 to as high as 54 as a percentage of investor capital. The Commission should consider for purposes of this case, for the reasons we discussed, the need for the company to be financially strong to meet challenges, spikes in fuel prices, uncertain hurricane seasons, uncertainty in the markets. Coming at position of financial strength serves both the company and its customers, and we recommend no adjustment to the company's equity ratio.

CHAIRMAN ARGENZIANO: Okay. Move on to 73.

MR. SPRINGER: Issue 73 addresses the appropriate capital structure for FPL for the purpose of setting rates in this docket. This is basically somewhat of a fallout issue based on decisions rendered in previous issues.

CHAIRMAN ARGENZIANO: Commissioners. This a fallout issue. Move on to -- oh, the big one -- 80. Okay. Now we are on return on equity.

And you know what, we were going to go to lunch at 1:00, but I think we should start -- it will be the will of the Commission, but I think maybe we should -- I don't know where the pizza is in the delivery, but maybe we should think about starting this issue without breaking it up after lunch.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Could staff at least introduce the issue, and then I just have a brief comment.

CHAIRMAN ARGENZIANO: Okay. Why don't we do that, introduce it, and we can go back and forth, and then I think we will just break for lunch rather than break it all up.

COMMISSIONER SKOP: I just have a brief comment after they introduce it.

CHAIRMAN ARGENZIANO: Okay. Very good.

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: Staff.

MR. MAUREY: Thank you.

Issue 80 concerns the authorized return on equity for purposes of this proceeding. And based on the evidence in the record, the indicated return could be between 7.6 percent and 13.9 percent. That represents the -- those returns represent the range of returns indicated by witnesses' respective models.

If you want to look at just the returns actually recommended by certain witnesses, you have a low of 9.5 from the Office of Public Counsel's witness, you have a high of 12.5 from the company's witness, and you have 10.4 from the witness on behalf of South Florida Hospital Association. So you have a range of 9.5 to 12.5 based on the witnesses' actual recommendations. And then, finally, based on staff's review of the testimony, the evidence in the record, we believe the record more strongly supports an ROE for FPL in the range of 10.3 to 11.5 percent, recognizing that the midpoint of that range is 10.9.

The average equity ratio for the companies behind those ROEs is 54 percent to the extent that a company has a little higher equity ratio than that, whether it's 56 percent on investor sources basis, or 59 on a commission adjusted basis, we shaded the ROE a little lower than the midpoint, and staff is recommending 10.75 with a range of plus or minus 100 basis points.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And I'll make this brief, and then if it's your desire, we can break for lunch.

I guess ROE is probably the best place to, I guess, make this comment, but at least with respect to my impression of the rate case before us, based on the record evidence, is that this rate case seems to be more about improving cash flow from operations and discretionary expenditures rather than substance. And I think that that's clearly illustrated by the substantial adjustments that the staff has made in the staff recommendation from the company's request, and the company requested approximately $1.2 billion. The staff's recommended revenue requirement is about $357 million. So staff in its recommendations before the Commission has made any cuts has substantially cut the majority of that out of the rate case.

I think that in large part the company's request is driven by its requested ROE of 12.5. And, again, staff has also made a recommendation of 10.75. And I'm not necessarily sure -- I don't necessarily think that the staff recommended ROE is appropriate in this case.

So I will leave it at that. But, again, my gut impression of this case based on the record evidence is that it is more about improving cash flow from operations and discretionary expenditures rather than substance. Thank you.

CHAIRMAN ARGENZIANO: Okay. With that said, how about we break for lunch and come back -- how about we say 12:40. I know that's kind of nit-picking. Do you think we could make it? Staff, will you have enough time? I'm sorry, 1:40. We were going to eat really quick.

COMMISSIONER EDGAR: I was going to say, I don't that's enough time for me, Madam Chair.

CHAIRMAN ARGENZIANO: How about 1:40. Okay. We are on recess.

(Lunch recess.)

CHAIRMAN ARGENZIANO: We are on Issue 80. And just -- let me do one thing. On Issue 70, I would ask that we vote independently on that issue. Pull that out separate. Thank you.

COMMISSIONER EDGAR: Madam Chairman.

CHAIRMAN ARGENZIANO: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you. Along those same lines, and I realize that we are still in discussion, we are not voting yet.

CHAIRMAN ARGENZIANO: Uh-huh.

COMMISSIONER EDGAR: I would like to ask if we could, when we get to voting, take up Issue 80 prior to taking up Issue 70. I would like to put that out for consideration.

CHAIRMAN ARGENZIANO: Absolutely. I thought about that, too, and I'm pretty sure that on Issue 80 we would want to vote that out of the block, too, if that is okay with everybody. All right.

Thank you. And we are good to go, Staff.

MR. MAUREY: Good afternoon. Before the break, staff introduced Issue 80, authorized return on equity. Just briefly, the parties recommended a range of 9.5 percent to 12.5 percent. And for various reasons, staff believes the range is between 10.3 percent and 11.5 percent, and recommends that 10.75 percent with a range of plus or minus 100 basis points be approved for the purpose of this proceeding.

We're available for questions.

CHAIRMAN ARGENZIANO: Okay.

Commissioners, now we are on the ROE. I'll have one question and it does pertain to Item 70. Am I correct that if we adopt the staff recommendation on 70, would that effectively -- let me see how I can put it. ROE would be applied to a higher capital component, therefore, it allows the -- I guess, the company, or permits the company to, quote, borrow money at twice the rate that they otherwise could. Do you follow what I'm saying?

MR. MAUREY: No.

CHAIRMAN ARGENZIANO: You don't follow what I'm saying?

MR. MAUREY: Not the twice the rate.

CHAIRMAN ARGENZIANO: Well, in other words -- okay, let me see if I can rephrase it. Are there any questions? There has got to be some discussion. Who wants to go?

COMMISSIONER KLEMENT: Madam Chair, I'll open up.

CHAIRMAN ARGENZIANO: Commissioner Klement, and I'll rephrase my question.

COMMISSIONER KLEMENT: My comments don't have anything to do with your question. Is it all right to change it?

CHAIRMAN ARGENZIANO: Of course.

COMMISSIONER KLEMENT: Staff, you, again, believe that the record supports an ROE in the range of 10.3 to 11.5 for FPL, which is precisely the same range you recommended for Progress on the case we considered on Monday. Is this rate more of an industry average that you are considering than tied to one particular company?

MR. MAUREY: No, Commissioner, it's tied to these two records specifically, and it is not an industry average, not from our perspective. There is an exhibit in the record that shows authorized ROEs during 2009, and you can see that there was an average authorized ROE of 10.5. That would be an industry average. But our recommended range of 10.3 to 11.5 represents our view of these two specific records.

Now, why the range is the same in both cases is because the records in these two cases on this point are fairly similar. In fact, we have some of the same witnesses in both cases on this issue.

COMMISSIONER KLEMENT: Yes, I noticed.

MR. MAUREY: But they are specific to these two records.

COMMISSIONER KLEMENT: Well, I would be willing to, for purposes of discussion, jump out with something of a proposal, if not specific, but I think what Andrew just said, it gets at where we are now with this company and in these times. I want to reiterate some of what I said yesterday that the times that we are in affect both companies, the one we dealt with Monday and FPL today. So I don't think we are going to see the growth rates that we have seen in the past and perhaps not even for a decade based on some projections that I have read. So we know that our customers in this market are hurting as they are throughout the state. And I am, again, conscious of the need to provide an equitable and fair rate of return for FPL, but I would just recommend for starting out that we consider the most prudent rate of return on equity.

CHAIRMAN ARGENZIANO: And, I'm sorry, Commissioner Klement, did you make a suggestion as to what that was?

COMMISSIONER KLEMENT: I did not name a figure.

CHAIRMAN ARGENZIANO: Okay. Do we want to wait; do we want to have more discussion?

COMMISSIONER KLEMENT: For purposes of discussion, perhaps I would suggest 10.7.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Madam Chair, yesterday -- excuse me, Monday, we looked at an industry average, I believe, that showed 8.75 up to 11-1/2 for utility companies with the 8.75 being very low because it was a -- was it a small issue, was it a single issue?

MR. MAUREY: That particular company that got the 8.75, that's a transmission and distribution only company.

COMMISSIONER STEVENS: Okay. And that's why that was so low, correct?

MR. MAUREY: I believe so, yes.

COMMISSIONER STEVENS: Okay. But the industry averages other than that number went within that range.

MR. MAUREY: Correct.

COMMISSIONER STEVENS: Okay. I'm sorry, Commissioner Klement, what was the number that you had?

COMMISSIONER KLEMENT: 10.7.

COMMISSIONER STEVENS: 10.7?

COMMISSIONER KLEMENT: Right.

CHAIRMAN ARGENZIANO: And staff is at 10.75.

COMMISSIONER STEVENS: I'm much lower than that, and I will lay that out there.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop.

COMMISSIONER SKOP: I'll defer.

CHAIRMAN ARGENZIANO: To who?

COMMISSIONER SKOP: Whoever.

CHAIRMAN ARGENZIANO: Well, I thought we would have a good discussion on this, and we should.

COMMISSIONER SKOP: We will.

CHAIRMAN ARGENZIANO: If everybody defers, we're never going to discuss anything.

COMMISSIONER STEVENS: I would be -- I'm in the range of 9 to 9-1/2 percent because of the current economic climate and the level of risk. With the information that staff has reviewed with us, that's the range I'm in.

CHAIRMAN ARGENZIANO: Okay. Commissioner Edgar, do you want to --

COMMISSIONER EDGAR: Thank you, Madam Chair.

I am still thinking, so let me say that to be perfectly clear. I have not made up my mind, and I just wanted to say that. And I am looking forward to more discussion, and as we did on Monday, as we kind of grappled, I think, with it individually and then collectively to come to some consensus, I'm hoping that we'll have the ability to do that today.

I'm trying to think through, and let me kind of -- I'm going to look kind of to Andrew, but I don't know that I have a specific question yet. But if I say something that maybe you can just chime in, or talk back to me, that's fine. But I'm trying to think through, again, the relationship for this company under these facts with, of course, the background of the other discussions and other decisions that we have made as a Commission prior to this. But the relationship between Issue 80, the return on equity, and the discussion that we had before lunch on Issue 70.

So that's the basis, and so if you could maybe speak to me a little bit about that again. I know we have talked about it many times, but, I guess one more might help me. And if, as Commissioner Stevens has suggested, or has put out there for discussion, there were to be -- for discussion purposes, if there were to be a decision by this Commission to go significantly lower on ROE than the staff recommendation, how would that -- under those circumstances, would that perhaps change the thinking of the staff recommendation then on Issue 70?

CHAIRMAN ARGENZIANO: Commissioner Edgar, I think I need more on that, too. Because as we mentioned before, Issue 70 is directly -- you know, they are going to --

COMMISSIONER SKOP: Intertwined.

CHAIRMAN ARGENZIANO: Intertwined is a good word. And perhaps when we get to a number, and we have a couple of numbers out there, we can see what that means at that ROE that was suggested by the two Commissioners. What that means in the end. That would give us a better idea, or whatever we come to later. And maybe the other thing, also, is that you go over the positions of the parties as to why they feel -- maybe we can get a better discussion going to feel -- what is the basis for each individual recommendation because we need to -- that's what we are voting on, the basis of the -- I mean, merits I guess of the recommendations, or if we have our own. So if we can go to Commissioner Edgar's comments and questions, maybe we can get the ball rolling there.

MR. MAUREY: Fair enough. Let me make one clarification. Issue 70 is more of a descriptive issue. It is Issue 71 where staff recommends an equity ratio and that would drive the ROE discussions. So with that clarification, in Issue 71 we recommend that the company's existing equity layer be approved, and we say at the end of Issue 71 -- I believe it's Page 261 where we talk about the equity ratio and ROE being inextricably related. And our ROE of 10.75 in Issue 80 is predicated on the Commission approval of the company's -- of the equity layer that we recommend in Issue 71.

Now, generally, the equity ratio determines the financial risk, the financial risk determines the ROE, and we go in that order as opposed to setting the ROE and backing into an equity ratio. I realize that mathematically you could go in either direction, but theoretically it's generally equity ratio, you determine the level of financial risk, and then you determine an ROE. So what we were --

CHAIRMAN ARGENZIANO: I think what you're hearing from the Commissioners, though, is that they would like to hear realistically, meaning timely today instead of theoretically, maybe what some of those ramifications would be as we mentioned before.

And to that point, 71 should be separate. I would like 70 and 71 and 80, I believe, and if there are any others to be voted on separately.

MR. MAUREY: We have no disagreement with that. What I guess I was proposing that the order flow that 70, 71, and then 80 in that order, not that they be taken up in a block.

CHAIRMAN ARGENZIANO: Right.

MR. MAUREY: Now, the sensitivity you were asking about, in our recommendation we came to 10.7 based on a certain level of financial risk, in this case an equity ratio on a GAAP basis of 56 percent and an FPSC adjusted basis of 59. And we recommend an ROE of 10.75. And as we say here in the final sentence on Page 261, if the equity ratio is higher or lower, the level of financial risk of the utility will be higher or lower, and our recommended ROE could change commensurately.

So just to add another -- for further explanation, the range of 10.3 to 11.5, the midpoint of that happens to be 10.9, and the average equity ratio for the group of companies that is behind that range of 10.3 to 11.5 happens to be 54. So if the equity ratio were lower than 54, then we would tend to shade towards the higher end of the ROE range to recognize that higher financial risk. If the equity ratio is above 54, we would shade to the lower end of the ROE range to recognize that lower financial risk. That's where we came about.

And so if company or if the Commission were contemplating adjusting the equity ratio in 71, and I doubt seriously you're talking about raising it, if you are talking about lowering it, we would recommend a higher ROE to compensate for that shift in risk. Now, that is just our suggestion. You certainly have a wide discretion in this regard. Now --

CHAIRMAN ARGENZIANO: One second.

Commissioner Skop, did you have a question?

COMMISSIONER SKOP: Thank you, Madam Chair.

And I just wanted to touch upon this, because, again, I think that it's an important aspect to discuss risk. And, again, I appreciate Mr. Maurey's analysis and have the utmost respect for it. I think he is one the finest regulatory analysts in this subject matter in the country. There are some times where I do disagree, though, and I know that I think the preference of the Commission is to take a critical look at where we are at on ROE, and then look at the equity ratio, at least what I'm hearing from my colleagues. I'm comfortable doing it the historic way or the way my colleagues would.

But the point that I'm trying to differentiate here is the staff recommended ROE is a midpoint of 10.75 plus or minus 100 basis points based on the staff recommended equity ratio, is that correct?

MR. MAUREY: That's correct.

COMMISSIONER SKOP: Okay. What staff had recommended, and it may be in Issue 80, and it's tied in with the GBRA, or the generation base rate adjustment, that if the Commission were to accept GBRA, which the Commission denied, then staff would recommend an appropriate ROE midpoint of 10.25.

MR. MAUREY: That's correct.

COMMISSIONER SKOP: Okay. So looking at this holistically in a risk perspective, I'm struggling to understand the basis point differential between the staff recommendation at the recommended equity ratio and then what staff would have recommended a lower ROE under GBRA, and here is why. As previously discussed earlier, the Commission -- when a generation asset comes through, the Commission grants a determination of need. That gives the company Commission approval to go build the asset to be placed in public service for the public benefit.

Now, under GBRA the company -- when that generating asset comes into service under GBRA, the company gets basically an automatic increase the first year, system revenue requirement. Conversely, in the absence of GBRA, the company either comes in for a limited proceeding or a rate case to include the cost of the generating assets into rate base. Either way, this Commission has never denied prudently incurred -- reasonably and prudently incurred costs for placing new generating assets in service to the best of my knowledge. So to me there is not a whole lot of risk either way.

If you do it GBRA or you do it the hard way, GBRA is really more of an administrative convenience and then you look at things later. But I don't really see a 50 basis point risk differential based on GBRA alone. So that's what I'm trying to understand. I know there is a sensitivity analysis. Certainly a higher equity ratio, less risk, less ROE; a lower equity ratio, more perceived risk, higher ROE. But I'm trying to incorporate risk into the discussion of how staff came in at a 50 basis point lower number if the Commission would have adopted GBRA, because I don't understand that that GBRA adjustment should drive, you know, 50 basis points. Because the recovery is the same. It is, again, automatic. It's the same point in time it is just one is automatic and one takes a little longer, but you should get the same result under our constructive regulatory environment that we have here.

MR. MAUREY: You're correct, we do disagree on that point. I believe that the GBRA mechanism does lower the company's risk because they get an automatic base rate increase without having to come before the Commission, without having to go through all of the hearings and tremendous production of documents. It's a very labor intensive process.

Also, if they are able to implement multiple GBRA base rate increases over time, then they may not come in for quite some time, and that was staff's view of why that mechanism lowered the company's risk.

Another factor is --

COMMISSIONER SKOP: That's fine. I'll concede that point. I think your last point was an excellent one that addresses my concern in terms of the cost-recovery of getting it automatic versus a limited proceeding. On a combined cycle unit or a combustion turbine the costs are pretty much fixed and bound. I mean, there shouldn't be a lot of disallowances. It should be here is what it costs, here is what goes into the rate base. So I think your second point clarifies my concern, but I was just trying to better distinguish the risk in staff's eyes in terms of the recommended 10.25 -- I mean, the 10.75 versus the 10.25 with GBRA.

So, thank you.

CHAIRMAN ARGENZIANO: Well, I appreciate that. That didn't alleviate my concern, because the concern I have is then the automatic part of that. There is no thorough -- as a Commissioner, what I have to look at is prudency and look at -- I feel it's my responsibility to give a thorough review, and I think the GBRA does not allow that, thus putting the ratepayer at risk. So I'm a little concerned with that and a different kind of risk, so to speak. So that hasn't really -- I think your first point was to my point, and I think that's why we didn't accept the GBRA, if I recall. And I think you were going to answer, Commissioner Edgar, on another -- was there another question?

MR. MAUREY: I believe I touched on the first question about the impact -- okay, the impact on the company of a lower ROE than what we have recommended.

COMMISSIONER EDGAR: If, indeed, there were to be a -- if indeed the Commission were to adopt a ROE number different than the 10.75 that is recommended, then would that hypothetically change the staff's thinking or analysis for Issue 70 to 71?

MR. MAUREY: No. As I mentioned earlier, there is a certain level of financial risk and it drives the ROE.

COMMISSIONER EDGAR: And I do recognize that I'm asking that backwards from the way you said it kind of -- I mean, I do recognize that.

MR. MAUREY: We don't have a position on that whether we would do a higher equity ratio or no.

COMMISSIONER EDGAR: Okay, fair enough. I'm sorry, I did have one additional question, but go right ahead.

MR. MAUREY: The other question I have here was -- and I believe it was the Chairman raised about the position of the other parties, but if you have something on that last point before I move into that area I can address that.

COMMISSIONER EDGAR: I'm not sure which it most pertains to, so while I'm thinking about it, if it is okay I will just put it out there. When we were discussing Issues 70 and 71 before lunch, there was some discussion about imputed equity and imputed debt both from some of the testimony in this case, but then also in some of the decisions with other companies that we have had previously.

So to clarify for my thinking in Issue 70 and 71 with the staff recommendation, does that take into account or utilize either imputed debt or imputed equity?

MR. MAUREY: For purposes of this company, there is no imputed debt or imputed equity. And just to be clear on this, the rating agencies impute debt in their analysis, and some companies that have come before this Commission have asked that imputed equity be recognized to offset that. In this case, the rating agencies still impute debt because of FPL's long-term purchased power agreements, but instead of imputing equity, this company has invested hard equity to compensate for that perceived increase in risk that the rating agencies have.

Now, they don't have that equity ratio just because they have PPAs, they have that equity ratio -- management has said it has that equity ratio to compensate for other challenges the company faces.

COMMISSIONER EDGAR: Okay. And then just to follow along that line, and then I think I'm done for the moment, anyway. Along that line, in the recent decisions that this Commission has made, have we utilized or incorporated either imputed debt or imputed equity into the calculation and the decision that was ultimately made?

MR. MAUREY: No, it has not.

COMMISSIONER EDGAR: Okay. Thank you.

MR. MAUREY: The other question I have on my list, I believe it was from the Chairman, was to discuss briefly how the other parties came to their ROE positions, and I can touch briefly on that. All the witnesses, there are three witnesses that did independent analysis of the return on equity in this case. All the witnesses used the discounted cash flow model, or DCF model. All three witnesses used the capital asset pricing model, CAPM. And one witness also used an expected earnings approach. And based on those analyses, they came up with their indicated returns and their recommended returns.

The primary difference, if you want to look at first the DCF model, most of the assumptions the proxy groups are relatively similar from a risk perspective. They are not exactly the same companies, but from a risk perspective the proxy companies are relatively similar in risk. And the DCF model, the constant growth DCF model is the same for all witnesses. Dividend growth expectations are very similar. The key difference is expected growth. And for the DCF model its expected growth in cash flows that investors have for a particular company.

Now, some analysts will use only earnings per share growth to estimate that growth. Other analysts use a mix of earnings per share growth, dividend per share growth, book value per share growth. The theory supporting the discounted cash flow model is that it is a dividend discounting model because that is the cash flows investors actually receive. They don't receive the earnings from the company, they reserve a dividend from the company. But because earnings per share is more readily forecasted, there's more analysts out there covering it, it's considered a more robust growth estimate, a lot of analysts will just use earnings per share growth. Others will use a blend of these growth rates.

CHAIRMAN ARGENZIANO: Can I do this for a minute, and I don't mean to break your train of thought. The only reason I asked for the difference is -- I think we have all read them -- was to get the conversation started, because it seemed we were stuck before. And with all due respect, I don't want to cut staff off, do we still need that --

MR. MAUREY: Oh, no, cut me off. (Laughter.)

CHAIRMAN ARGENZIANO: Because the only reason I did that was to generate some debate when we were deferring everywhere before, but I don't know if we need to go there. And it's the will of Commission if you want to continue. Okay.

Commissioner Klement and then Commissioner

Skop.

COMMISSIONER KLEMENT: Well, just to finish Andrew's thought on that, I note on the recommendations near the bottom of 277, a lot of the defense for the recommended range is growth rates, different assumptions about growth rates, right?

MR. MAUREY: Correct.

COMMISSIONER KLEMENT: For my colleagues that is one consideration to make.

CHAIRMAN ARGENZIANO: Oh, absolutely. And it is whoever in the testimony or -- and you guys weren't here, but you have read up, but whoever has made those points to you are the best, or I guess where you wind up.

COMMISSIONER KLEMENT: Or what you believe about the economy and the equity market.

CHAIRMAN ARGENZIANO: Everything. There are a lot of inputs, aren't there?

Commissioner Skop.

COMMISSIONER SKOP: Thank you.

And just to clarify the growth rates on 277, I want to make sure that we are talking about growth rate in the proper context. My understanding of growth rate there is not the economy, but basically the growth rate in the dividend under the discounted cash flow analysis.

MR. MAUREY: That's correct.

COMMISSIONER SKOP: Thank you. I'll yield to Commissioner Klement.

COMMISSIONER KLEMENT: I'm finished for now, Madam Chair.

CHAIRMAN ARGENZIANO: Okay. So then we have cut you off.

MR. MAUREY: Thank you. (Laughter.)

CHAIRMAN ARGENZIANO: Unless anybody else needs --

COMMISSIONER STEVENS: But it sounded good.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop.

COMMISSIONER STEVENS: Thank you, Madam Chair.

I guess this would be a good point to discuss the handout that I gave my colleagues this morning. At the top of the handout it shows the impact on revenue requirement for different ROE values in millions. And, basically starting with the staff recommendation, the 10.75, I proceeded to run a range of sensitivities down to the Public Counsel's recommended ROE of 9.5, and it basically shows the differential in millions of dollars to revenue requirement for each of the respective ROE sensitivities in that range.

So as you go down in ROE, you reduce your revenue requirement, and that's what that chart shows you. And the difference between 10.75 and just, say, 10 is a useful number, is approximately $100 million per year rounded up based on the numbers shown there.

I guess, you know, in discussing ROE it is always a contentious issue and some people, you know, tend to overreact to the fact that the Commission is faced with discussing this in the first rate case that the Commission has dealt with in quite a number of years. And I just think from my perspective, the Florida Public Service Commission has had and will continue to have a constructive view of regulation.

And the mere fact that the Commission is discussing adjusting ROE to a more appropriate level based on prevailing economic conditions is not in itself a bad thing. It's not -- you know, it doesn't speak to us doing anything wrong other than recognizing the prevailing economic realities that Florida consumers and the companies and everyone is facing right now.

So, again, in looking at developing a fair and appropriate ROE for the Commission to set, you know, reviewing what ROE affects, you know, certainly as we discuss ROE significantly affects the revenue requirement. ROE also impacts cash flow from operations. And, you know, setting a fair return on equity is the important thing, but irrespective of what the Commission does, whether it grants the FPL request of 12.5, or 10, or OPC's number of 9.5, the cash generated from that return on equity, there is no guarantee that the net income from operations will be reinvested in FPL for capital projects as opposed to being swept up to the parent.

So I think that is an important consideration in light of the representations that we have to consider about we need this rate increase to do X, Y, and Z. I mean, certainly you can access the capital markets to borrow to float debt. You know, you have a high equity ratio. You're in a strong financial position. But, you know, doling out ROE for the sake of doling out of ROE does -- you know, it certainly provides internal funds for investment in the company, but there is no guarantee that those funds will be reinvested.

So in looking at where I'm at, I think that the staff recommended ROE certainly that is a starting point, but, you know, I somewhat share Commissioner Stevens' view that, you know, perhaps a downward adjustment is more appropriate in light of FPL's risk on a stand-alone basis. And I think risk factors prominently in what is a fair and appropriate ROE to the extent that if you have 61 percent of your customer bills passed through a clause on an annual basis, there is not a whole lot of risk there. So I'm having trouble grappling with the company's request of 12.5.

And that was a significant driver in the revenue requirement of the company's request, and so we need to be very cognizant of that. You know, I'm certainly open to having a discussion, but on a risk-adjusted basis looking, you know, at FPL's risk in relation to the other investor-owned utilities in the state of Florida, I would reasonably argue that FPL is in a strong financial position, has substantially less risk, and, you know, certainly I think that an ROE, you know, somewhere between the range of 10.2 and 10.5 would be appropriate. I'm more apt towards, you know, 10.25, and 10.3. I have a little margin on the downward side, but I think it is very important to consider what we are looking at.

I mean, 10 may even be appropriate. Under 10 I start to get a little bit concerned. But, you know, certainly that is a basis for discussion. I'm not wed to a position, but I think there becomes a point where you are looking to being fair to the company, fair to the ratepayers, making sure they are not have to pay more than they need to to support a dividend or other things that are just unnecessary.

And I think that we need to take a critical look here, and this is an opportunity, but it should not be viewed as not being constructive. It should be viewed as reality that we need to set an ROE that is fair and commensurate with the prevailing economic conditions. Thank you, Madam Chair.

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: Is it appropriate to consider the depreciation reserve amortization in this context as we did in the previous case in this overall --

CHAIRMAN ARGENZIANO: I think if you would like to discuss that, then --

COMMISSIONER KLEMENT: -- revenue requirement? We impacted the revenue requirement for Progress by looking at that, so I think we should put that on the table.

COMMISSIONER SKOP: Madam Chair, if I could address Commissioner Klement's comments?

CHAIRMAN ARGENZIANO: If you would like to address them, sure.

COMMISSIONER SKOP: Thank you, Madam Chair.

What is shown on this sheet -- and, again, I want to emphasize that I'm looking at each of the issues on a separate and independent basis. I mean, they are all interrelated because they are all cumulative to the extent that they all impact revenue requirement and the number at the end is what it is. But, you know, certainly the first column or first set of numbers in the analysis and sensitivities deals with the reduction of ROE. The second block is reduction of revenue requirement or the incremental reduction to revenue requirement resulting from a four-year amortization of theoretical depreciation reserve amounts in millions. And this is on top of what staff has already recommended.

Staff basically, I believe, amortized -- and I'm looking for my quick sheet here.

COMMISSIONER STEVENS: Are you talking about the 142.9?

COMMISSIONER SKOP: No, here it is. Staff basically -- the staff recommendation basically amortizes $500 million of the net surplus over four years, and what staff did not do is amortize approximately $400 million of the remaining depreciation surplus, or the net surplus. They choose to depreciate that over the remaining life rather than four years.

My concern, and, again, it's based on each individual situation, that $400 million, if it were returned to the customers, would reduce the revenue requirement as shown in this chart by approximately $77 million. And certainly when we get to Issue 19F, I think that that is an issue of discretion that the Commission is going to have to take into consideration whether customers, you know, should be entitled to getting that surplus back. And, you know, my position -- I don't want to jump ahead to issues -- is I feel they should.

And just, finally, the last column on the handout page discusses the revenue requirement from a reduced storm accrual amount. And staff has recommended a $50 million storm reserve annual accrual. There is no incremental revenue reduction required in the staff recommendation, but if you were to reduce that across the board, whether it be 40, 30 million, 25 million, or down to zero, if you were to make that accrual zero, and, again, FPL has a funded reserve which is a segregated account, it's not an unfunded reserve, and it actually has over -- I think the bond issuance over $200 million, and I will wait until we get into the issue. But if you were to deny the staff recommendation for a $50 million annual accrual, you would save the ratepayers a revenue requirement of approximately $50 million per year.

So these are not cumulative effects. These are individual effects as they affect the Commission's decision on each individual issue. And I think it is important that we look at issues individually except when they are interrelated like equity ratio and ROE. But it is just meant to illustrate the cause and effect of the various decisions that the Commission is called to decide upon in this rate case.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Commissioner, if you wanted to discuss 19F and set aside 80, or discuss 19F, 120, and 80 altogether, I will do whatever you prefer.

CHAIRMAN ARGENZIANO: Well, we are --

COMMISSIONER STEVENS: I'm prepared to discuss all of them.

CHAIRMAN ARGENZIANO: Well, we should have a thorough discussion, it's just now, I guess, the order in the discussion. We are on 80. Is it the will of the Commissioners to go back to -- I'm sorry, to go to -- Commissioner Klement, where did you want to go?

COMMISSIONER KLEMENT: Well, to consider how much -- if any or how much of the reserve to offset the revenue requirements from the ROE. It looks to me like if you used, for example, 300 million for offsets and 500 could be used to reduce rates for four years. Is that correct?

CHAIRMAN ARGENZIANO: That's staff's recommendation, uh-huh.

COMMISSIONER KLEMENT: So that would leave 400 million in the reserve?

CHAIRMAN ARGENZIANO: Which is what Commissioner Skop had indicated his preference would be to amortize the whole?

COMMISSIONER SKOP: Yes. Basically, what it is is the surplus as calculated by staff was $1.2 billion, but you need to net that against the 340, which is the -- or the 314, which is the underrecoveries or the deficit. So basically you match those. You have a net surplus, and that net surplus is $894.6 million.

Staff has chosen in its recommendation to amortize only 500 million of that over four years, and my preference would be to amortize the entire net surplus of approximately 894.6 million over four years, which would further reduce the staff recommended revenue requirement by approximately $77 million per year.

COMMISSIONER STEVENS: That's exactly what I have written down here. I agree with that.

CHAIRMAN ARGENZIANO: Okay. Commissioner Klement.

COMMISSIONER KLEMENT: Is there a point, Staff, a minimum balance reserve that we should not go under to avoid creating other problems?

MS. LEE: Commissioner Klement, Pat Lee of staff.

This as a surplus. This is a calculated surplus. In other words, this is the amount that they have not overrecovered, but they have recovered to date that they don't need.

COMMISSIONER KLEMENT: Right, I understand.

MS. LEE: So there is -- this is certainly a depreciation expense that can be credited back to bring the reserve down.

COMMISSIONER KLEMENT: Well, Commissioner Skop, what was the level of the reserve balance you were suggesting?

COMMISSIONER SKOP: The entire amount. The entire amount. The whole enchilada.

COMMISSIONER KLEMENT: Then that answers -- well, I guess, I was just going to ask does that create other problems? Would that, would that.

MS. LEE: The amortization over four years brings the reserve to a theoretically correct level based on the recommended parameters today. Could that change? Yes, it could. Certainly rate base will be higher in year five by approximately -- well, it would be the entire amount, 1.2 billion.

COMMISSIONER STEVENS: Madam Chair.

COMMISSIONER SKOP: No, probably 800.

MS. LEE: 800. I'm sorry, 800.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Well, also in three years we have a thorough review of depreciation, right?

MS. LEE: Absolutely.

COMMISSIONER STEVENS: So based on information we have today, what you said is absolutely correct, but three years from now that may change.

MS. LEE: Absolutely.

COMMISSIONER STEVENS: And one of the -- and I didn't give a reason why I agreed with Commissioner Skop, but I had gone through these numbers, and I read the comments, and we spoke Monday about intergenerational inequity, and that's a whole bunch of syllables there, but it's there. And that's why I did not want to wait 22 years. And I think there was a point made in the discussions that over 50 percent turnover in residential customers during the period, so although depreciation is an estimate, I think the estimate should be a little bit closer than it is. And if we do this right now, it brings things where I believe that they should be. Thank you.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: (Inaudible.)

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: One other thought on that, Madam Chair. The way I'm looking at this is, again, there is an intergenerational inequity argument to be made. Certainly, in four years we'll have to readdress the depreciation situation, what is what the depreciation study is for, to do your true up to make the regulatory accounts trued up. But, I mean, let's be honest here. If there were a depreciation deficit, the company would come in here and request dollar per dollar to recover that from its customers in rates today. That's what would happen.

So when there's surplus, again, if we talk about asymmetrical risk in arguments, you know, from a customer's perspective, if there's a theoretical reserve surplus, you know, customers, that's -- you know, it's a non-cash item, but, again, it's something that we need to look when we're truing up our regulatory accounts. Now, in different economic times, would I maybe think more conservatively about this? Absolutely. But in these difficult economic times, any dollar revenue requirement is a dollar paid by customers, and it's something that has to be on the table, it has to be thoroughly discussed, and we need to take a critical look at that in terms of the discretion and judgment that the Commission chooses to exercise on these discretionary issues.

Thank you, Madam Chair.

CHAIRMAN ARGENZIANO: I had the other day on Monday the argument or the questions and the concerns, I should say, about the intergenerational inequity. And that day we didn't -- the Commission took a different position. I wanted to go a little farther in returning more of that -- because of that -- I mean, the intergenerational inequity. But I think to Commissioner Klement's point, and I want to make sure your question was answered. That day we found that if we went any further, or staff had indicated, and I think the reason the vote went that way was because if you went any further you would hurt the company, and I think that is what the Commissioner was asking.

Did you get the answer to that question?

COMMISSIONER KLEMENT: Yes, I did. Thank you.

CHAIRMAN ARGENZIANO: Okay. Just to make sure.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you.

And in this chair -- in this instant case on the record evidence before me, given FPL's capitalization, its equity ratio and its strong financial position, I do not feel that refunding the net surplus -- theoretical depreciation surplus amount or amortizing that over four years would have a detrimental effect to the company.

CHAIRMAN ARGENZIANO: Okay.

COMMISSIONER STEVENS: I'm ready.

CHAIRMAN ARGENZIANO: On issue -- wait a minute.

COMMISSIONER EDGAR: I am not sure where we are.

CHAIRMAN ARGENZIANO: What issue are we ready, because I --

COMMISSIONER KLEMENT: Madam Chair, I think that on the table are recommendations for consideration between 9 to 10.7 percent, and we have not heard any positions from Commissioners Edgar or -- (simultaneous conversation)

CHAIRMAN ARGENZIANO: Hang on a second.

COMMISSIONER EDGAR: I thought for a moment we were on storms, so --

CHAIRMAN ARGENZIANO: Hang on a second. We have jumped all around the place, and I think what it just shows you is how everything does -- even though they're separate issues, there are interrelationships that are -- that are critical in thinking. So let's do this. We were on Issue 80. Is it the will of the Commission to remain, stay on Issue 80 or should we be going back to 19F at this point? I'm going to look at staff, too. Does it make a difference at this point?

MR. DEVLIN: It's a matter of preference, whatever your --

CHAIRMAN ARGENZIANO: Okay.

MR. DEVLIN: There is no magic to --

COMMISSIONER KLEMENT: Well, Commissioner Edgar, did I hear you mention also consider storm reserve?

COMMISSIONER EDGAR: Well, I was just saying -- there was some discussion on storm reserve when I thought we were on another item. And then there was some discussion about 19, and then back to -- and I guess, perhaps, I'm just not thinking as quickly as everyone else that's up here. When I think we are getting ready on one issue -- I don't mean to forestall any discussion, it's just -- Madam Chair, I guess it would be helpful for my thinking if we able to just sort of lay out a little bit of the plan.

CHAIRMAN ARGENZIANO: Okay. Here's the plan.

Here is the plan, because I have heard it now, and we each talk a little about it, a little bit of everything, and I understand that. Let's go to 19F.

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: Since Commissioner Skop has included storm reserve in his chart, and since if we reduce the recommendation considerably, which based on Monday's debate, there's that possibility, perhaps that should be considered, too. Because if we reduce it a lot, that will affect the revenue amount, also. And I know that --

CHAIRMAN ARGENZIANO: Are you saying you don't want to go to 19 now --

COMMISSIONER KLEMENT: I'm just asking if we --

CHAIRMAN ARGENZIANO: Okay.

COMMISSIONER KLEMENT: I guess I want to know what amount of revenue we are willing to go to.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Madam Chairman, I'll offer a compromise solution in terms of the issues. And, again, I will yield to your discretion as the Chairman. It might be, and I don't want to bounce around, but the simplest issue for me that I think we could quickly build a consensus on is Issue 120, which is the storm reserve. We could go then to 19F, and then we could go back to Issue 80, which is the ROE. That might be the easiest way. But I will yield to you.

CHAIRMAN ARGENZIANO: If that makes the Commissioners feel happy, is anybody opposed to that?

COMMISSIONER STEVENS: No. No, ma'am.

CHAIRMAN ARGENZIANO: Okay.

COMMISSIONER STEVENS: I'm ready to do either one of them.

CHAIRMAN ARGENZIANO: This is the way it's going to go. We are going to go to the storm reserve, and then we are going to go to 19F, and then we are going to proceed from there.

COMMISSIONER STEVENS: All right.

CHAIRMAN ARGENZIANO: Okay. Let's go to the storm reserve, which is Issue 120.

MR. PRESTWOOD: Commissioners, Florida Power and Light had, as you know, proposed an annual accrual of $150 million a year, with a target reserve of 650 million. Staff has proposed a gradual shift in that direction leaving the target at 650 million, but reducing the accrual to $50 million a year. And we are available for questions.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. To staff, I know that we had the storm securitization, but with respect to the money that is currently in the funded reserve account, what is that balance?

MR. PRESTWOOD: 215 million.

COMMISSIONER SKOP: All right. So that is what is currently paid into the restricted account that's available if we have a very major storm for FPL to use for storm restoration?

MR. PRESTWOOD: Yes, sir.

COMMISSIONER SKOP: Not another surcharge?

MR. PRESTWOOD: Yes, Commissioner, that's correct.

COMMISSIONER SKOP: Okay. Now, is it also correct that there is currently a surcharge on customers' bills for the storm reserve?

MR. PRESTWOOD: Yes, Commissioner, that's correct.

COMMISSIONER SKOP: So by adopting the staff recommendation, noting that we currently have $250 million currently in the reserve, we would be effectively adding a surcharge on top of a surcharge, in effect, being cumulative or increase customers' bills.

MR. PRESTWOOD: In effect. Of course, the additional amount would be built into base rates, but, in effect, yes.

COMMISSIONER SKOP: Okay. All right. That's my concern.

Commissioners, you know, I don't want to scare the discussion on this one, but, again, any time you have got a discretionary amount, it's subject to taking a critical look at. And I have sharpened my pencil, and where I'm at is I would deny staff recommendation on the storm reserve accrual and set the accrual amount at zero.

COMMISSIONER KLEMENT: Madam Chairman.

CHAIRMAN ARGENZIANO: I am there at zero accrual, also. I think it's a bad time right now to do that. I said it Monday, and I didn't change it today.

Commissioner Klement.

COMMISSIONER KLEMENT: May I ask the staff what -- how many months or years remain in the bonded storm surcharge?

MR. PRESTWOOD: The surcharge that is underway now, I don't know exactly, maybe -- Andrew. I'm sorry, Andrew knows.

MR. MAUREY: The bonds were issued in 2010 with a ten-year maturity. It should be paid off in 2017, but there is flexibility for it to go as long as 2019.

COMMISSIONER KLEMENT: And about how much is it on the -- a thousand kilowatt hour bill?

MR. PRESTWOOD: It fluctuates. It's changed every six months to update, but currently it is set at $2.59 per thousand kilowatt hours for residential. It does vary depending on the classes.

CHAIRMAN ARGENZIANO: And can I ask as we did on Monday if there were -- there is money in the reserve now, as Commissioner Skop had indicated, if you could give me that amount again. And if there were catastrophic storms to occur, the company gets to recover, has other mechanisms of recovery, is that correct?

MR. PRESTWOOD: Yes. Yes, Commissioner.

In addition to using up the storm reserve, then the company always has the option to go to securitization and issue additional bonds to cover the storm damage. So effectively -- if your question is -- the company is protected from storm damage because that is -- considered prudently incurred storm damage repair because that is considered a cost of service and it either could -- can collect that through a surcharge retroactively or build it up through a reserve going forward.

CHAIRMAN ARGENZIANO: And if the accrual were continued, that -- those are monies that the company does not specifically keep somewhere, as I think Commissioner --

COMMISSIONER STEVENS: In trust.

CHAIRMAN ARGENZIANO: -- Stevens had said in trust. It can be used, but they have to account for it at sometime, right?

MR. PRESTWOOD: No, that's not correct. It is actually set aside in a trust type fund.

CHAIRMAN ARGENZIANO: I'm sorry. That's right. This company has a --

MR. PRESTWOOD: This has a funded reserve, Florida Power and Light has funded reserve.

CHAIRMAN ARGENZIANO: Okay. And what is in that reserve at this time?

MR. PRESTWOOD: That is the 215 million, and it earns interest, and the interest is credited to that reserve and so forth.

CHAIRMAN ARGENZIANO: Okay.

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: May I ask how many years would it take at the staff recommended rate of $50 million to reach the goal of 650?

MR. PRESTWOOD: Commissioner Klement, I can't answer that question directly. I do know from the testimony in the case that at $150 million a year, the experts had estimated at the end of five years they would have approximately 358 billion. That's giving effect to a couple of storms occurring during that five-year period, you know, that would bring the reserve down, and then continuing to accrue to build it back up again. So they had anticipated a 358 million at the end of five years. So if you cut that to one-third, I guess you could do a rough calculation of --

COMMISSIONER KLEMENT: A long time.

MR. PRESTWOOD: A long time.

COMMISSIONER KLEMENT: Ma'am Chair.

CHAIRMAN ARGENZIANO: Yes.

COMMISSIONER KLEMENT: It seems like on this issue, and I don't -- it's very philosophical as well as financial. It is a pay me now and pay me later almost either way you go if -- assuming that there are storms, and we have to assume there will be, whether it is next year or the year after. So it seems prudent to store up some -- save up some money now. It's a form, as someone in the testimony referenced, it's a form of insurance.

We all carry insurance on our cars and our homes and ourselves and our health. Why would you not carry insurance against a storm -- a hurricane in

Florida?

CHAIRMAN ARGENZIANO: Well, if you are asking me, that's what the 214 is, that is insurance. And the reason -- in my opinion at this time -- is the same reason I had on Monday, was that is it necessary to do it at this time, since the company is protected if it does occur. The people, the ratepayers right now are under tremendous stress with the economy, why put more on them now when it can be recovered anyway at another time. So while I appreciate the company having the dedicated fund for that, I think the money that they have in the fund could do for now, and if we do want -- my opinion, and if we do have storms, we know the company is protected, they can recover, and that we also know that at the same time we are alleviating some of the burden from the ratepayer. So that's my philosophy and my opinion.

Commissioner Skop and then Commissioner Edgar.

COMMISSIONER SKOP: Thank you, Madam Chairman.

I could not agree more with what the Chairman just said. There is an existing surcharge in the amount of almost $2.60 per month. Adopting the staff recommendation would just add effectively another surcharge within base rates to do the same thing, to add to a reserve that we already have. So it's pay me now, and pay me now on something that we don't know when it is going to be used. But when it is necessary to use it, we have $250 million in the bank in a dedicated fund ready to go.

And, historically, the Commission is very proactive about meeting the utility's needs of doing a surcharge should we need to do it. So, again, in different economic times I would be more amenable to this, but in this economic situation, as Commissioner Argenziano or Chairman Argenziano alluded to, it puts an additional burden on a dollar per dollar basis on the customers. And I think that better use of discretion and judgment in this case is to suspend the accrual. And, again, if economic times change, and we come on better times of prosperity, we certainly can reinstate it in a heart beat.

I mean, the way we're talking about having follow on rate cases, you know, we may in -- in great economic times a year or two from now, and then we will take another critical look. But for now I think you provide the customers with rate relief.

Thank you.

CHAIRMAN ARGENZIANO: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you.

I actually had a question about an answer that was given some time ago now, so I'm going to try to come back to that. It is correct, is it not, that there is currently a line item on FPL customer bills to account for the securitization?

MR. PRESTWOOD: There is, yes, Commissioner.

COMMISSIONER EDGAR: Is there a separate line item for storm accrual, because I think that's the answer I heard earlier.

MR. PRESTWOOD: No, Commissioner.

COMMISSIONER EDGAR: And maybe I heard wrong, but I thought that that's the answer I heard.

MR. PRESTWOOD: And the idea of building it into the case is it would become a part of base rates.

COMMISSIONER EDGAR: Correct.

MR. PRESTWOOD: And --

COMMISSIONER EDGAR: Yes. But as of now, as of now there is not a separate line item for storm cost accrual.

MR. PRESTWOOD: Not for the -- well, no, that's correct.

COMMISSIONER EDGAR: Okay. And, again, this is an issue that, as I have said before, and as we had the discussion on Monday, that even like-minded people could disagree, and I agree with, as I think I have said many times also, and I think I have heard today that it is also a philosophy. My own belief is that the 214 million that is there, approximately, currently is a good amount, but that it represents underinsurance. And that, again, is based upon my experience as a Commissioner a few years ago when we had to look critically at storm costs and storm response and the impact that that had on communities.

I don't remember the exact words, but I think a few moments ago here in discussion I heard a concern about a pancaking of surcharges related to this. My concern on that is on the other side, which is that securitization surcharge is going to continue for a certain number of years, but, yet, if there were to be storms, and not necessarily just catastrophic storms over a large geographic swath, but even very targeted smaller areas but yet destructive to generation, transmission, or even more likely distribution. Having heard repeated testimony at public service customer meetings across the state a few years ago about the disruption and the economic hardship that being out of power caused to individual families, to small business, to schools, to hospitals, et cetera, to then after the fact when people are trying to get on their feet and when they are trying to rebuild often is the time that you will be using even more power than you might have in a normal day or in a normal week or a normal month.

So I think that issue of possibly pancaking at a time where individuals and businesses would feel that additional cost perhaps even more greatly, but certainly would feel it, is a concern of mine. And, again, that goes back to past experience. So not being critical in any way, I do agree with the sort of pay me now or pay me later, put a very, very small amount in, and I realize there is an objection to any amount, but I believe in the philosophy of having an amount that is collected a little at a time and, hopefully, does build up and doesn't have to be tapped into every year, depending on the storms that we receive, I do think is good policy, and I have supported it before and I won't need to stick with that.

Now, one additional comment if I may, Madam Chair, as to the exact amount, I recognize that the staff recommendation is an accrual amount of 50 million per year. I don't know if that would be -- if, indeed, you buy into the concept, if, indeed, that would be the exact right amount -- excuse me -- if there were a majority who believe, as I do, that it is good policy, then I would have hoped for some discussion about what is the right amount. I don't know that there is any right number, but I do believe in the concept.

COMMISSIONER KLEMENT: Madam Chair.

COMMISSIONER EDGAR: Thank you.

CHAIRMAN ARGENZIANO: I just want to comment, and then Commissioner Klement.

And I respect that and understand that. I do, having been around the storm -- the communities very hard hit by many hurricanes in the past in my senate district, which was 13 counties, so we had a lot of damage. But I guess what gets -- it's hard right now. Because ordinarily, I think, as Commissioner Skop said, you would say, well, okay, a rainy day fund is probably a good fund to have.

But at this same time, and as you have heard the voices, I've heard the voices of the consumers out there saying right now is not a time to charge us for something of an unknown storm in the future. And it could be -- it could be that when those storms -- it could be, God forbid, I hope they don't hit us, but what I'm hearing the people say today is we can't handle it right now. They are paying right now, the current customers are still paying for the past storms. And at a time when people can hardly pay their mortgages anymore, I don't think they can handle anymore. So what I'm looking at is trying to minimize the impact on ratepayers, also telling them that in the future if storms hit, we're going to have to pay, that's the way it goes. And also assuring the company, and feeling assured that the company will recover.

But at this moment my main concern, and understanding yours and respecting yours, is that we alleviate what we can. And to charge -- to say that, you know, if we are going to charge today for what storms we don't know are going to come, to me is one I could take off the table right now, and not have that on the ratepayer. So that's where I'm coming from, understanding your philosophy, too.

Commissioner Klement.

COMMISSIONER KLEMENT: Thank you, Madam Chair.

You could do the corollary and say, although 2004 and '05 were highly unusual, if the company and/or this Commission had been more prudent back then, there might have been a fund to -- so that there wouldn't be this charge against customers, four, five, ten years later to make up for the fund that wasn't there. So I would be --

CHAIRMAN ARGENZIANO: I wasn't -- I'm sorry. I wasn't here then, so I can't answer that, but I'm not going to disparage the --

COMMISSIONER KLEMENT: No, I don't meant to disparage.

CHAIRMAN ARGENZIANO: No, I know you're not.

COMMISSIONER KLEMENT: It's learning from the past. If we don't, then we are condemned to repeat it. So let's learn from the past.

CHAIRMAN ARGENZIANO: And I agree.

COMMISSIONER KLEMENT: I would be prepared to make motion on an amount.

CHAIRMAN ARGENZIANO: That's fine, and you can do that. I would just like to respond that I can agree that we try to learn, but there comes a point at some time -- the economy was the main thing. That was not there when Commissioners were here then. The situation that we have today was not the same. So that is -- that's the major thing that I think Commissioner Skop, I think myself, and I think Commissioner Stevens had said the same thing the other day, that is what makes it different, the economy today and the burden on the consumer.

Commissioner Skop and then Commissioner Klint -- Klement -- I'm going to change your name totally soon, then if you would like to make a motion, that is --

COMMISSIONER SKOP: Madam Chair, just briefly.

Again, I couldn't agree more with how you characterize the situation. Certainly a rainy day fund is nice, but in this case this is a completely discretionary expenditure or accrual. And, again, in using judgment and, again, that is why we have to face the heat for the decisions we make. But, you know, I'm prepared to use my judgment.

I think consumers understand, you know, even in difficult economic times if there were catastrophe event, they would appreciate the need, hey, we have to pay for storm restoration to keep the lights on. But what I don't think they can appreciate is why are we being asked to pay more today on top of the existing surcharge when we don't know when the next storm is going to occur, and we already have $215 million saved away for that.

So, again, different times I would be more apt to approve the accrual amount as staff recommended, but not in these difficult, desperate financial times. And I think that that's where discretion has to come into play. And I will be probably aligning with Commissioner Argenziano. I haven't heard Commissioner Stevens on this one yet, but I think this is discretionary, and I'm prepared to use my judgment.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: I agree. I think it is discretionary. I don't remember if I voiced it or not, but I agree.

CHAIRMAN ARGENZIANO: Commissioner Klement, would you care to make a motion?

COMMISSIONER KLEMENT: Thank you, Madam Chair.

With respect to Issue 120 regarding the storm damage reserve request by FPL, I would move that we make a -- make a recommendation for a $25 million annual recovery. That's half of what the staff recommended and how much -- a lot less than the company asked. So 25 million annual is my motion.

COMMISSIONER EDGAR: May I ask a question?

CHAIRMAN ARGENZIANO: Absolutely. You're recognized.

COMMISSIONER EDGAR: Thank you.

And I don't know if this is possible, but to staff -- I don't even know who to look at, so -- for that amount which, according Commissioner Skop's chart, the 25 million would equate to approximately 330 million, any idea what -- could you give me a potential as to what that would represent on a -- either a thousand or 1200 monthly bill? And I do recognize that then it would go into base rates, but it is still an amount that would need to be quantified.

MR. SLEMKEWICZ: I'm not sure if you are looking at the -- you may be looking at the reserve, the depreciation surplus, and not the storm damage reserve. If you lower it to 25 million, the revenue effect would be -- would decrease the rate increase by $25 million, and I'm not sure what that equates to for a customer bill.

MR. WILLIS: Commissioner Edgar.

COMMISSIONER EDGAR: Yes, sir.

MR. WILLIS: I've just gotten a ballpark figure of about 20 to 25 cents on a bill, a thousand kilowatt bill.

COMMISSIONER EDGAR: Okay. Thank you. I appreciate that. And I recognize that that is an estimate and a ballpark, but I thank you for the clarification that I must have needed as well. You know, I can count. And as I said earlier, I do recognize that any specific amount is probably not a science but a rational range if, indeed, you do buy into the concept. So, again, I can count, but I do think that it would be good policy to go forward. And so with that in mind, I will second the motion.

CHAIRMAN ARGENZIANO: Do you have a second? You did second the motion?

COMMISSIONER EDGAR: I did.

CHAIRMAN ARGENZIANO: Okay.

Commissioner Stevens.

COMMISSIONER STEVENS: Madam Chair, I can't second, or I can't join in that motion. It's just the way it is. I'm at 50 million right now, and that's just the way it is. Thank you.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop, and then we are going to vote on the motion.

COMMISSIONER SKOP: Thank you, Madam Chair. Just as the discussion on the motion has been properly seconded, I appreciate Commissioner Klement making the motion. I think that there is merit, and certainly I respect the point of view of my colleague. It's just that I think where the difference of opinion lies is what is the best thing to do is in terms of the discretion and judgment. And at least from my perspective that would result in $25 million of additional revenue requirement to the ratepayers, and in this economic condition, I think that I need to use my discretion to avoid that. Thank you.

CHAIRMAN ARGENZIANO: Okay. We have motion and a second. All those in favor of the motion say aye.

COMMISSIONER KLEMENT: Aye.

COMMISSIONER EDGAR: Aye.

CHAIRMAN ARGENZIANO: All those opposed?

Aye.

COMMISSIONER STEVENS: Aye.

COMMISSIONER SKOP: Aye.

CHAIRMAN ARGENZIANO: Motion fails. And now we will move on to -- we are going back to --

COMMISSIONER SKOP: Actually, we --

CHAIRMAN ARGENZIANO: We actually need another motion. All right. We need another motion.

COMMISSIONER SKOP: Madam Chair, I respectfully move to deny staff recommendation on Issue 120 and suspend the accrual to zero dollars.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Okay. We have a motion and a second. Any discussion? Hearing none, all those in favor say aye.

Aye.

COMMISSIONER SKOP: Aye.

COMMISSIONER STEVENS: Aye.

CHAIRMAN ARGENZIANO: Same sign for opposed.

COMMISSIONER KLEMENT: Aye.

COMMISSIONER EDGAR: Aye.

And, Madam Chair, if I may, just a qualifying comment. By virtue of the seconding the earlier motion, I would absolutely have been in favor of an amount less than what the staff had recommended, so I would just like that to be clear.

CHAIRMAN ARGENZIANO: And noted.

COMMISSIONER EDGAR: But, again, I do believe that an amount would be a more appropriate way to go than what the motion that we have now passed would have carried, and I would just like to make that clear. Thank you.

CHAIRMAN ARGENZIANO: And that was made clear, and the motion is approved.

Okay. Now, are we going back -- do the members want to go back to 19F, and I think that's what we said we were going to do. Okay.

So are we ready?

Oh, and goodbye, ladies and gentleman. Thank you for coming. Have a safe trip home. Be careful.

Okay. I think we are on 19F. Do you want to wait a minute? Let's wait a minute, okay, just so we collect our thoughts.

MS. LEE: Commissioners, issue -- Item Number 19F deals with the -- what corrective action, if any, to dispose of the $1.2 billion reserve surplus that has been quantified in Issue 19E. The 1.2 billion, as Commissioner Skop has alluded to previously, the first thing the staff has recommended is that 314.2 million associated with the capital recovery schedule unrecovered costs that we discussed in Issue 19A, we believe that that portion, 314, should be taken from the reserve surplus and recovered. That reduces your total reserve surplus to 894 million, approximately, of which staff is recommending 500 million be amortized over five years with the remaining 394.6 million, I believe it is, to be amortized over the remaining life of the embedded investments which is 22 years.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you.

MS. LEE: Four years. Did I say --

COMMISSIONER SKOP: Yes, you said five.

MS. LEE: I'm sorry, I apologize. Four.

COMMISSIONER SKOP: Madam Chair, I think that we had -- certainly, I can refrain from making a motion. We had some substantial discussion on this previously, though. But my inclination would to be make a motion on 19F to deny staff recommendation and to basically amortize the net theoretical depreciation reserve surplus of 894.6 million over four years in lieu of the staff recommendation, and that would result in a revenue requirement reduction of approximately $77 million.

COMMISSIONER STEVENS: Could I ask a question for a second.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: That 77 would be added to the 142?

COMMISSIONER SKOP: No, the 77 million -- again, staff has amortized -- the staff recommendation amortizes 500 --

COMMISSIONER STEVENS: Right.

COMMISSIONER SKOP: -- million over four years. And so that is already built into staff's revenue requirement. The incremental effect -

COMMISSIONER STEVENS: But they also have 17 in there, too, because of the 22 years. So the 125 plus the 17 is the 142.9. And I'm not disagreeing with your motion, because I agree with it. I'm just trying to make sure that I have your number right.

COMMISSIONER SKOP: Yes, I think that, you know, I need staff clarification on this 142.9, if I could. I may have jumped --

COMMISSIONER STEVENS: Wouldn't that include the 17 million that is the 22-year amortization also, so it's the 125 plus the 17?

COMMISSIONER SKOP: We need some clarification on that.

CHAIRMAN ARGENZIANO: Everybody is looking at who is going to answer.

MS. LEE: I think you're right, Commissioner.

COMMISSIONER STEVENS: Okay. If I could ask Commissioner Skop if --

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CHAIRMAN ARGENZIANO: Go right ahead.

COMMISSIONER STEVENS: I would simplify it a little bit. I would deny staff's motion and take the 894 net after the offset and amortize it over the full four years, and I agree with that.

COMMISSIONER SKOP: And I think that was the intent of the motion.

COMMISSIONER STEVENS: Okay. Second.

COMMISSIONER SKOP: But I do want some clarification here, because I see this little fragment number of 142.9. So let me get clarification on staff as to would it be appropriate to style the motion to deny staff recommendation to adopt amortizing the net surplus of 894.6 million over four years? Will that get us to where we need to be?

MS. LEE: Yes, it would, Commissioner.

COMMISSIONER STEVENS: Second. Perfect.

CHAIRMAN ARGENZIANO: Okay. Is that where you need to be on your motion? Okay.

Any discussion, Commissioners?

Commissioner Klement.

COMMISSIONER KLEMENT: (Indicating no.)

CHAIRMAN ARGENZIANO: No. Okay. We have a motion and a second. All those in favor signify by aye.

(Simultaneous vote.)

CHAIRMAN ARGENZIANO: All those opposed, same sign. Show the motion adopted.

All right. Hang on a second. I buried my notes. We are moving on to -- we held up 51. All right. I got 131. We will take 51.

COMMISSIONER SKOP: If Staff on Issue 51 could explain whether there is any change to the staff recommendation as a result of the Commission's decision on 19F?

CHAIRMAN ARGENZIANO: Let me get to that page.

MR. SLEMKEWICZ: Issue 51 will change based on the -- you know, the change in the level of the amortization in Issue 19F.

CHAIRMAN ARGENZIANO: Right.

Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chair.

I respectfully move to approve the staff recommendation for Issue 51, noting that the amount of accumulated depreciation will change as a result of the Commission's decision on 19F.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Okay. Any discussion or questions? Hearing none, all in favor say aye.

(Simultaneous vote.)

CHAIRMAN ARGENZIANO: All those opposed, same sign. Show the motion passing.

And now we are going to go to 131.

COMMISSIONER SKOP: If staff could please introduce that issue, because we have gotten there yet. I think that's a fallout issue, also. But if staff could briefly speak to Issue 131.

MR. SLEMKEWICZ: That's correct. That will also change based on what you have done with the amortization of the surplus.

COMMISSIONER SKOP: Madam Chair, if there's no further questions on Issue 131 --

CHAIRMAN ARGENZIANO: Any other questions?

MR. SLEMKEWICZ: Well, there's still a lot of other adjustments that may go into this based on the other issues in NOI, so you probably don't want to vote on that right now.

CHAIRMAN ARGENZIANO: We will hold off on 131.

Okay. Now we are going to go back to 80. Commissioners.

COMMISSIONER EDGAR: Madam Chair, that's just flat worn me out. Would it be possible to take five-minute stretch?

CHAIRMAN ARGENZIANO: Absolutely. Let's take ten-minute stretch.

COMMISSIONER EDGAR: Thank you.

(Recess.)

CHAIRMAN ARGENZIANO: Okay. We're back, and we are on Issue 80. Let's give staff a chance to get back to their seats, too, sorry. Okay.

Are we ready, Commissioners?

COMMISSIONER STEVENS: Yes, ma'am.

CHAIRMAN ARGENZIANO: Okay. It looks like staff is -- do we need to give staff a couple of minutes?

MR. DEVLIN: Are we on issue --

CHAIRMAN ARGENZIANO: 80.

MR. DEVLIN: 80, everybody is here.

CHAIRMAN ARGENZIANO: Everybody? Good. Then we are good to go.

MR. MAUREY: More punctual than Monday.

CHAIRMAN ARGENZIANO: Okay. Commissioners, anybody want to start off? We had some discussion on the return on equity before.

Commissioner Skop, did you want to --

COMMISSIONER SKOP: Thank you, Madam Chair.

Just as a basis for discussion in picking up where we left off, I guess there was a breath of suggestions. I think that to reiterate, I guess, what I feel a fair and appropriate ROE would be, I was looking at somewhere in the range from 10 to 10.5, targeting, you know, 10.2, 10.25, 10.3 as an appropriate midpoint, but I'm open for discussion.

CHAIRMAN ARGENZIANO: And, Commissioner Stevens.

COMMISSIONER STEVENS: Yes, ma'am, thank you. And, again, I read this information over and over again, and considering the ranges that the witnesses had, the current economic environment that we are in, and the risk that I believe is associated with this return, I'm between the 9 and the nine and a half. Which OPC, I believe, was recommending 9 and a half. I believe staff was at 10.75, and I think FPL was at 12.5. Thank you.

CHAIRMAN ARGENZIANO: Commissioner Klement or Commissioner Edgar, anything at this time?

COMMISSIONER EDGAR: Not at this moment.

CHAIRMAN ARGENZIANO: Okay.

Commissioner Klement.

COMMISSIONER KLEMENT: Thank you, Madam Chair.

I started out by throwing out 10.7, I believe, which was just a couple of tenths under staff. I can concur, I think, with Commissioner Skop at around 10.3.

CHAIRMAN ARGENZIANO: Is that it? Okay.

Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Madam Chair, and thank you for giving me an extra moment there to think it through with all the numbers that are being discussed.

Once again, I said this on the earlier item, and I've said it many times, I don't think there is one exact right perfect answer to this issue as with many of the others that come before us. I am glad always for the discussion and for a range that then we can kind of bat around, and talk about pros and cons and see if there is the possibility for consensus. And just as an aside, I'll say that there have been times when I have voted for something that I thought was a good consensus, but would not have been probably my first choice. And I think that is part of the process. And there have been times when I felt like I needed to vote against something because I just couldn't get there in my own mind. And I think that's probably something we all do at different times with different issues.

So with that lead in and trying to listen very closely to each of you, and to harken back to the many days of testimony that we spent in this room, not a perfect number, but I guess, Madam Chair, what I would put out there as to where I am at this moment in time, would be 10.4.

CHAIRMAN ARGENZIANO: Okay. Thank you, Commissioner Edgar. And I seem to be more aligned with

Commission Stevens, except my range is probably 9 to 10, and that's probably within that range where I'm going to go.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And, again, I'm not wed to a specific number. Again, my range, at least in terms of my analysis, looking at the staff recommendation and based on the record evidence in this case, again, I think an appropriate range is probably 10 to 10.5. Again, I'm trying to evaluate the risk as I think Commissioner Stevens has alluded to, and I don't think there's a lot of risk. FPL is a strong performing company, has a very high equity ratio, and 61 percent of its costs are recovered through clauses, so not a whole lot of risk in that equation.

But, again, if we could build consensus, you know, I could come down a little bit. I mean, certainly, 10 is at my low range, but if that would make Commissioner Argenziano comfortable and Commissioner Stevens comfortable, and we could get some buy-ins from my colleagues, I would rather, you know, try and build consensus rather than be fragmented. So I'm open to discussion.

CHAIRMAN ARGENZIANO: I appreciate that.

Commissioner Stevens.

COMMISSIONER STEVENS: Madam Chair, in order to build consensus, I will go to 10, but I can't go any higher.

CHAIRMAN ARGENZIANO: And I can tell you, 10 is my high. And, really, the risk factor is a big one for me. Reading Bluefield and Hope that, to me, makes all the sense in the world. And risk being low for the company, the company being strong as Commissioner Skop has indicated is a good thing. We want them to stay there, and the current economic conditions.

And I have to say that Witness Woolridge was very convincing to me, and not only in his basis for his calculations, but his demeanor. And it just meant a lot to me. I was tossed around there, because there were some good points by all the witnesses, but Witness Woolridge won me over. So 10 would be my high.

Commissioner Klement and then Commissioner Skop, I'm sorry.

COMMISSIONER KLEMENT: I wanted to ask, perhaps Andrew, whether he had any reaction to the proposal of 10 percent --

MR. MAUREY: No.

COMMISSIONER KLEMENT: -- as far as staff's --

(Laughter.)

CHAIRMAN ARGENZIANO: He's going to be very safe and say no.

COMMISSIONER KLEMENT: Well, I guess to elaborate on the question --

CHAIRMAN ARGENZIANO: Did you mean what ramifications --

COMMISSIONER KLEMENT: The ramifications for the company is my concern, yes.

CHAIRMAN ARGENZIANO: Because otherwise, be careful.

(Laughter.)

COMMISSIONER KLEMENT: Yes.

MR. MAUREY: Well, return on equity -- it has been discussed many times today -- is a controversial issue principally because of the money involved. And as we've seen, there's a range of returns. In my introduction I said that there was a range of returns that are supported by the record. The lower the authorized return, the lower the cash flow. And the company will take this rate order back, it will work with that and decide where it needs to go.

But nothing I've heard here I could take exception to, no.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

And, you know, I would emphasize that if we were to adopt and build consensus around a midpoint ROE of 10 percent, that would be just the midpoint, and it's subject to plus or minus 100 basis points.

So, for instance, if FPL would tighten it's belt, and we'll get to some of those areas in some issues later, certainly you could earn at the 11.0 range. So, again, you know, looking at that and, you know, looking at the current economic situation -- and, again, I think trying to build consensus is an important thing, but as I said previously, you know, utilities are just going to have to make do in these difficult economic times. And I think that, you know, a range of 10 percent, even 10.1, 10.2, somewhere in that area, would be a fair return commensurate with the risk that the company has. And I think it's fair to the company and fair to the ratepayers. I just wanted to reiterate that again.

CHAIRMAN ARGENZIANO: Commissioners? Okay. Is there any other discussion? Is anyone prepared to make a motion?

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

If there are no further questions, I would respectfully move to adopt a midpoint ROE on Issue 80 of 10 percent.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion?

COMMISSIONER EDGAR: Yes, ma'am.

CHAIRMAN ARGENZIANO: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you.

And as I said a few moments ago, it is good when we can reach consensus. I did throw out there in an effort to maybe see where we could go with it a number slightly higher, so I would ask that I not read in the paper tomorrow that I wanted to charge way more to the consumers, but that it was for discussion, and I do think that the number 10.4 is a rational approach.

I can support the motion with the understanding that we are all trying to work together and move forward. I do think that it means there may be, may be the possibility of another rate case sooner than there might be with a different number. No judgment as to whether that is a good thing or not, but I do think it is maybe a possibility. We did have some discussion about that on Monday, as well.

So, with that, I'm glad for the discussion, Madam Chairman.

COMMISSIONER SKOP: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: And just to the discussion on the motion, which I believe has been seconded. Again, you know, in the State of Florida, we have a constructive regulatory environment and will continue to have one. Again, the discussion for ROE and the discussion to adopt a low ROE, I think, is predicated solely based upon the prevailing economic realities that the company faces and consumers face. And I think that in difficult economic times you have to look at what's fair, reasonable, and appropriate.

And I think that at different times, again, if the company were to come in for interim relief or a limited proceeding to look at its ROE in better economic times based on the needs of the company, I would be happy to entertain that. But as we are called upon to decide the case today on the merits in a fair and impartial manner, I do believe that 10 percent is fair.

CHAIRMAN ARGENZIANO: Any other discussion?

COMMISSIONER KLEMENT: Madam Chair.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: I believe I probably lean a little higher, as Commissioner Edgar does, to the 10.25 or 10.3 area.

However, in the interest of consensus and recognizing all the factors that Commissioner Skop has so well aptly put regarding our economy, and Commissioner Stevens, as well. Everybody, really. I certainly recognize those factors myself, so I can support the motion.

CHAIRMAN ARGENZIANO: Thank you.

Hearing no other discussion, all those in favor of the motion, signify aye.

(Vote taken.)

CHAIRMAN ARGENZIANO: All those opposed?

The motion passes.

I'm sorry, what did you say?

COMMISSIONER SKOP: I think next would be Issues 70 and 71, Madam Chair.

CHAIRMAN ARGENZIANO: Yes. I just had a question. Did we -- I think we did, but did we get to 19G? We did 19G, didn't we?

COMMISSIONER KLEMENT: Yes, we did.

(REPORTER NOTE: Scrivener's error. Transcript resumes on Page 199, Line 1, with Chairman Argenziano speaking.)

So now we're going to move back to 70 and 71 on the equity ratio, Commissioners.

Commissioner Skop?

COMMISSIONER SKOP: Madam Chair, just to facilitate the discussion, and I'll take those jointly on the issues 70 and 71, I feel that the ROE level adopted by the Commission that FP&L's proposed equity ratio and that the appropriate equity ratio for ratemaking purposes as recommended by staff in issue 71 is appropriate in light of the ROE that was approved by the Commission.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion?

COMMISSIONER EDGAR: I'm sorry, could you repeat that, and maybe even a little slower?

COMMISSIONER SKOP: Madam Chair, and, again, I'm speaking to two issues, not necessarily making a motion, but just to facilitate discussion.

I know that we wanted to take these issues up separately, in regards to the issues 70 and 71, which involve the equity ratio and the appropriate equity ratio for ratemaking purposes respectively, in light of the Commission's decision on issue 80 to adopt a midpoint return on equity of ten percent plus or minus a hundred basis points, I feel that the proposed equity ratio in issue 71 -- I mean, issues 70 and 71 is appropriate and I would be in support of the staff recommendation.

Again, the equity ratio is inextricably intertwined with return on equity, and again, I think that the ROE, I've heard some consensus from my colleagues that some would like to have seen a little bit higher ROE, but in the spirit of building consensus, we adopted a unanimously agreed-upon midpoint of ten, and I think that the relationship between the equity ratio, everything balances out with that, so I'm pretty comfortable with issues 70 and 71 as proposed by staff.

CHAIRMAN ARGENZIANO: Did that answer --

COMMISSIONER EDGAR: It did, thank you, and I am supportive of the staff recommendation on these issues as well.

CHAIRMAN ARGENZIANO: Okay. Any other discussion?

Okay, we have a motion and a second. All -- you didn't make the motion. I thought I heard a motion and a second, I'm sorry. Didn't you second the motion?

COMMISSIONER STEVENS: I seconded what I thought it was.

COMMISSIONER SKOP: I'll properly make the motion. Thank you, Madam Chair. I respectfully move to adopt the staff recommendation on issues 70 and 71.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign. Aye. And motion is adopted.

Now we go to eighty -- wait a minute. Go ahead, Commissioner Stevens.

COMMISSIONER STEVENS: Did we vote on 64 through 69?

COMMISSIONER EDGAR: We have not.

CHAIRMAN ARGENZIANO: That's a very good catch. We need to do that first. So do we have a motion on 64 -- I'm sorry.

COMMISSIONER EDGAR: The remaining issues in the black under "Cost of Capital."

CHAIRMAN ARGENZIANO: The block of cost of capital, that would be best way of saying it.

COMMISSIONER SKOP: We haven't discussed 73 or 81 yet, which are fallout issues.

CHAIRMAN ARGENZIANO: So do you want to wait?

COMMISSIONER SKOP: What I'd like to do, Madam Chair, is move to approve staff recommendation on issues 64, 66, 67, 68 and 69, and I think that will put us in the position to discuss 73 and 81, will be fallout issues that we have not yet discussed yet.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? Hearing none, all those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show that motion adopted.

And now Commissioner Skop.

COMMISSIONER SKOP: If staff could just briefly introduce issues 73 and 81, which I believe are fallout issues?

CHAIRMAN ARGENZIANO: 73 and 81.

MR. SPRINGER: That's correct. Issue 73 is the appropriate -- addresses the appropriate capital structure for FP&L for the purposes of setting rates in this docket, and this is basically, like Commissioner Skop said, it's a fallout issue based on decisions in preceding issues. Do you want me to move on to issue 81?

CHAIRMAN ARGENZIANO: Please.

MR. SPRINGER: Issue 81 addresses the appropriate weighted average cost of capital, and that also is a fallout issue.

CHAIRMAN ARGENZIANO: Commissioners? Commissioner Skop?

COMMISSIONER SKOP: Madam Chair, there are no additional questions. I'd respectfully move to adopt the staff recommendation on issues 73 and 81, noting that those issues would be subject to change based on the Commission's decision in issue 80.

CHAIRMAN ARGENZIANO: Hearing no other questions --

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: We have a second. All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show the motion adopted.

And now we can move on to 82. We'll let staff change out, and let me find my page.

MR. MAUREY: Commissioners, issue 82 addresses the issue of whether or not the inflation and customer growth rates used by FP&L are appropriate for both 2010 and 2011 test year. With respect to the 2010 test year, we are recommending that the growth rates are appropriate. No party took a position on this issue.

CHAIRMAN ARGENZIANO: Any discussion on issue 83?

MR. PRESTWOOD: Commissioner, issue 83 addresses the transfer of capacity charges from base rates to the capacity cost recovery clause for St. Johns River Power Park. This is consistent with past Commission decisions and also -- and consistent with the way this issue is treated by other companies as well. The staff recommendation is to approve the recommendation -- to approve the transfer.

CHAIRMAN ARGENZIANO: Commissioners? We're approving the transfer from base rates to the capacity cost recovery clause, is that correct?

MR. PRESTWOOD: Yes, Madam Chairman.

CHAIRMAN ARGENZIANO: Any questions?

Hearing none, we'll move on to 84.

MR. PRESTWOOD: Issue 84 is simply removing from revenue requirements costs associated with the fuel adjustment clause, revenues, expenses and so forth, so that the revenue requirement excludes any costs related to those issues. Staff recommendation is to approve this. No parties opposed this adjustment.

CHAIRMAN ARGENZIANO: Any comments?

Okay, hearing none, 85.

MR. PRESTWOOD: 85 similarly is to remove from revenue requirements any costs associated with the conservation revenue clause. Again, no parties opposed this adjustment. Staff recommends it be approved.

CHAIRMAN ARGENZIANO: Any discussion, comments? Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chair. Before we get too far ahead, would it be appropriate to make a motion to adopt the staff recommendation on issues 82, 83, 84, 85 and 86, noting that part B of the staff recommendation is moot on those issues?

CHAIRMAN ARGENZIANO: If there's no other comments, then -- and questions?

COMMISSIONER KLEMENT: Second.

CHAIRMAN ARGENZIANO: Hearing none, all those in favor, signify aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: All those opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show the motion adopted, and we can move on -- you went to 86 -- 87, I'm sorry.

MR. PRESTWOOD: 87, again, is --

CHAIRMAN ARGENZIANO: We included 87 in that, didn't we?

COMMISSIONER SKOP: 86.

CHAIRMAN ARGENZIANO: Okay, that's what I thought I said, and you just told me 87. Okay. We're on 87.

MR. PRESTWOOD: 87 is similar to the other adjustments. It's removing the costs associated with the environmental recovery clause from revenue requirements, and again, no parties opposed this. Staff has recommended the adjustment be approved.

CHAIRMAN ARGENZIANO: Commissioners, on 87, any discussion?

Hearing none, 88, issue 88.

MR. PRESTWOOD: 88 is an adjustment proposed by Florida Power & Light to its revenue forecast to reflect that it -- in the calculation of revenue, that it had excluded the effect of CI demand rider incentive credits, which are actually debits to revenue or reductions to revenue. It simply omitted those in the forecast and proposed a separate adjustment to include the effects of those. Staff is recommending that they be approved.

CHAIRMAN ARGENZIANO: Any comments?

Okay, issue 89.

MR. PRESTWOOD: Issue 89 -- I'll mention that this is the first of several issues where there is a -- it's a two-parter. There's an update to the forecast.

Florida Power & Light in the rebuttal stage made several adjustments to its original case to make, primarily, corrections to its forecast. This is the first of one such issue. In late payment fees in the original filing the forecast for late payment fees was not in sync with the forecast for the other additional revenues. Nobody -- no other party opposed the adjustment to update this revenue forecast, and the staff is recommending that that part of the issue be approved.

Continuing with the rest of the issue, the second part dealt with FP&L's proposed tariff change. FP&L currently has a late payment fee of one and a half percent on the unpaid balance. In this case, it is proposing to charge a minimum of $10 plus one and a half percent over the unpaid balance. As a result of that change, FP&L estimated a 30 percent reduction in demand, or a behavioral change; that customers receiving the charge, 30 percent of them would in fact pay their bill on time and not pay the charge.

There was no support given for the 30 percent. Later in the rebuttal stage of the case, the company came up with a 65 percent elasticity of demand to prove that the 30 percent was very conservative. OPC, on the other hand, recommended using an average of 2007 and 2008 actual late payments, and -- which was a 20 percent reduction in customers -- or a 20 percent increase in customers paying their bills late, and this would also have been a slight -- showed a slight decrease over what it was in 2008. Staff is recommending that OPC's adjustment be approved in this case.

CHAIRMAN ARGENZIANO: Commissioners? Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Mr. Prestwood, on issue 89 I believe that we're talking about, the adjustments, I'm looking at the staff recommendation, and even I would be hard- pressed to style a motion to adopt what was just said, so I'm going to probably need some help from staff, or one us of will, when we make that motion. I'm looking at part A and then at part B, but part B is moot and I'm not just kind of getting all that you just conveyed upon us from looking at part A.

MR. PRESTWOOD: Okay. In the conclusion, I think you might see that there's -- first there's -- we are recommending to accept -- in the analysis, we're recommending to accept the adjustments that the company put forth in Exhibit 358, which were the forecast updates, which came from item 6-A and item 10, and then we're also recommending that we use the average of 2007 and '08 as proposed by OPC to estimate the amount of late payment revenue that would be generated from the $10 fee.

COMMISSIONER SKOP: Okay. Can you help me with that last part? I saw that the 358 on page 309 for part A, based on the corrections identified Exhibit 358, OPC's proposed adjustment, staff recommends a net adjustment to increase late payment revenue for the 2000 test year by $18,390,146. Is that -- will that embody the staff recommendation?

MR. PRESTWOOD: Yes, that's --

COMMISSIONER SKOP: Or only part of it?

MR. PRESTWOOD: That's part of it.

COMMISSIONER SKOP: Okay. Where's the other part? That's what I'm missing. Because I get blamed when I mess up these motions, so I need to be understanding it.

MR. PRESTWOOD: Okay, bear with me here for a second.

On page 308, "OPC" -- about the third paragraph down, "OPC Witness Brown recalculated late payment fees of 25 million and 26 million for 2010 and 2011."

COMMISSIONER SKOP: Okay.

MR. PRESTWOOD: Those are the numbers that we are adjusting to, and I may have left out the actual adjustment amount so that you can total that over to either -- to the amount and the conclusion, which I did. But it comes to -- I'll use 2010. Item 6-A was a negative adjustment of seven million three eighty-six, Item 10 was a positive adjustment of $751,895, and then the adjustment for the behavioral change, I'll call it, was 25,024,251. Yeah, that's the amount that shows on page 308, paragraph 3.

COMMISSIONER SKOP: Okay. I'm going to have to wing it on that one when I make that motion.

MR. PRESTWOOD: All three of those total to $18,390,146, which is what's shown in --

COMMISSIONER SKOP: 309.

COMMISSIONER STEVENS: Just accept staff's recommendation.

CHAIRMAN ARGENZIANO: I was going to just say, we can do it the easy way or the hard way. Do you want to take a stab at it?

COMMISSIONER SKOP: Why don't I do this to get us up to where we're at. I'd respectfully move to adopt staff recommendation on issues 87, 88 and 89, noting specifically that we need to adopt the staff recommendation as presented in the record with the corrections that staff discussed, and noting that part B of those three items or issues are moot by virtue of not accepting the 2011 subsequent test year.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion?

All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show the motion adopted.

Now we are --

COMMISSIONER SKOP: Issue 90.

CHAIRMAN ARGENZIANO: I have a note by the side of 90, and I don't know why. Oh, I see, never mind. We're on 90.

MR. PRESTWOOD: Issue 90 actually goes back to the quantification of your previous ruling in issue 3 where you adopted the OPC recommendation. And Mr. Stallcup is going to address that.

MR. STALLCUP: Okay. Yeah, issue 90 handles the effect, or the fallout, if you will, of having adopted OPC's forecast adjustment to Power & Light's load forecast. The increased kWh sales that that adjustment implies would increase test year revenues. Since you adopted OPC's adjustment, the appropriate resolution of this issue would be what is listed down there as OPC's position in this case.

The revenue increase that was in testimony and also in the exhibits was $46,500,182 for the 2010 test year. I'd like to point out at this point that this number, the 46 million number, differs from a roughly $63 million number that was in OPC's brief.

CHAIRMAN ARGENZIANO: That's the note I had by number 90, okay, that's right. I'm sorry.

MR. STALLCUP: And I've gone back and attempted to locate in the record the $63 million number and am unable to do so; however, the forty- six five number is supported by the testimony of OPC Witness Brown.

MS. BENNETT: What we would like is before you actually take a vote on this, to have a brief break, give us an opportunity one last time to check the record and see which numbers are correct.

CHAIRMAN ARGENZIANO: Okay, I think that sounds wise.

Commissioner Skop?

COMMISSIONER SKOP: Thank you.

Ms. Bennett, in doing so, can you look at the disposition as to whether we'd need to reconsider issue 3 to reflect the correct number due to the, either the typographical error in the OPC position or whatever is supported by the record so we get that straight?

MS. BENNETT: Certainly.

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: So do we want to just move on, then, or do you want to that break now? Staff is going to need to take a break at some point to figure out where we're at. Would you advise me, Mr. Devlin, when you think you need to do that, at what point should we consider doing that and can we do issue 90 at that time also?

MR. DEVLIN: Normally we would take a break after all the revenue requirement issues are resolved. I'm not sure how much time Ms. Bennett thinks she needs to reconcile these two numbers. I would suggest we just move forward.

CHAIRMAN ARGENZIANO: Just move on and then we can take 90 up at the same time and give you time, okay, great. Let's move forward.

MR. PRESTWOOD: Issue 91 is a fallout issue for total operating revenue.

CHAIRMAN ARGENZIANO: Okay, issue 92.

MR. PRESTWOOD: 92 issue deals with whether it's necessary to remove any charitable contributions from test year operations. Based on the evidence, there are none. Staff recommends no further adjustment for this issue, with the exception of issue 93, which we'll talk about next.

CHAIRMAN ARGENZIANO: Okay, any questions?

Okay, 93.

MR. PRESTWOOD: 93 deals with FP&L's contributions to its historical museum. The historical museum is set up as a nonprofit organization, FP&L pays its expenses, that the museum records the receipts that it receives from FP&L as charitable contributions. It has, among other responsibility, to maintain historical records on FP&L as well as electric industry records. There is nothing in the federal Code of Regulations requiring a company to maintain electric industry records, and based on interrogatories and other evidence, we believe that this really is -- represents a charitable contribution on behalf of Florida Power & Light to the museum, and the museum is really more in the nature of a corporate image- enhancer than it is a serious business purpose, as far as that goes. And staff recommendation is to disallow the contributions made to Florida Power & Light museum.

CHAIRMAN ARGENZIANO: Any questions?

Okay, 94.

MR. PRESTWOOD: 94 is the aviation cost, Florida Power & Light aviation cost, which the company voluntarily withdrew. This issue is just simply necessary to put the numbers into the exhibit so that we can include them in the quantification of revenue requirement.

CHAIRMAN ARGENZIANO: Commissioner Skop?

COMMISSIONER SKOP: Yeah. So on issue 94, I guess they voluntarily withdrew, but it was under substantial scrutiny from the Commission that caused the company to volunteer to do that in the first place, because they originally included it in the rate case, is that correct?

MR. PRESTWOOD: It was originally included in the rate case and withdrawn during hearings -- actually withdrawn during the hearings, and with the understanding that it would help to move the hearings along more quickly and reduce some of the controversy.

COMMISSIONER SKOP: That might have been true.

The issue with 94 then, if I'm correct, I understand that all aviation costs have been removed from the FP&L rate base, is that correct?

MR. PRESTWOOD: That's correct.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: Any other questions on 94?

Let's go to 95.

MR. CLEMENCE: Good afternoon, Commissioners, Walter Clemence with the Commission staff.

In issue 95, staff is recommending that the cost savings for AMI have been properly included in that operating income.

CHAIRMAN ARGENZIANO: Any questions? Commissioner Skop?

COMMISSIONER SKOP: Thank you.

When they mentioned the cost savings associated with the AMI meters on issue 95, that's only for the 2010 test year, so that would probably be a nominal amount, given the fact that more substantial savings are expected to be incurred in the out years, is that correct?

MR. CLEMENCE: Yes, sir.

COMMISSIONER SKOP: Okay, thank you.

CHAIRMAN ARGENZIANO: 96.

MR. PRESTWOOD: 96 deals with bad debt expense. There's two parts to this, again, as well. One is the forecast update. In the original filing, the company did not sync up its forecast for bad debt expense with the latest forecast of revenue, and it made an adjustment to do that. Nobody opposed those adjustments, so staff is recommending that part of the adjustment be accepted.

OPC had also recommended for bad debt expense that bad debt be lowered to reflect an increase in the amount of automatic bill payment, as well as remote connect switching. Remote connect switching is tied into the AMI project. As the AMI project progresses, the company will be able to remotely connect and disconnect customers. However, OPC had simply taken the four-year schedule of the AMI deployment and averaged the savings that would occur from that due to bad debt -- or to bad debt, the savings in bad debt, averaged them over the four-year period and wanted to use all that in -- one-fourth of that in 2010, which would have required FP&L to actually deploy AMI faster than it had planned to. So the staff does not recommend that adjustment.

Also, FP&L proved that in its projections, I think -- we think that it proved in its projections that it had already incorporated the effects of increased automatic bill payment, so we are -- staff is recommending that no adjustment be made for the proposals by OPC for bad debt expense, and that the adjustment for the update due to the forecast be accepted.

CHAIRMAN ARGENZIANO: Commissioner Stevens?

COMMISSIONER STEVENS: I'm fine. Thank you. That was good.

CHAIRMAN ARGENZIANO: Any other -- any questions? Okay, 97.

MR. PRESTWOOD: 97 deals with bad debt expense again. In this case, the company had proposed to allocate portions of bad debt expense to the various clause mechanisms so that it would recover bad debt expense from each of the clauses, such as fuel adjustment, capacity clause and so forth, based on the percentage of revenue that it receives from each of those clauses.

Staff is opposed to this for -- generally opposed to passing more costs on to these clauses which has less scrutiny for recovery. It would also put more requirements on the staff for tracking purposes and so forth to keep up with bad debt. Also it would have less incentive -- it would create less incentive for the company itself to reduce bad debt. As long as it knew that it would eventually recover the bad -- some large portion, approximately 61 percent of bad debt through the clauses, there would be much less incentive for it to do the efforts it undertakes now to reduce bad debt. And bad debt is done basically as one function today, it's a collection function that's done by the company.

So the staff is recommending that this proposal be denied, and we also take note of an earlier decision in 2009 with one of the gas companies that attempted to do something similar with the purchase gas adjustment clause that the Commission denied, and that was in People's Gas.

CHAIRMAN ARGENZIANO: Anyone, any comments?

Okay. 100, or --

MR. PRESTWOOD: Issue 100 deals with the number of budgeted positions that will be unfilled during the test year. In this case, OPC looked back over a number of years and discovered that for each year the company did not fill 100 percent of its budgeted positions, there was always some level of vacancies left. However, in their 2010 projections, their salaries or their payroll cost was based on 100 percent of those positions being filled.

It did some calculations. First of all, there were some aberrations in the numbers in the earlier years, 2004 and '05, so it excluded those, and then it also excluded distribution employees because that category of employees had been tending to be decreased instead of increased. So based on the remaining number of employees, it calculated an average for 2006, '07 and '08 on a number of positions that would not be filled, and that calculation produced 2.09 percent, and it applied the 2.09 percent to the number of employees that were forecast in 2010, excluding distribution employees, and calculated that 177 employees would not -- would be -- would remain vacant through the test year. Staff is recommending that this adjustment be approved.

CHAIRMAN ARGENZIANO: Commissioner Skop, then Commissioner Stevens.

COMMISSIONER SKOP: Thank you, Madam Chairman.

Just to -- Mr. Prestwood, I think, if I understood your explanation, I do have some question on issue 100 as it pertains to Public Counsel's position. I think that you stated in your discussion that OPC used a method of averaging the 2006, 2007 and 2008 vacant positions to estimate its adjustment for vacant positions, and I'm trying to get a better handle on that, but I think that the gist of what you said was that if FP&L had a higher number of vacant positions in 2007 than the three- year average, and if the 2007 percentage was used instead of what staff recommended in the three-year average, then the vacant positions for the 2010 test year would have been approximately -- or $6.5 million higher, if I understood it correctly. I think we had some discussion with staff in the briefing, but hearing that, I guess my question would be, is it possible that the 2010 test year may be more reflective than 2007 in terms of the percentage of vacant positions that the OPC was -- position was adopted in lieu -- or OPC argument was adopted in lieu of staff, because again, it seems to me that the higher number in 2007 might skew the results somewhat rather than using the average, and I'm wondering whether that understates the vacancy level.

MR. PRESTWOOD: Well, OPC noted -- they did note that there was a high of unfilled positions in 2007 in their testimony in total employees of 2.48 percent, and then in their exhibits, when you looked at the number of employees, excluding distribution, remembering that they did not include distribution employees in their calculations, the percentages were also -- there was a high in 2007. The numbers for 2006 were 1.78, 2007 was 3.49, and for 2008, 1.02, which, again, average out to 2.09 percent, which was used in their calculations.

And we did give some consideration to the fact that there was testimony in this case from FP&L itself, especially Witness Slattery, where since the end of 2008 they had been on a very conservative mode about filling vacant positions. I think she stated that any vacant position, even if it was a rehire of a position, required the approval of the executive vice-president of Human Resources as well as the approval of the president of Florida Power & Light.

So one consideration might be that 2009 and '10 are going to be much higher years in terms of positions that don't get filled. If we, for example, took the 2007 high year number of 3.49 percent and calculated that compared -- or took the difference between that and what was used in this original calculation, we would come up with an additional 119 employees. That's -- or, excuse me, 118 employees. That's over the 177 that was already built into the calculation. And that would produce $6,527,000, roughly, additional expense that would not be incurred due to unfilled positions.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: So if the OPC rationale was applied, essentially that would result in a higher vacancy rate, thereby further reducing expenses by approximately $6.5 million, is that correct?

MR. PRESTWOOD: That's correct.

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Good questions.

CHAIRMAN ARGENZIANO: All right. If there's no other questions on 100, we'll move to 101.

MR. PRESTWOOD: 101 was a productivity adjustment proposed by south Florida. It basically used some statistics from the Bureau of Labor Statistics that were fairly broad, and applied those broad statistics to FP&L numbers. FP&L was able to show that they had already effectively built in productivity into their numbers, and that if you would have used this adjustment, you would be double-counting, and frankly, the south Florida adjustment really was not that well supported and not that specific to Florida Power & Light, and staff's recommendation is not to approve issue 101.

CHAIRMAN ARGENZIANO: Any comments, questions?

Okay, 102.

MR. PRESTWOOD: Issue 102 deals with staff positions for nuclear. Again, there was a proposal by south Florida in this area. It's staff's opinion that Florida Power & Light did a very good job of defending its reasoning and support for the number of positions that it needed for nuclear. And -- so the staff does not recommend that the reduction in number of employees for the nuclear business unit be adopted.

CHAIRMAN ARGENZIANO: Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chair.

I just want to -- in fairness to the company, on issue 102 I wholeheartedly endorse the staff recommendation. FP&L's nuclear division as well as its power generation division, again, they have operational excellence. I think that they are doing the right things to generate electricity in the most cost-available manner for the ratepayers. So again, if I have any criticism in salaries, it will not be related to the operational areas of FP&L. So again, I'm in favor of 102, but I will be speaking strongly on issue 103.

CHAIRMAN ARGENZIANO: Any other comments?

Okay, We're on 103.

MR. PRESTWOOD: 103 is a combination of some concessions made by the company itself with respect to salary and wages, as well as OPC's proposed adjustments.

First of all, FP&L proposed to eliminate the raises for its executives in -- and, of course, I'm only speaking to 2010 now, because any numbers for 2011 are moot, but in 2010, it withdrew the raises for its 42 named executives, which amounted to $757,000, approximately. It also reduced by 50 percent the incentive compensation for those executives, both long-term and short-term incentive compensation, and that amounted to approximately $16,457,000. There's a little bit of difference about the way the numbers were calculated, the order they were calculated, I'll explain in just a minute. If you looked at just the company numbers, they would be just slightly higher. I'll explain that difference.

OPC wanted to take that adjustment a step further. First of all, on incentive calculation -- on incentives for executives, they wanted to lower the incentives themselves before reducing it by 50 percent. The incentives had been calculated at a target rate of 1.4 percent, or 140 percent of the target, and they wanted to lower that down to 1.0, or 100 percent of target level. That amounted to $12,226,000. And then what was remaining they wanted to reduce by 50 percent, so that resulted in the $15,282,000, additional dollars, to reduce incentive.

On top of that, OPC also recommended reducing incentive for the non-executives, and their first adjustment was to reduce the payout ratio. For non-executives, the company had used a 1.3 times the target rate, and they reduced that to 1.0 times, and then the remaining -- which accounted for $2,123,000, approximately -- and then 50 percent of that they eliminated, which was $3,538,000. The grant total of all of those adjustments amounted, for 2010, to $33,927,000. So basically that's all of OPC's adjustment plus the executive raises added on top, if you want to look at it that way. Calculated in a different order, you get the same answer except for the raises you need to throw on top of OPC's adjustment. And staff is recommending that that be made.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

I guess I appreciate the staff recommendation on this issue, and this could be a little bit difficult for my two newer colleagues. Again, they were not at the evidentiary hearing. I'm sure that they thoroughly reviewed the transcript and the staff recommendation. I know that we had substantial discussion and analysis of compensation, for executive compensation, those at salary levels at or above $165,000 per year.

I think that my concern with issue 103, and I want to be very clear, is the concern I have is in no way, form or fashion related to FP&L's operations, okay? Power generation, transmission, nuclear distribution, I have some issues with and I'm going to interrelate with this, but where I have my biggest concern is the non-operational support functions or shared services groups in the context of overlap, redundancy and compensation levels.

And again, the data that we have before us is confidential until such time as the First DCA renders an order in the appeal, but generally speaking, in the marketing and communications group, you have at least one vice-president of marketing and communication, you at least have three directors of communications, you have a senior manager of marketing communication, and that's just at the director level; I don't know how many managers they have below that. But the issue I have there is that in light of hearing from FP&L's customers at all of the various service hearings, in light of, you know, having a vast service area, I understand they can't be everywhere at once, the service quality is adequate, but there are issues related to distribution, feeder lines, outages, large-scale outages at times that need attention.

And I'm looking at this and it seems to me that there is a tremendous amount of redundancy and excess compensation level at the non-operational level, and it would seem to me that if the company -- again, these function and services I guess to Witness Santos I asked, you know, what do they functions do, you know, part of the response in the record, and I can get to it specifically, you know, did they write press releases, do they talk to the media, again, to me, from an operational perspective, that is non-added value.

Certainly the company is entitled to get its message out, and I appreciate that, but that doesn't address the issue of some of the things that we've heard from customers on the distribution side that are not being remedied. It seems to me that if you had -- you took some resources from these non- essential areas and dedicated those efforts on the operational side, we might not have heard the level of service quality complaints that we've heard at the service hearings and we continue to hear.

So again, when I see a bench of directors of communication stacked three deep, and, you know, I have a witness that really can't describe to me what they do, but certainly they do something, I have to look at that critically as an area of, you know, basically redundancy, overlap and -- in compensation issues, you know.

The regulatory affairs group, again, there's a lot of areas there, too. HR is in that function, but HR has a specific role, supporting not only the nuclear division, benefits and all that. So I'm really not going to address regulatory affairs and HR, but this market and communications group I think is far larger than it needs to be. If the company wants to get its message out and have a large marketing and communication group, then so be it, the shareholders can pay for that.

But I think it's inherently unfair -- again, it's not for me to manage the company, but again, when I'm looking at the salaries that I'm looking at that I can't really disclose, yeah, I've got a problem with that.

And so I would be looking to make a specific adjustment on issue 103 in relation -- in addition to the staff recommendation to address some of my concerns. I'm happy to pass the confidential documents around and you guys can take a look at it for yourself, but there was significant discussion at the evidentiary hearing.

I think, Mr. Prestwood, you know, it's kind of hard to discern what all these people do, and we really couldn't get answers, and again, I think that we need to exercise some good discretion and judgment when we're looking at the salaries at these levels, but when you have a bench stacked that deep in that functional support area, that, to me, doesn't add value on the operations side, and what the ratepayers care about is getting electricity and having it be reliable and affordable, not communications.

So again, I have some problems there, and I'll address those.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: I did work through the testimony through DVDs, but I did not see the confidential documents, so I don't know what type of number Commissioner Skop is looking at.

I had a question more along the lines of under A-3, I need a little help understanding the 50 percent of the remaining executive incentive compensation, why we went 50-50, and I might add on to Commissioner Skop's.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair, just a point of -- Commissioner Stevens raised.

Again, I think what happened is that executive compensation certainly was at issue and hotly contested in the rate case, and I think that the 50 percent offer originated from FP&L during the evidentiary hearing as an attempt to appease the Commission and kind of -- I'm trying to think of the exact words, but I'll think of it in a second, because there was some -- they viewed such things, being bogged down in issues of aviation and compensation, as a distraction to their rate case. And I don't view it as a distraction, I review it as the purview of the state Commission to review every expense to ensure that it's reasonable and prudent before we approve it.

And so again, I think it's very critical that we take a look at these, and I appreciate the company's concession to offer that up, but I do not in any way feel that -- it's the purview of the Commission to look at these costs, and they are not a distraction in my view.

CHAIRMAN ARGENZIANO: Commissioner Klement.

COMMISSIONER KLEMENT: Thank you, Madam Chair.

This gets into the area, I didn't see it mentioned specifically in this case as we did in Progress, the term *belt-tightening*. I didn't see also any specific reference to an overall employee salary increase percentage. Was there such? I couldn't find it.

MR. PRESTWOOD: Yes, Commissioner Klement. The company had a merit increase of two percent for all employees, salary, non-salary, union and so forth, across the board.

COMMISSIONER KLEMENT: And executive? Salary is -- I'm sorry, go ahead.

MR. PRESTWOOD: I'm not sure that I'm -- the executive -- I'm not sure I can say that that was a two percent. They have what they call 42 named executives that they use. And then we had also asked for salary data for anybody that made, in total, including incentive compensation and so forth, over $165,000. That's what they were referring to earlier that we researched a lot.

But generally in our discovery we asked what were the merit increases, and the answer was two percent for bargaining, salaried and non- salaried. And I actually calculated that number, you know, just a rough number of what that meant in terms of dollars and cents, if you'll bear with me here. I believe it's approximately $16 million is what that would have been.

COMMISSIONER STEVENS: I'm sorry, that's what the two percent is?

MR. PRESTWOOD: The two percent merit increase, yes, Commissioner. I'll put my hands on it here in a minute.

CHAIRMAN ARGENZIANO: Excuse me. Did we eliminate -- did this Commission vote to eliminate the -- it's a different case, but just out of curiosity, the incentive compensation on Monday?

COMMISSIONER SKOP: Basically, yes.

CHAIRMAN ARGENZIANO: They did?

COMMISSIONER SKOP: I think so.

MR. PRESTWOOD: Again, the number that I had calculated for 2010 as approximately 15 million, I'm sorry, I was off.

CHAIRMAN ARGENZIANO: Fifteen?

MR. PRESTWOOD: 15 million for the two percent merit increase. That affected revenue requirements, I should say. That excludes any that would have been capitalized as part of construction projects and that sort of thing.

CHAIRMAN ARGENZIANO: Commissioner Edgar.

COMMISSIONER EDGAR: I appreciate it.

Can I just ask staff a clarifying question? And this morning already seems like a long time ago, let alone Monday, but on the decision that the Commission made on executive compensation, wasn't the decision to do a 50-50 split? I'm getting blank looks, so --

MR. PRESTWOOD: On Florida Power & Light?

COMMISSIONER EDGAR: No --

CHAIRMAN ARGENZIANO: No, on Monday.

MR. PRESTWOOD: I'm sorry.

CHAIRMAN ARGENZIANO: I'm just trying to clarify if the --

COMMISSIONER EDGAR: I thought I heard an answer that did not jibe with my memory, but like I said, Monday already seems like a long time ago.

I'm sorry, Michael.

MR. WILLIS: Are you indicating Progress?

COMMISSIONER EDGAR: Progress, yes.

MR. WILLIS: I believe it was 50-50.

COMMISSIONER EDGAR: Okay, that's what I thought, and I thought I heard that question asked and I thought I heard an answer different from that, so I'm not trying to jump back and forth, but if an answer was given that didn't jibe with my memory, I wanted to clarify --

CHAIRMAN ARGENZIANO: I'd like to check on that, because I'm not sure --

MR. WILLIS: I will check on that. I'll have staff --

CHAIRMAN ARGENZIANO: I think the staff's -- I think the proposal was 50-50, but we eliminated it, that's what I remember. I may be wrong, but at this point now, let's just -- even though we're on a different case --

COMMISSIONER EDGAR: I'm ready to stick to this.

MR. WILLIS: I will find out for sure.

COMMISSIONER EDGAR: When a question came up about it, I wanted to make sure we had the best information.

CHAIRMAN ARGENZIANO: Does anybody else hear a high pitch?

COMMISSIONER EDGAR: Off and on, yes.

CHAIRMAN ARGENZIANO: Okay. I didn't know -- oh, is it you? No, I think it's coming from here, just in case it means anything.

Okay. Commissioner Skop.

COMMISSIONER SKOP: Yes, Madam Chair.

Again, my concern, again, you know, this case itself, I mean, you know, consistency and uniform outcomes is a good thing from the regulatory process, but from this case as it's before us today, I think that we need to focus on this case and what's appropriate on the merits, just to avoid any appellate issues.

CHAIRMAN ARGENZIANO: Absolutely, and the reason I asked is for a different issue, not that the merits of this case shouldn't be single, and they are. But just as I felt strongly on Monday, I feel the same way now, and I haven't even discussed it, I let you guys talk about it. I have a problem with the incentive compensation. I see it as the company had offered it at 50 percent, is that correct?

MR. PRESTWOOD: Yes, Madam Chairman, they offered 50 percent of the executive -- of their executives, 50 percent of that salary -- or incentive compensation to be eliminated. They also offered to eliminate executive raises.

CHAIRMAN ARGENZIANO: Commissioner Skop?

COMMISSIONER SKOP: Thank you.

Mr. Prestwood, in relation to your last

statement when you mentioned eliminating raises, is this 50 percent of the compensation or 50 percent of the raises, or is it just eliminate the raises and 50 percent of the executive compensation?

MR. PRESTWOOD: They eliminated just 50 percent of the incentive compensation and the executive raises, meaning the 42 named executives.

COMMISSIONER SKOP: But that was 50 percent and 50 percent, not just 50 percent and zero?

COMMISSIONER STEVENS: Fifty percent on the incentive compensation, 100 percent of the raises.

COMMISSIONER SKOP: Okay. Thank you.

COMMISSIONER STEVENS: And the 100 percent is the 757, number one?

MR. PRESTWOOD: Yes, Commissioner Stevens, it's 100 percent.

COMMISSIONER STEVENS: Thank you.

MR. PRESTWOOD: Yes, that's correct.

COMMISSIONER SKOP: Madam Chair, just on issue 103, and again, I know staff is working through its recommendation in relation to OPC, and I'm looking to go a little bit beyond that and try and back it up with a position based on the record evidence, but in issue 103, did staff find any excess payroll costs related to the redundancy of positions?

MR. PRESTWOOD: No, Commissioner, not that we could absolutely say positively, "This is in fact redundant."

COMMISSIONER SKOP: And is that in fact because when I was questioning the witness on that line of question, we really couldn't get complete answers in terms of what these positions did, whether they were redundant or not or how many positions there were?

MR. PRESTWOOD: Yes, Commissioner.

COMMISSIONER SKOP: Okay. So it was a -- basically not a lack of merit of redundancy, but just a lack that we couldn't extract the -- adduce the facts at the evidentiary hearing to either make a determination they were redundant or not redundant?

MR. PRESTWOOD: That's correct.

COMMISSIONER SKOP: Okay. So in the case where we cannot substantiate something, would it be appropriate that if the company has not proven up its case sufficiently to justify areas in which it has, you know, a communication group that has vice- presidents and at least three directors on top of other managers, that might be an area where the Commission would have the discretion to look at the level of compensation in relation to reasonableness and relation to redundancy and then make an informed decision as to whether ratepayers should be asked to bear those non-operational support costs?

MR. PRESTWOOD: I would go so far as to say "might," Commissioner. We might need to hear from others on that, but there's certainly concern there, definitely concern about those positions and the number of them and so forth and so on. My concern is, you know, how much evidence we have to do something with it, so I would not rule out and say, no, the Commission has no discretion to do anything there. So --

COMMISSIONER SKOP: Okay. Also, too, from an evidentiary perspective, if the company does not provide sufficient evidence to prove that its costs are reasonably and prudently incurred, then it's the company's burden, it's not my burden to make that case?

MR. PRESTWOOD: I would agree with that. Normally if the company has been put on notice and -- the company always has the burden of proof, so --

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Thank you, Madam Chair. I just want to make sure if I'm -- I want to ask Commissioner Skop if I'm going in the same direction he's going in on 103.

I'm looking at the incentive compensation of

15,282,736, and also the -- I believe there was raises of approximately $15 million included in these numbers they're not -- that's not showing here. I believe we included two percent in those numbers.

MR. PRESTWOOD: That's correct, Commissioner. There's a two percent merit increase buried in the numbers that we made no adjustment for that is approximately $15 million that relates to O&M expenses in the rate case; that is to say, you know, the part that would affect revenue requirement. It doesn't include capital and so forth.

COMMISSIONER STEVENS: Yes, sir. Thank you. And so I know those, too, but I don't know the number that you're looking at external to this information. Is that where you were going?

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Yes, Commissioner Stevens, the staff -- the total staff recommended reduction is $33,927,400 for the 2010 test year as shown on page 341, and that embodies, again, the company's concession that they made at the evidentiary hearing because of the scrutiny they got over the executive salaries, as well as some other things.

Just for the record, I share, probably,

Commissioner Argenziano's view that, again, if we're looking at across the board two percent raise for the rank and file employee, that's not my concern. I think that that's a good thing and that's not something I want to take away, not only for the union-represented folks, but for the rank and file employees. But what concerns me is, again, the redundancy in the non-operational, and I want to emphasize non-operational support groups, where you have marketing and communications stacked three or more deep with directors and managers, and again, at the compensation levels I'm looking at, I've got the wrong day job.

So again, what I'm looking at doing is adopting the staff recommendation of the reduction of 33,927,400, but an additional pointed reduction based on redundancy specifically in the marketing and communication group, but when you look at regulatory affairs, that's ripe to take a look at, too. But again, we need to support it with record evidence, and I think I can get to a number, I may need a minute or two to review my calculations, but I'm looking to make an additional adjustment over and above the recommendation of staff on issue 103.

CHAIRMAN ARGENZIANO: And, Commissioner Skop, are you recommending the elimination of the incentive --

executive incentive compensation?

COMMISSIONER SKOP: I would be open to building consensus with my colleagues on what the appropriate methodology is. I'm just not --

CHAIRMAN ARGENZIANO: That's what we did Monday, too, not that it's the same thing. I'm just saying, so you know --

COMMISSIONER SKOP: I'm not comfortable with the staff recommendation as it is. I think that the -- it embodies some of the Public Counsel's recommendation, but again, the redundancies in the non-operational support group, I think that we've talked about being lean, the company again can engage in belt-tightening, but if I have to look at a perfect world on what's important, their core job function is providing electricity at reasonable and affordable and reliable to consumers, and, again, marketing and communications, I don't really know where that fits in in the grand scheme of things. I think it has some more important corporate role, but if they want to have that deep of a bench in marketing and communications, then their shareholders can pay for it. It's not fair to have the ratepayers do that.

CHAIRMAN ARGENZIANO: Are you asking to move on and come back to this?

COMMISSIONER SKOP: Yes, Madam Chair.

CHAIRMAN ARGENZIANO: Okay, let's do that, why don't we move on, and, Commissioner Skop, do you need a minute or two, do you want to --

COMMISSIONER SKOP: I would need a minute or two, and then we could come back and move on and come back to this --

CHAIRMAN ARGENZIANO: Why don't we take a five-minute recess?

(Brief recess.)

CHAIRMAN ARGENZIANO: Okay, We're going to start up again if everybody would grab their seats. And, Commissioner Skop, if you want, we can move on and then come back to this issue if you're not ready.

COMMISSIONER SKOP: Yes, Madam Chair, thank you.

CHAIRMAN ARGENZIANO: That's what we'll do. If we could move -- and was -- I did need to remind everyone that at six o'clock the doors lock you in. You can get out, but you can't get back in. So if you try to leave the building at six o'clock and want to come back in, make sure somebody is standing on the inside of the doorway to let you back in. And with that, let's move to issue 106.

MR. PRESTWOOD: 106 deals with pension expense. There was no adjustments proposed and no other parties opposed that, and staff is recommending that no adjustment be made.

CHAIRMAN ARGENZIANO: Commissioners, any comments?

Okay, let's move to 107. Commissioner Skop, just let me know when you are ready. Or, as a matter of fact, instead of going to 107, why don't we go back to issue 90, staff is ready on that, and then we might need a motion to reconsider issue 3.

Paul?

MR. STALLCUP: If you recall, issue 90 was asking the question if there were any adjustments necessary to FP&L's revenue forecast. Because of your decision on the load forecast issue earlier on issue 3, an adjustment is appropriate to reflect the OPC's recommended adjustments to the load forecast.

As you'll recall, we also noted there was a difference between two sets of numbers inside the briefs and in the rec. We went back and rechecked the record and found a third number, which is actually the right number. Both the company and OPC checked with their witnesses, and both the witnesses concur that the appropriate adjustment to 2010 revenues is $36,969,000.

CHAIRMAN ARGENZIANO: Okay. We need to then reconsider issue 3, is that correct?

MS. BENNETT: That's correct, it is a reconsideration. I probably need to add Mr. Stallcup said the parties agree that --

CHAIRMAN ARGENZIANO: They didn't agree on the issue, they agreed on the -- that that was the correct number.

MS. BENNETT: That that witness testified that that's the right number.

CHAIRMAN ARGENZIANO: Okay, thank you for clarifying that.

Do I have a motion to reconsider issue 3?

COMMISSIONER SKOP: So moved.

CHAIRMAN ARGENZIANO: A second?

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: We are now back on issue 3.

COMMISSIONER SKOP: Madam Chair, I'd like to make the motion to adopt -- reject the staff recommendation on issue 3, adopting the OPC position with the corrected revenue requirement differential of

$36,969,000. Is that correct, staff?

MR. PRESTWOOD: Yes.

CHAIRMAN ARGENZIANO: Any discussion?

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: We have a second. Any discussion, any comments?

All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show the motion adopted. And we are now back -- Commissioner Skop, are you ready to go back --

COMMISSIONER SKOP: Issue 90.

CHAIRMAN ARGENZIANO: You're ready to go back to issue 90. I'm sorry, we have to go back to 90, that's right, and then go back to either 103 or 107.

COMMISSIONER SKOP: And, staff, if they could please advise with the appropriate manner in which to style the motion for issue 90. Would it be just to note that it will change based on the Commission's decision on issue 3, or will it be to correct the number to the one I just mentioned?

MR. STALLCUP: Yes.

COMMISSIONER SKOP: Okay. Madam Chair, with that in mind, I'd like to respectfully move to deny the staff recommendation on issue 90 --

CHAIRMAN ARGENZIANO: We'd need to -- did we vote on 90?

MR. PRESTWOOD: We have not voted on 90.

CHAIRMAN ARGENZIANO: So we don't need to reconsider a vote if we haven't done it. Thank you.

COMMISSIONER SKOP: Thank you, Madam Chair. Madam Chair, I would like to make the motion to deny the staff recommendation on issue 90, adopting the OPC position with the corrected number of $36,969,000.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion?

Hearing none, all in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: The motion is adopted.

Now, Commissioner Skop, are you ready on 103, or if not, we can --

COMMISSIONER SKOP: We can go forward or we can go back there. I mean, ultimately I'm going to have to go get in the nitty-gritty of the confidentiality documents, so --

CHAIRMAN ARGENZIANO: Okay, then let's do this. Let's move on with some of the smaller issues that we can take and get done and over with.

COMMISSIONER SKOP: One question: It might be helpful to my colleagues if staff were to pass out that confidential salary information if we have it available so people could see what I was talking about.

MR. WILLIS: We have that available, and while staff is passing that out, Commissioner Argenziano and Commissioner Edgar, you asked if I would find out for sure what happened on that issue in process, and I will tell you I have a copy of the transcript, and the transcript was to adopt Public Counsel's position down the line, and Public Counsel's position in that case was to remove the entire expense of incentive compensation for both short term and long term. What the adjustment actually did was remove three-fourths of the total amount, that's the portion that was in expense. They kind of left dangling what to do with the capitalized portion, and therefore that wasn't touched. It was basically three-fourths of the total expense.

COMMISSIONER EDGAR: That's helpful to me, thank you, because we're seeing all of one, half of another, which is where I got the 50, but -- so thank you, and we'll be ready to move on.

CHAIRMAN ARGENZIANO: All right. Commissioner

Skop.

COMMISSIONER SKOP: Madam Chair, with respect to Mr. Willis's comment, so will that be in light of -- will that be 75 percent of the total value of the number for that line item, if I've understood you correctly?

MR. WILLIS: What happened in the Progress case was the Commission voted to adopt OPC, which was 75 percent of the compensation, incentive compensation.

COMMISSIONER SKOP: Okay, to remove that. Okay, thank you.

COMMISSIONER STEVENS: Madam Chair, if I understood, though, that was also the capitalized piece, and that's why it wasn't a hundred percent, is that --

MR. WILLIS: The 25 percent was the capitalized portion, which Public Counsel did not state what to do in their position, yes. They kind of left it dangling.

COMMISSIONER STEVENS: And here on item 103, we're just looking at O&M, we're not looking at O&M and capitalized, just O&M?

MR. PRESTWOOD: (INAUDIBLE).

COMMISSIONER STEVENS: Well, it says O&M.

CHAIRMAN ARGENZIANO: You might want to repeat it just to make sure.

Commissioner Stevens, would you --

COMMISSIONER STEVENS: We're just looking at O&M expenses on 103, correct, not O&M and capitalized?

MR. PRESTWOOD: Correct, we're just looking at O&M and some payroll taxes along with it, correct.

CHAIRMAN ARGENZIANO: Okay. So why don't we pick up on -- did we already move on 106? We're on 107, aren't we?

MR. PRESTWOOD: Yes, ma'am.

CHAIRMAN ARGENZIANO: Okay, 107. Commissioner Stevens, I'm sorry.

COMMISSIONER STEVENS: And you will probably answer this question when you go over it, but let me ask it first.

Staff recommends no adjustment, and I'm going to ask you why not, because the OP -- the Public Counsel had an adjustment.

CHAIRMAN ARGENZIANO: Which issue are you on?

COMMISSIONER STEVENS: 107, I'm sorry, 107. Thank you.

MR. PRESTWOOD: Yeah, I -- we'll address that. 107 deals with an insurance refund related to environmental insurance. This pertains to the period of 1998 through 2007 that the company was paying and booking insurance expense. In 2007, it decided to discontinue the insurance, as well as to relieve the insurance companies of any future liability. As a result of that, they received a refund for that period. So this is basically a prior period adjustment, you know, relating to years prior to the 2010 test year.

What OPC had recommended was to calculate this -- or to take this refund, bring it forward into 2010 and amortize it over a five-year period; in other words, one-fifth of it would be in the year 2010. It really has nothing to do whatsoever with 2010 or even any year close to that. It was --

COMMISSIONER STEVENS: I understand it's a --

CHAIRMAN ARGENZIANO: Commissioner Stevens, please.

COMMISSIONER STEVENS: I understand that it's recorded as a prior period adjustment. When was it received?

MR. PRESTWOOD: 2008.

COMMISSIONER STEVENS: That's when the company received it?

MR. PRESTWOOD: Yes, sir.

CHAIRMAN ARGENZIANO: Okay, thank you.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. To Commissioner Stevens' concern, I think that was an excellent point that was raised, I had the same concern, and it took convincing from staff to indicate when it was received and booked to convince me that the staff position would be the appropriate one over OPC. It was a timing issue, but not in the test year.

CHAIRMAN ARGENZIANO: Okay. Any other questions on 107? Thomas?

COMMISSIONER STEVENS: No, thank you.

CHAIRMAN ARGENZIANO: Okay, 108.

MR. PRESTWOOD: 108 has two parts. Again, it has the forecast update on the first part where -- actually, excuse me, it just has one part, that is the forecast update. This relates to the Department of Energy.

Florida Power & Light, as well as all electric power companies that have nuclear facilities, have been paying to the Department of Energy for the storage of their spent nuclear fuel, which the Department of Energy has yet to do. They reached a settlement in March of 2009, and the company chose to update their filing to reflect the benefit of that settlement, which was some cash inflows, as well as reimbursement for capital outlays and so forth. And really no party really opposed that update. South Florida had, earlier in their testimony, recommended using an earlier number and bringing that forward into the test year, but the update that the company made in their rebuttal was the most current data, and staff feels that the most current and most accurate data is what should be used in the test year and recommends that adjustment.

CHAIRMAN ARGENZIANO: Any other questions? Okay, 109.

MR. PRESTWOOD: 109 deals with affiliated interests for Florida Power & Light. It's a rather lengthy issue. Their -- and then also there's a forecast update for this one as well.

Basically the OPC witness first had proposed that the company adjust some of its specific -- or some of the drivers that it uses in its calculations to allocate costs out. FP&L updated its drivers and showed that some of those drivers went up, some of them went down, but in general there was very little change and so no adjustment was necessary for that. They also made an adjustment to -- let me back up.

For example, there are three primary methods for allocating the cost at FP&L to the affiliates. First, all the cost is recorded on FP&L, the utility company, and then it's allocated out to all of the affiliates and itself.

The first method is a direct charge method, where there's a specific job that's being done for a specific utility that they can charge to that.

The second method is one where there's a pool of costs that's -- can be identified and can be allocated based on what they call a specific driver that relates to the activity being performed. The example I like to use, although it's not necessarily exactly what they do on their books, but IT, we have an IT group at the PSC, for example. A specific driver would be to allocate their cost based on a number of PCs that we have in the building, if we wanted to allocate our cost to each of the departments, and so forth.

And the third and final big pool of costs is one -- is a pool of costs that is really not identifiable to any particular function or driver, and that would be such things as preparing the annual report, budgeting, that type of stuff. FP&L, as well as a number of companies and a number of Commissions, have used what's called the Massachusetts formula as more or less a safe harbor or treatise, if you will, because there is no allocation formula that's perfect, there just simply isn't one, never will be. The Massachusetts formula has been found to be a reasonable method of allocating costs, and as long as companies used it and used it consistently and correctly, it was pretty much accepted.

In addition to wanting to update some of the drivers, which I've already discussed, which did not have a material impact, OPC wanted to pick out one piece that's allocated on the Massachusetts formula and change that, and that happened to be the group level executives, the group level executive salaries. They wanted to allocate that, rather than what the results were coming out of the Massachusetts formula, which was roughly 70 percent of Florida Power & Light, the utility, 30 percent to everybody else, very roughly, to simply 50-50. No basis for the 50-50, they just felt like 50-50 was a better allocation. And they also felt that the Massachusetts formula was really more of a size- based allocation formula, which it is, and that the non-regulated affiliates weren't getting -- paying for the full benefit they get for being associated with Florida Power & Light. If they weren't associated with Florida Power & Light, they wouldn't have so many benefits.

Florida Power & Light said, look, as long as our association with these affiliates -- if we're able to share our costs that we would have to incur anyway if we were a stand-alone utility, and we can lower those costs to a point lower than it would be if we were on a stand-alone basis, then our ratepayers, our customers, are better off than they would be otherwise, and the Massachusetts formula meets that objective.

So our problem was if you went in and adjusted just one single piece of the Massachusetts formula, then you no longer had that formula. You know, in short, it's either use it or don't use it, don't tamper with it. And that was really sort of our position, not because it was salaries that they were adjusting, but just because they were adjusting any part of it. We're not saying that the Massachusetts formula is the only way to do it, but if you're going to recommend another way, recommend a complete method, not just one little piece to achieve an adjustment that you might be trying to have. So we're recommending against that adjustment proposed by OPC.

Some other issues that were raised, first of all, FiberNet, which is a little bit different situation, FiberNet is FP&L's telecommunications company. It handles all the telecommunications for all the -- for FP&L as well as the non-regulated companies. It bills its cost out to FP&L and the non-regulated companies. A big part of that cost is a return on its investment, because it's a very capital-intensive company. And the return that it was using, return times its investment, was higher than what the utility was earning, and OPC felt like that it should be -- that return should be no higher than what's allowed to the utility, and we agree. So we are recommending that OPC's adjustment for the billing from FiberNet to FP&L be accepted.

Now, we recognize -- and the return that they used was the return being recognized by OPC's witness -- or being recommended by OPC's witness at the time. We recognize that in the end result that won't be the exact return that is used for FP&L in this case, but we think it will be close enough for this adjustment; that it's not that material, but it definitely shouldn't be higher than what the utility earns.

The other area dealt with the company that's called FP&L Energy Services. The two main issues there were, one, the OPC was saying that gas -- the gas contracts, FP&L Energy Services, among other things, sells natural gas to customers. It also sells energy-related products such as surge protection, home appliance warranties and that kind of stuff, or that kind of -- those kind of products. When it sold -- when Florida Power & Light sold its gas business to FP&L Energy Services, there was -- OPC claimed there should have been a gain recognized on that and that that gain should have been amortized over some period of time and recognized in FP&L for their ratepayers. That was an issue in the last rate case.

That issue went all the way through the rebuttal stage and that case was settled, and the settlement in that case clearly states that this settlement will settle all issues in this case. And that being one of them, we considered that issue settled, whatever the outcome was, and we didn't go any further than that once it was settled.

The other issue they raised was that -- whether FP&L Energy Services was paying enough for the use of FP&L's bill. They do bill inserts in FP&L, using FP&L's bill, and according to the testimony, they do fully compensate FP&L for the use of their bill. That topic has been fairly litigated over the past several years, and I think it's been fairly well-established that the utility has a right to allow others to put their inserts in its bill as long as it's fully compensated for that service. So from a revenue requirement standpoint, I do not believe that we have an issue with FP&L Energy Services in this case. There's nothing really to adjust for.

So, in summary -- I told you it was a long issue -- we're recommending for the --

CHAIRMAN ARGENZIANO: Okay. Sum it up, go ahead. Bring it in for a landing.

MR. PRESTWOOD: I'm bringing it in for a landing, okay.

In summary, we are recommending that the forecast data be accepted, no adjustment for the allocation drivers, no adjustment for the Massachusetts formula, no adjustment for FP&L Energy Services, no -- accept OPC's adjustment for the FiberNet charges to FP&L, and no adjustment for the power monitoring revenue, which I didn't even mention because it was just a misunderstanding of what that item was.

CHAIRMAN ARGENZIANO: Thank you very much for -- I'm sorry, did I cut you off?

MR. PRESTWOOD: No, you didn't.

CHAIRMAN ARGENZIANO: Thank you, it was extremely thorough, and I really do appreciate that. That sounds funny, but I really mean that. Sometimes a thorough explanation really helps to understand when there's so many issues there.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair, and this may be one of those issues I may need to break out along with issue 119 to vote on separately.

CHAIRMAN ARGENZIANO: On 109?

COMMISSIONER SKOP: 109 and 119, I may need to take those up separately, depending on consensus-building.

I generally agree with the staff recommendation as articulately presented by Mr. Prestwood. I want to have a few comments in passing.

The, as Mr. Prestwood properly stated, the issue on the sale of assets, again, that seemed to be something that is precluded from us looking at further by virtue of the 2005 settlement agreement, as Mr. Prestwood alluded to, so I think that we're barred on an issue preclusion basis from revisiting that, so I think that that's the proper legal result.

As to FP&L Energy Services providing -- you know, offering products to FP&L's customers, you have the affiliate offering products through FP&L's bill inserts and FP&L processes the cost of that on its bill, and, you know, we can get into the whole issue of whether there's cross-subsidization or not, or whether it's really a level playing field to the extent that if competitors wanted to offer some more product offerings along the same line to directly compete with FPLES, would they be allowed to do so. I know GEICO and maybe Discover Card or whoever else they put inserts in for, that's fine.

But the issue that I have, and again, this is the issue -- and I'm very familiar with the case law that Mr. Prestwood tried to allude to, it's the GTE case, 642 So.2d 545, you know, it speaks to the standard of review and the standard of fairness there. That is not my concern with these products.

As we've heard from Representative Sands, who came to appear before the Commission, as we've heard from others, when consumers are offered these products they think they're being offered the products by FP&L, so there's an issue of customer confusion. The products -- at evidentiary hearing, we discussed those at length. Wasn't a whole lot of transparency there as to what the profit margins were, but I think it's probably safe to assume they're very high profit margin offerings; otherwise, I don't think FP&L would be willing to tarnish or compromise the goodwill of its corporate name in the instance of offering such products through its affiliates.

My concern is that for the most part, based on the record evidence, these products could be construed as predatory and illusory, and I have that concern, and I know that Mr. Prestwood stated that this is a revenue requirement issue and not an issue that we can really kind of do something about, but I would like to ask

Mr. Prestwood, what is the appropriate remedy for the Commission -- and again, we might be able to amend a motion onto this issue to spin this off for consideration in a separate proceeding to address the appropriateness of FP&L Energy Services offering such products through FP&L, in light of the customer confusion issues, in light of the concerns expressed by state representatives, in light of the fact that the Attorney General's Office has had to get involved and engaged in settlements over some of these product offerings in light of significant consumer concerns, I mean, that we discussed in the evidentiary -- I don't want to rehash the obvious.

I'm unhappy with these product offerings because I feel they're predatory and illusory to FP&L's customers, and I think that we have -- from a regulatory perspective, we certainly regulate FP&L. Now, as regard to its affiliate, I'd feel much more comfortable if its affiliate would just sit there and paid 44 cents and mailed its own offerings out and it could do business the way it wants to, but the way it's trying to do, it's piggybacking off FP&L's billing system and accounting system to generate unregulated affiliate revenue.

But the issue I have gets to, is this something appropriate that FP&L should be offering to its customers, because for the most part, some of these warranties really have a lot of exclusions and limitations, and if you look at the fine print, I have some serious concerns on that, and that may be an issue -- I guess what I'm torn with is typically the Attorney General's Office has previously gotten involved, but again, there's a statutory consumer protection provision that specifically excludes other agencies from having jurisdiction if the PSC has jurisdiction, and I think that we do, in terms of the fact that we regulate FP&L.

So what's the appropriate measure in your mind, Mr. Prestwood? Because again, my frustration is the marketing people are off doing their own thing and it's become a source of frustration for me, whether it be Sunshine Energy or this case, and again, I think I've reached my limit, and we need to protect FP&L's customers.

CHAIRMAN ARGENZIANO: And you're asking for --

COMMISSIONER SKOP: Mr. Prestwood, yes, recommendation.

MR. PRESTWOOD: And I think you've mentioned it, I think a separate investigation, separate docket, to look into the business practices between Florida Power & Light and its subsidiary, the cost-sharing and arrangement there, and, you know, have all parties the ability to, you know, participate in that docket and pursue some of these issues in much further depth than what we were able to in light of this case where we were looking at strictly revenue requirement issues.

COMMISSIONER SKOP: Well, like I say, it's unfortunate that it's necessary that we may need to go there, but we may have to. I think it would be a lot easier for the company to stipulate in a cease and desist from offering such offerings, or do it a different way, but I'm not comfortable with the current structure. It gives my great concern. I think that, again, the record evidence that is in the transcript speaks to the complaints that have come in and some of the issues that have arisen from these offerings, and again, I think that we have a duty to look out for the ratepayers, and again, I'm uncomfortable with this and I may need to style a motion or vote against the issue if it's not the will of the Commission to --

CHAIRMAN ARGENZIANO: What is your desire as of right now for this issue?

COMMISSIONER SKOP: I'd move to approve staff recommendation with the amendment that we create a -- on Commission's own motion to initiate another -- a docket to investigate the relationship on the appropriateness of the affiliate offering these products to FP&L

customers.

CHAIRMAN ARGENZIANO: There's a motion.

COMMISSIONER STEVENS: I'll second that motion.

CHAIRMAN ARGENZIANO: Any discussion, questions?

All those in favor of the motion, indicate by aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: All those opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show the motion adopted, and we can move on to -- I forgot where we were.

COMMISSIONER SKOP: I think 116-A.

CHAIRMAN ARGENZIANO: 116-A, thank you.

MR. PRESTWOOD: 116-A -- issue 116-A relates to sales of individual assets to and from Florida Power & Light from affiliates. OPC had recommended that this be treated in a manner similar to which you would treat when you sell an entire system where you recognize a purchase price adjustment and a gain and so forth and amortize that over some period of time. These are individual assets that are recognized typically when you sell them as salvage, and accounted for, and we believe the company's followed the uniform system of accounts and that no adjustment is necessary. That's our recommendation.

COMMISSIONER STEVENS: Madam Chair?

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: And I understand taking the full depreciation and the transfer, but there's also this gain on sales, so I'm back to the help me understand why we don't agree with the Public Counsel's position. Help me better understand that.

MR. PRESTWOOD: Uniform system of accounts for individual accounts and assets is set up in a manner that we depreciate it over the life of the plant. We incorporate in that depreciation the cost of removal at the end of its life, and we also incorporate into that salvage, and then we adjust those rates, I think we said earlier today every five years, to account for changes that are occurring.

COMMISSIONER STEVENS: So it would be caught in those calculations?

MR. PRESTWOOD: Yes, Commissioner, and that's exactly right. These sales are nothing more -- they're small, relatively small assets and they should be just treated as salvage for the most part.

COMMISSIONER SKOP: Thank you.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. Commissioner Stevens had the same question. It took substantial discussion with staff to get a better appreciation of that, and I'm comfortable with the staff recommendation as it was explained to me.

CHAIRMAN ARGENZIANO: Anything else?

COMMISSIONER STEVENS: No, ma'am.

CHAIRMAN ARGENZIANO: Okay. Now, Commissioner Skop, you wanted to separate 119. Are you ready to go on that one?

COMMISSIONER SKOP: I'm ready to go on it. We can proceed, and I may just be willing to make a motion, and if not, I'll vote in the negative, but if staff will introduce the issue, I'll be prepared to make a motion.

CHAIRMAN ARGENZIANO: Let's go to 119.

MR. PRESTWOOD: Okay. Issue 119 deals with requiring Florida Power & Light to notify the Commission when it plans to transfer its assets from Florida Power & Light to a new separate subsidiary for its New England division. Our recommendation for this is that -- and it was OPC's recommendation that that be denied. We believe that it's important that the Commission do be informed of these entries before they're made and so forth and so on; however, in this docket, we don't believe that it's appropriate to deal with it, because it's not a revenue requirement issue.

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

With respect to staff recommendation, I respectfully disagree with staff. Just to -- without going into a whole lengthy history, the FP&L NED assets basically were created to benefit the unregulated company, and it's like a holding company, so it's a whole host of issues associated with that, but I would prefer, and at the appropriate time would respectfully move to deny the staff recommendation on this issue and adopt the OPC position in its place, ordering an independent appraisal by the rule.

CHAIRMAN ARGENZIANO: Okay. Any -- so there's a -- you just made a motion. Any discussion or a second on the motion?

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Second on the motion.

Any discussion, questions? Commissioner Stevens.

COMMISSIONER STEVENS: I find this similar to the discussions we had just a second ago I believe on 116-A. Do we want to put a dollar floor on your recommendation, or is it any assets?

COMMISSIONER SKOP: Commissioner Stevens, with respect to the issue in issue 119-A, I think that the assets in the FP&L NED division, they're looking at spinning that off into a separate subsidiary and not having it in the regulated operations where it's kind of like a square plug in a round hole, so they're looking at a solution based on previous concerns I raised.

In 116-A, I think that sale -- gain on sale had already occurred, I think this has not yet occurred, so that's why I think having the independent appraisal might be required. I'm not so sure what the floor of that -- of the assets would be, but I think they're in excess of $30 million.

COMMISSIONER STEVENS: And -- that's where I was going. I don't want to see something for 50 grand.

COMMISSIONER SKOP: Right, I understand. I think they're -- staff, if you could elaborate, but I think they're in -- it's safe to say they're in excess of $30 million for the NED assets. Anyone got some clarification on that?

CHAIRMAN ARGENZIANO: And by the way, is the court reporter doing okay? Do you need a break?

THE COURT REPORTER: I'm fine, thank you.

CHAIRMAN ARGENZIANO: Thank you. Okay.

COMMISSIONER SKOP: Put it this way: I know that they attempted through an issue that we -- that I had great exception with, and we ultimately denied, to basically raise capital in the amount of $30 million on the regulated side that they were going to send to the NED division that has absolutely nothing to do with Florida operations for FP&L customers. So I think that the OPC position is reasonable.

CHAIRMAN ARGENZIANO: Are you comfortable knowing it's not a $50,000 --

COMMISSIONER STEVENS: I am.

CHAIRMAN ARGENZIANO: Okay. All right. Then we have a motion and a second. Do we have a second?

COMMISSIONER KLEMENT: Yet.

CHAIRMAN ARGENZIANO: All right. They're all meshing together now. Okay. Any further discussion?

Hearing none, all those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show the motion adopted. And now we are on 121, thank you.

MS. GARDNER: Commissioners, Betty Gardner of Commission staff. Issue 121 is basically a fallout of issue 42, "What adjustment, if any, should be made to the fossil dismantlement accrual?" Staff recommends an increase to the system and a provision for dismantlement by $3,147,274, which includes the solar, and the retail annual accrual should be increased by $2,640,568.

CHAIRMAN ARGENZIANO: Questions?

COMMISSIONER STEVENS: No, ma'am.

CHAIRMAN ARGENZIANO: Okay. 122.

MR. PRESTWOOD: Issue 122 is rate case expense and the proper amortization period. The company initially forecasted a rate case expense of 3,657,000 and requested it to be amortized over three years. They updated this forecast during the case, and it -- to be over a million dollars more than the original forecast; however, they did not request that that additional moneys to be included in the revenue requirement.

Staff is recommending that we use the original forecast. However, we reduced that by $450,000, which represents the overtime that the company pays to salaried employees for their work during the rate case, on the rate case; and we are also recommending that the amortization period be extended from three to four years, which is consistent with the Commission's actions in several of the last rate cases in terms of the amortization period.

CHAIRMAN ARGENZIANO: Commissioners?

COMMISSIONER STEVENS: I'm fine with this.

CHAIRMAN ARGENZIANO: Okay. 124.

MR. PRESTWOOD: 124, issue 124, FP&L has requested to add additional loadings to the energy conservation cost recovery clause. We are recommending that this be disapproved. We see no need to add additional costs into that clause, lead these costs into base rates.

COMMISSIONER STEVENS: I agree with staff.

CHAIRMAN ARGENZIANO: Any comments? Okay. If none, let's move on to 125.

MR. PRESTWOOD: 125 is essentially the same issue, adding loadings, it's just a different clause. They wanted to add additional loadings into the capacity cost recovery clause, and again, staff is recommending not to allow this.

COMMISSIONER STEVENS: I agree with staff.

CHAIRMAN ARGENZIANO: Okay. On 126 we may need to separate depending on -- on a separate vote. So staff, do you want to -- Commissioner Skop, did you have a comment?

COMMISSIONER SKOP: Yeah. On 126, I had a little bit of heartburn, too, the way I was able -- and I'll let staff introduce the issue, but I had -- I was trying to get a better handle on where those costs should line up, and talking to my aide, who used to be the Commission's fuel expert, he basically convinced me, along with staff, that 126 is putting the costs in the right place. I was very skeptical, but better minds prevailed in that one. So --

COMMISSIONER STEVENS: Madam Chair?

CHAIRMAN ARGENZIANO: That's not any insult to Bill, but that's your opinion. Sorry. Commissioner Stevens. I'm just fooling with you.

COMMISSIONER STEVENS: I also had some questions on this, and staff talked to me, and I appreciate their response and I agree with staff on this issue.

CHAIRMAN ARGENZIANO: Well, I'm uncomfortable, so, staff, do you want to talk to me? Because I'm like -- I want to know about being able to look at the prudency, the prudence issue --

MR. PRESTWOOD: Okay. Issue 126 deals with hedging costs related to fuel and the fuel adjustment clause. In this issue, we are -- the company is proposing to move cost from the fuel adjustment clause back into base rates, and that is because the fuel adjustment clause is primarily for the cost of fuel itself. Hedging is basically salaries, it's people that do the work of hedging fuel costs and contracts and so forth. It's more of an administrative function.

And staff -- the company as well as staff believes this really belongs back in base rates. That way, the fuel adjustment clause is really dealing with the fluctuation of fuel costs and not dealing with year-to-year salary increases and so forth that the hedging staff group deal with. So --

CHAIRMAN ARGENZIANO: Commissioner Skop.

COMMISSIONER SKOP: Actually, I may have to go the other way on this one. I need to get a little bit more clarification, because I think that staff said something just there. I understand that the salaries are more of a base rate -- excuse me, a rate base component, but as far as reviewing the prudency of hedging costs that my colleague, Chairman Argenziano, raised, I can see that point, because, again, that's come up in the annual fuel clause proceeding and there's been the hedging plan and guidelines that the Commission's approved and, you know, so we're taking a look at that, and I look at OPC's position and they're saying that maybe they ought to be in the same place.

So how do you -- you know, I understand the head count issue and the salary issue, but that doesn't go to prudency, you know, the transaction cost, the hedging, what they're doing, whether they're following the plans. If we just hide that in the rate base, how are you going to be able to look at that on an annual basis?

MR. PRESTWOOD: With all due respect, I look at it the other way. I tend to not favor -- favor less costs being put into the adjustment clauses because they're not automatic, although they get less scrutiny each year, and increases, decreases, so forth, are passed on through the fuel adjustment clause, whereas if they're left in base rates, it basically requires a rate case to change those costs. So, you know, if staff receives raises, bonuses, et cetera, and they're higher than they were the year -- this year when we established base rates, then they have to come back in to recover those costs. If they're in the fuel adjustment clause, they're passed on.

COMMISSIONER SKOP: Okay. Well, let's talk about it a little bit more.

I can understand that the head count would be pretty much a fixed cost, and so we know that is, and that component of hedging cost might be appropriate, or more appropriately included in the rate base. What about the transaction cost related to hedging, gains or losses on hedging, where is all that picked up?

MR. PRESTWOOD: That's in fuel.

COMMISSIONER SKOP: That stays in fuel, is that what you're telling me, that stays in fuel?

MR. PRESTWOOD: Yeah. This is the --

MR. WILLIS: Commissioner, that is correct, that stays in fuel.

COMMISSIONER SKOP: So the prudency of that can still be reviewed.

MR. WILLIS: The prudency of what they do in hedging stays in fuel.

COMMISSIONER SKOP: Okay. Then I'm comfortable with this.

MR. PRESTWOOD: This is the incremental hedging cost --

COMMISSIONER STEVENS: It's the difference between incremental and the actual.

CHAIRMAN ARGENZIANO: Okay, gotcha. Okay. That helped tremendously. Thank you.

MR. PRESTWOOD: And I failed to mention that there's also another one of those forecast update in this adjustment as well, too, so -- which we also are recommending be adopted.

CHAIRMAN ARGENZIANO: Okay. Commissioners?

Okay, let's move on, then, to 128.

MR. PRESTWOOD: 128 would normally be a fallout issue, but there is also a forecast update that's made part of this. We are -- this particular forecast update is different from the rest of the ones that we've been talking about. For the most part, the forecast updates have really been corrections to the filing that came to the attention of the company as they went through and made their adjustments.

This particular adjustment is -- has to do with insurance. It's called NEL insurance. It deals with nuclear liability. During the case, the company got some information that they may not be receiving what is equivalent of a dividend in future years. It's speculation at this point, in our opinion, whether they will or they won't. It's certainly not a known item, and we don't recommend that this particular forecast item be accepted. We think this is an attempt to actually update the forecasted data. And the rest of the issue is a fallout.

CHAIRMAN ARGENZIANO: Okay. Commissioner Skop?

COMMISSIONER SKOP: Madam Chair, I would just suggest if my colleagues are comfortable, we can go through from issue 91 and start trying to make some of the motions, and I think that would leave us with issue 103, but maybe we can leave the fallout issues for the end.

COMMISSIONER STEVENS: Could you --

CHAIRMAN ARGENZIANO: Hang on.

COMMISSIONER STEVENS: If I could, Commissioner?

CHAIRMAN ARGENZIANO: Commissioner Stevens.

COMMISSIONER STEVENS: Thank you. I would be okay with going through 97, but I'd like to hold 100 and 103 for sure.

COMMISSIONER SKOP: Absolutely.

COMMISSIONER STEVENS: Okay.

CHAIRMAN ARGENZIANO: And are you talking about going past where we are now --

COMMISSIONER SKOP: No.

CHAIRMAN ARGENZIANO: -- and taking these -- okay, let's do that, then.

COMMISSIONER SKOP: Why don't we just get the initial ones?

CHAIRMAN ARGENZIANO: Okay.

COMMISSIONER SKOP: Move to approve the staff recommendation for issue 91, 92, 93, 94, 95, 96 and 97, noting that part B of those items, if they exist, may be moot.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show that approved. Commissioner Skop.

COMMISSIONER SKOP: Okay. I think that brings us to issue 100, which we may want to take up separately if --

CHAIRMAN ARGENZIANO: Yes, we are going to hold on 100.

COMMISSIONER SKOP: Are we going to move beyond that for like one oh --

CHAIRMAN ARGENZIANO: Yes.

COMMISSIONER SKOP: All right. So I'd then move to approve the staff recommendation on issues 101 and 102, noting that part B of those may be moot also, if it's applicable.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show that approved. Let's move on. Commissioner Skop, do you have a motion?

COMMISSIONER SKOP: Motion would be then to approve the staff recommendations on issue 106, 107 and 108, noting that again if there is part B and it's applicable, it may be moot.

CHAIRMAN ARGENZIANO: Okay.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? All those in favor, indicate aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: The motion is adopted. Okay.

COMMISSIONER SKOP: And then I believe that takes us to 116-A, move to approve staff recommendation on 116-A.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Approved. And if we can go to, if you want to, 121 --

COMMISSIONER SKOP: 121, okay. Move to approve the staff recommendation on issues 121, 122, 124, 125, 126, and we'll stop at 126 for now.

COMMISSIONER STEVENS: Second.

CHAIRMAN ARGENZIANO: Any discussion? All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN ARGENZIANO: Opposed, same sign.

(No response.)

CHAIRMAN ARGENZIANO: Show that approved. And now do -- Commissioner Stevens, do you want to go back to 100 now?

COMMISSIONER STEVENS: At the pleasure of the Chair.

COMMISSIONER SKOP: I need to ask staff in terms of -- that's why I stopped at 128, because do changes in salary and employee benefits under 100 and 103 impact issue 128?

MR. PRESTWOOD: Yes.

CHAIRMAN ARGENZIANO: Okay, so that's a good place to stop.

(Transcript continues in sequence with Volume 2.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

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

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

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

DATED THIS 14th day of January, 2010.

JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 14th day of January, 2010.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, RAY D. CONVERY, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 14th day of January, 2010.

Ray D. Convery

RAY D. CONVERY
Court Reporter
(850) 224-0728