

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 120015-EI

In the Matter of:

PETITION FOR INCREASE IN RATES
BY FLORIDA POWER & LIGHT COMPANY.

RECEIVED-FPSC
12 AUG 28 PM 3:01
COMMISSION
CLERK

VOLUME 14

Pages 1735 through 1918

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Thursday, August 23, 2012

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

APPEARANCES: (As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE
05875 AUG 28 2012
FPSC-COMMISSION CLERK

I N D E X

WITNESSES

NAME: PAGE NO.

WILLIAM E. AVERA

Continued Cross Examination by Mr. Moyle	1739
Cross Examination by Mr. Sundback	1777
Cross Examination by Capt. Miller	1830
Cross Examination by Mr. McGlothlin	1831
Cross Examination by Mr. LaVia	1836
Cross Examination by Mr. Saporito	1841
Cross Examination by Mr. Hendricks	1843
Further Cross Examination by Mr. McGlothlin	1846
Redirect Examination by Mr. Guyton	1848

MORAY P. DEWHURST

Direct Examination by Mr. Litchfield	1858
Prefiled Direct Testimony Inserted	1860

EXHIBITS

	NUMBER:	ID.	ADMTD.
1			
2			
3	112		1738
4	544	1746	
5	545	1762	
6	546	1778	
7	547	1788	
8	548	1789	
9	549	1792	
10	550	1795	
11	551	1799	
12	552	1806	
13	553	1811	
14	554	1822	
15	193-210		1853
16	543, 544		1855
17	546-552, 554		1856
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 13.)

4 **CHAIRMAN BRISÉ:** We are going to go ahead and
5 reconvene at this time. Mr. Moyle was in the midst of
6 cross-examination.

7 **MR. MOYLE:** Thank you, Mr. Chairman. I don't
8 know. Staff had been, I think, looking to try to get
9 the deposition exhibits and all that. If they are ready
10 to move that, FIPUG has no objection if they want to do
11 it now.

12 **MR. YOUNG:** I have no objection to moving it
13 now if no one has any objections.

14 **CHAIRMAN BRISÉ:** All right. Are there any
15 objections to moving --

16 **MR. YOUNG:** Exhibit 112.

17 **CHAIRMAN BRISÉ:** Exhibit 112.

18 No objections? All right. We will move
19 Exhibit 112 into the record at this time.

20 (Exhibit Number 112 admitted into the record.)

21 **MR. GUYTON:** Mr. Chairman, I would indicate
22 that that does include an errata sheet at this time.

23 **MR. YOUNG:** Yes, Mr. Chairman. It includes
24 the -- just for the record, it includes the errata sheet
25 and the five late-filed exhibits from Dr. Avera's

1 deposition.

2 CHAIRMAN BRISÉ: All right. Thank you.

3 BY MR. MOYLE:

4 Q. Dr. Avera, you were advocating or providing
5 testimony for an ROE rider, correct?

6 A. For an ROE adder.

7 Q. ROE adder, okay. I'm sorry. And,
8 specifically, your testimony -- you have that on Page
9 13, if I could refer you to that.

10 A. Yes, sir.

11 Q. Okay. And you are aware that FPL's Expert
12 Witness Reed also suggests and has testimony in support
13 of an ROE adder, correct?

14 A. Yes. I believe the difference is I'm not to
15 the substance of the adder, but to the policy of the
16 adder.

17 Q. Okay. And have you read Witness Reed's
18 testimony, or did you hear him -- well, have you read
19 his testimony?

20 A. I've read parts of his testimony, and I heard
21 parts of his testimony here.

22 Q. Okay. And you would agree that he had a lot
23 of measurements and information with respect to how to
24 measure performance, correct?

25 A. Yes, sir.

1 Q. And you would also agree that he suggested
2 that having an ROE adder would incent utilities to
3 achieve good performance, and it should not be limited
4 to Florida Power and Light, is that correct?

5 A. Yes. Well, let me make sure it's clear. The
6 policy of having the adder should not be limited to FPL,
7 but I think he was only submitting data to support the
8 adder for FPL.

9 Q. Okay. And in your testimony you talk about
10 Virginia having an ROE adder of 50 basis points,
11 correct?

12 A. Yes, sir.

13 Q. And that is for renewable energy?

14 A. Yes, sir. They have others, but I used that
15 as an example.

16 Q. Okay. And you would agree that that was done
17 pursuant to legislative action that specifically called
18 out the 50 basis points as it relates to renewable
19 energy, correct?

20 A. Yes, sir. There was a regulation act passed
21 several years ago, and that was part of it.

22 Q. Okay. And you also up on Line 3 talk about
23 FERC and the open access transmission grid?

24 A. Yes.

25 Q. All right. And you have open access

1 transmission in Texas, as well, don't you?

2 A. Yes, but within ERCOT it is subject to the
3 Public Utility Commission of Texas, so that is the
4 exception to FERC jurisdiction over transmission.

5 Q. Okay. And FERC put in place a whole host of
6 rules with respect to open access, isn't that correct?
7 It was contained in an order, Order 888 that was issued
8 pursuant to a rulemaking docket?

9 A. Well, that was one order. There have been
10 several since then that specifically addressed things
11 like the incentives.

12 Q. Okay. But you do agree that Order 888 was a
13 rulemaking docket, correct?

14 A. Yes.

15 Q. Okay. And to the extent that this ROE adder
16 is to be put in place and have criteria and a lot of
17 details. Do you think it would be helpful, yes or no,
18 to have workshops where people might be able to talk
19 further about the things that would be measured and how
20 they would be measured?

21 A. No. I believe this Commission has already
22 crossed the bridge on ROE adjustments for performance.

23 Q. All right. So do you have any familiarity
24 with Florida Administrative Code Chapter 120?

25 A. I looked at 366.413 and several others. 120,

1 I'm not sure about, sir.

2 Q. All right. And the cite that you just gave to
3 me to, does that cite say that the Public Service
4 Commission is authorized to increase the return on
5 equity based on performance, in those specific terms?

6 A. No. What it says is that this Commission
7 should consider and can consider the performance, the
8 cost, the efficiency, the quality of service of a
9 utility in setting rates. This Commission in a number
10 of cases has used that as a basis for an ROE adjustment.

11 I understand as a layperson it has been to the
12 Supreme Court in the Gulf Power versus -- Gulf Power
13 case. I have the case here. But, anyway, the Supreme
14 Court interpreted the FPSC as being within its powers
15 when it made such an adjustment for Gulf Power. And
16 this Commission last March of this year has cited that
17 same case and same authority in Aqua Utilities'
18 adjustment to their ROE.

19 Q. Are you aware that this Public Service
20 Commission is a creature of the Florida Legislature?

21 A. Yes, sir.

22 Q. Okay. And are you aware that the Florida
23 Legislature sets energy policy in this state?

24 **MR. GUYTON:** Objection --

25 **THE WITNESS:** Yes, sir.

1 **MR. GUYTON:** -- calls for a fact that has not
2 been established in evidence.

3 **MR. MOYLE:** Well, I think I may have just
4 established it. I mean, he answered yes, and it's
5 within his area of expertise.

6 **THE WITNESS:** As a layperson, Mr. Moyle, my --
7 **BY MR. MOYLE:**

8 **Q.** Just so the record is clear, you are aware
9 that the Florida Legislature sets energy policy in the
10 State of Florida, correct?

11 **A.** As a layperson, my understanding is that that
12 is part of the administrative function of government.

13 **Q.** Okay. So that's a yes?

14 **A.** Yes.

15 **Q.** All right. And are you also aware that the
16 Florida Public Service Commission -- and this may have
17 been something covered in civics long ago -- but that
18 the executive, well, the branch that is implementing the
19 laws carries them out and executes them, is that your
20 understanding?

21 **MR. GUYTON:** Objection; goes beyond the scope
22 of this witness' testimony; calls for a legal
23 conclusion.

24 **MR. MOYLE:** I can talk to it, if you want.

25 **CHAIRMAN BRISÉ:** No, I'll overrule that. I

1 mean, I think it's a pretty basic question.

2 **THE WITNESS:** Well, I remember the
3 Constitution of the United States makes the distinction,
4 and that that is carried forth in the several states.

5 **BY MR. MOYLE:**

6 **Q.** Okay. So just to be clear, that the role of
7 the Commission is to carry out the laws passed by the
8 Legislature, correct?

9 **A.** Yes.

10 **Q.** And you're also aware that there may be
11 disagreement between Florida Power and Light and some of
12 the intervenors as to whether this ROE adder constitutes
13 a policy matter that is more appropriately addressed at
14 the Legislature as compared to this Commission, are you
15 aware of that?

16 **MR. GUYTON:** Objection. Counsel is now
17 testifying and essentially arguing as opposed to framing
18 a question for this witness, but it's beyond the scope
19 of this witness' testimony.

20 **MR. MOYLE:** He's asking for an ROE adder, and
21 other people are opposing it, and I think it's a fair
22 question to ask whether he understands that part of the
23 reason it's being opposed is because some may view it as
24 more of a legislative policy issue than a Public Service
25 Commission issue.

1 **CHAIRMAN BRISÉ:** I think the question can
2 probably be posed differently.

3 **BY MR. MOYLE:**

4 **Q.** The Florida Legislature could, as Virginia did
5 with respect to expressly having an ROE adder for
6 renewable energy, as far as you understand, the Florida
7 Legislature could likewise expressly provide for an ROE
8 adder to incent companies to perform better, correct?

9 **A.** They could. They could do like FERC and do it
10 as an administrative rule as opposed to a legislative
11 act, I suppose, as a layperson.

12 **Q.** Okay. And to the extent you use the term rule
13 in your answer, to the extent that it was done through
14 rule, you would agree you would have to follow the law
15 with respect to rulemaking, correct?

16 **MR. GUYTON:** Objection. Clearly calls for a
17 legal conclusion on the part of the witness.

18 **MR. MOYLE:** I'm just asking for his
19 understanding as an expert. I'm not -- you know, his
20 opinion doesn't make it the law or not make it the law,
21 it's what his understanding is.

22 **MR. GUYTON:** His opinion as an expert in
23 finance has no legal bearing on the legal question that
24 was posed to him.

25 **CHAIRMAN BRISÉ:** I would tend to agree.

1 **THE WITNESS:** Should I answer, sir?

2 **CHAIRMAN BRISÉ:** No.

3 **MR. MOYLE:** If I could get some help on an
4 exhibit.

5 **CHAIRMAN BRISÉ:** Sure, absolutely. This will
6 be 543.

7 **MR. YOUNG:** Mr. Chairman, I've got 544.

8 **CHAIRMAN BRISÉ:** You have 544?

9 **MR. YOUNG:** Yes.

10 **MR. GUYTON:** Mr. Chair, I had 544, as well.

11 **CHAIRMAN BRISÉ:** You have 544, as well?

12 **MR. GUYTON:** The newspaper article was
13 identified as 543.

14 **CHAIRMAN BRISÉ:** Okay. So, 544.

15 (Exhibit Number 544 marked for
16 identification.)

17 **MR. MOYLE:** Thank you.

18 **BY MR. MOYLE:**

19 **Q.** I have handed you what has been marked as
20 Exhibit 544, and I can represent to you it's an excerpt
21 from a Moody's publication. And I want to ask you on
22 the third page of -- the last page of the exhibit, there
23 are some general credit ratings, and ask you if what is
24 represented on this exhibit is consistent with your
25 understanding as to how Moody's rates long-term

1 corporate obligations?

2 A. Well, this is the definition of what they
3 believe their ratings tell investors. It doesn't reveal
4 the process.

5 Q. Right. But in terms of if something is rated
6 single A, then it would tell you that those obligations
7 are considered upper medium grade and subject to low
8 credit risk, correct?

9 A. Yes, that would be the communication to
10 investors.

11 Q. Okay. And the top score, the best you can do
12 is big A, little A, little A, is that what they call
13 triple A?

14 A. Yes, sir.

15 Q. And as we sit here today, where is FPL ranked?

16 A. They are an A by Moody's.

17 Q. Okay. And isn't it -- my understanding is
18 that even within these categories there are
19 subcategories, so that, say, within A, where Florida
20 Power and Light as you testified is ranked, that there
21 is A1, A2, and A3. Is that consistent with your
22 understanding?

23 A. Yes, sir.

24 Q. So do you know what FPL currently is?

25 A. Let me double-check before I answer on the

1 record. They are an A2.

2 Q. All right. So next to A if we put 1, 2, and
3 3, A2 would be smack dab in the middle of the A ranking,
4 correct?

5 A. Yes.

6 Q. And there was -- well, in your testimony you
7 talk about, you know, a downgrade following the last
8 rate case. The downgrade that FP&L experienced was from
9 A1 to A2, isn't that correct?

10 A. Yes.

11 Q. Okay. And it didn't, it didn't span anything
12 more than a shift within the broader A category,
13 correct?

14 A. That's what it was. I don't think it was a
15 minimal shift. I think it was an important shift.

16 Q. And as we sit here today, isn't it true that
17 most utilities in this country are rated Baa, the
18 majority?

19 A. That is correct. FPL had one of the higher
20 bond ratings. Now it's a little bit less high, and I
21 think that is a disadvantage to customers. Because of
22 the nature of FPL, it --

23 **MR. MOYLE:** Mr. Chair, I would like to have a
24 yes/no.

25 **THE WITNESS:** -- needs a high rating.

1 **CHAIRMAN BRISÉ:** If you could shorten your
2 explanation. And if it is a yes or no question, if you
3 can provide the yes or no.

4 **THE WITNESS:** Yes, Mr. Chairman, I'll do that.

5 **CHAIRMAN BRISÉ:** Thank you.

6 **BY MR. MOYLE:**

7 **Q.** And isn't it also true that there are only a
8 handful of utilities in this country who are presently
9 rated Aa?

10 **A.** There are some, but --

11 **Q.** If you could answer yes, no, handful?

12 **A.** What do you mean by handful, Mr. Moyle?

13 **Q.** Ten or less.

14 **A.** I'm not sure there are ten or less.

15 **MR. MOYLE:** All right. I have another
16 exhibit, if I could, Mr. Chairman.

17 **CHAIRMAN BRISÉ:** Sure.

18 **MR. MOYLE:** And this has been already marked,
19 I believe, as FIPUG's 483, but because there is lots of
20 paper, I'm just going have it passed out to the witness,
21 if I can.

22 **MR. YOUNG:** I think this already has been
23 marked 483.

24 **BY MR. MOYLE:**

25 **Q.** I have handed you what I think has been

1 previously marked as FIPUG's 483, and I want to focus
2 your attention on the third sentence down there, the
3 third statement down there that says, "The interest rate
4 difference between current rating and next highest
5 rating is 1 percent." Do you see that?

6 **A.** Yes, I see that.

7 **Q.** Okay. And in the deposition we spent some
8 time talking about the differential between various
9 ratings. We may have talked past each other, but you
10 told me in the deposition that the spread was 90 basis
11 points, is that right?

12 **MR. GUYTON:** Objection. He can simply ask the
13 witness what the spread is rather than trying to recount
14 what was stated in the deposition.

15 **MR. MOYLE:** That's fine.

16 **MR. McGLOTHLIN:** Well, I'm going to object
17 because the question itself is vague, because it doesn't
18 specify which credit ratings he wants compared.

19 **CHAIRMAN BRISÉ:** Okay. Mr. Moyle, if you
20 could be more specific with your question.

21 **MR. MOYLE:** Okay. This may help.

22 **BY MR. MOYLE:**

23 **Q.** If I could refer you to your Exhibit WEA-6,
24 Page 1 of 1. Tell me when you're there.

25 **A.** Okay. I'm there.

1 **Q.** Does the statement halfway through the page
2 that says, "The current Bbb-Aa yield spread,
3 90 percent," does that represent 90 basis points?

4 **A.** Yes, at a point in time.

5 **MR. McGLOTHLIN:** I didn't have time to object,
6 but I have an objection to the question because the
7 question that this attempted exhibit proposes to place
8 before the witness is between the current credit rating
9 and the next highest rating, and with respect to FPL,
10 the spread between Aa and Bbb is not the same question.

11 **CHAIRMAN BRISÉ:** Understood. I think Mr.
12 Moyle sort of withdrew that question and was moving to a
13 separate question.

14 **MR. McGLOTHLIN:** I don't think that's the
15 case. If you were to ask what is the difference between
16 A and Bbb+, we might be closer to something we can work
17 with. But the Bbb to Aa does not represent the
18 difference between FPL's current rating and the next
19 highest rating, and that's the basis for the objection.

20 **CHAIRMAN BRISÉ:** Okay.

21 **MR. MOYLE:** I think it's informative and
22 probative with respect to it being relevant to the
23 extent it says 90, and I follow up, and he says it's
24 less, then that's still probative with respect to
25 Exhibit 483 with respect to making the point about the

1 cost of the ROE as compared to the cost for debt. So I
2 think it should be allowed.

3 **MR. McGLOTHLIN:** But the problem is I objected
4 to this exhibit earlier on the basis that it's not
5 probative of anything.

6 **CHAIRMAN BRISÉ:** You objected to 483.

7 **MR. McGLOTHLIN:** 453, I think it has been
8 marked.

9 **CHAIRMAN BRISÉ:** 483.

10 **MR. McGLOTHLIN:** Oops; sorry. When Mr. Moyle
11 placed it in front of another witness, I objected on the
12 basis that there were assumptions that were not
13 reflected in evidence in the record.

14 **MR. MOYLE:** Well, it hasn't been moved into
15 the record yet. You know, I'm in the situation of
16 having to go through with different witnesses and try to
17 establish different facts, and ultimately have all of
18 the facts established and try to move it into the
19 record, so that's what I'm trying to do.

20 **CHAIRMAN BRISÉ:** Mary Anne.

21 **MS. HELTON:** May I confer with Mr. Maurey for
22 a minute so I can make sure I understand the discussion
23 that has happened?

24 **CHAIRMAN BRISÉ:** Sure.

25 **MS. HELTON:** I'm the person in the room that

1 probably understands the least about return on equity
2 and subjects that go around that circle. I think I
3 understand some of Mr. McGlothlin's concerns with
4 respect to the exhibit that Mr. Moyle has put together,
5 which he said he put together; we don't know where these
6 numbers came from. There is not a reference on here
7 showing where the numbers came from. Mr. Maurey thinks
8 that he has shown during the course of the hearing --
9 pinpointed to some of them, but I'm not sure it's to all
10 of them.

11 **MR. MOYLE:** I can tell you where the numbers
12 have come from if it's helpful.

13 **MS. HELTON:** Would that help you, Mr.
14 McGlothlin?

15 **MR. MCGLOTHLIN:** No.

16 **MS. HELTON:** It seems to me it would make it a
17 little bit better if Mr. Moyle could help us understand
18 where this information came from.

19 **MR. MOYLE:** Okay.

20 **MS. HELTON:** It seems to me that if he can --
21 if Mr. Moyle can relate his questions more to the
22 testimony that was prefiled by Mr. Avera, that might
23 help move us to a point where we need to be.

24 **MR. MOYLE:** If I can, Mr. Chairman?

25 **CHAIRMAN BRISÉ:** Sure.

1 **MR. MOYLE:** So, you know, Mr. Barrett, the
2 Vice-President of Finance for the company testified that
3 the spread between 11 percent -- I'm sorry, between 10
4 percent and 11.5, the ROE spread is 240 million. So
5 that's the first data point.

6 Mr. Barrett also testified with respect to the
7 capital expenditure in the test year. He said it was
8 2.4, not 3. The interest rate differential is what I'm
9 exploring this witness. And the remaining items on
10 there are really mathematical. I mean, there's not
11 really a witness -- you don't need a witness to do the
12 math on it.

13 So this is the witness who has the information
14 about the interest rate difference as reflected on his
15 WEA-6. I mean, he has the spread information on here,
16 so I'm simply trying to -- you know, if one percent is
17 not the right number, then what is the right number, and
18 then the math can flow from that. And I think the point
19 will still be made with respect to the high cost of
20 additional ROE compared to the low cost of debt.

21 **CHAIRMAN BRISÉ:** Okay. I'll allow it.

22 **THE WITNESS:** Would you remind me of the
23 question, Mr. Moyle?

24 **BY MR. MOYLE:**

25 **Q.** I think we were talking about the 90 basis

1 points between Bbb and Aa, is that right, that that
2 information is correct in your exhibit?

3 **MR. McGLOTHLIN:** I think I need to pose an
4 objection. If the assumption of the question is that
5 the difference between the current credit rating of FPL
6 and the next highest rating corresponds to the
7 difference between BBB and Aa, I object, because that
8 has not been established.

9 Why not ask the witness what is the current
10 rating and what is the next highest, then we might be
11 able to get somewhere.

12 **MR. MOYLE:** Okay. If he would answer Mr.
13 McGlothlin's question that would work.

14 (Laughter.)

15 **CHAIRMAN BRISÉ:** Mr. Moyle, you may continue
16 with your line of questioning.

17 **BY MR. MOYLE:**

18 **Q.** Okay. So what is the spread between FPL's
19 current rating and the next highest rating? Is it this
20 .28 percent, which is 28 basis points?

21 **A.** I don't know because you would have to give me
22 a time dimension, and there are no indices that do a
23 notch at a time. There are indices for Bbbs and they
24 combine all the long-term Bbbs. For As they combine all
25 the As; A1, A2, A3, and then there is the Aa, which does

1 the same thing, all the Aas, 1, 2, and 3.

2 Q. So with respect to what you depicted on your
3 Exhibit WEA-6, you said the current A compared to Aa,
4 the yield spread is .28. That's not to denote that it's
5 a 28-basis-point spread between current A and Aa?

6 A. That is the spread at a point in time against
7 the whole categories, not the step from A2 to A3.

8 Q. Okay. So that depicts the spread -- to go
9 back to the Moody's rating sheet, that depicts the
10 difference between A and the Aa, the next one up,
11 correct?

12 A. Right, at a point in time. Today it's
13 different. Tomorrow it will be different still.

14 Q. But the point in time we are dealing with in
15 this case is what you filed in your testimony, correct?

16 A. No.

17 Q. Okay.

18 A. Those interest rates are history. FPL cannot
19 finance at old interest rates; it has to finance at new
20 interest rates.

21 Q. Do you know if the spread between A and Aa has
22 materially changed since the numbers put together on
23 WEA-6?

24 A. Yes, it has.

25 Q. Okay. How has it changed?

1 **A.** Well, in July, the average was 44 basis
2 points.

3 **Q.** 44?

4 **A.** Yes.

5 **Q.** Anything else?

6 **A.** Well, that's what it was in July, but July is
7 now history.

8 **Q.** Okay. So to go back to the FIPUG Exhibit 483,
9 the interest rate difference between the current credit
10 rating and the next highest rating, if you were to
11 change that to reflect your testimony, that would be not
12 1 percent, it would be less than that. It would be .44
13 percent, correct?

14 **A.** If we did that exercise based on historical
15 spreads.

16 **Q.** I'm just asking you based on the spread that
17 you identified as the best information about the spread
18 between A and Aa?

19 **A.** No, it's not the best information, Mr. Moyle.

20 **Q.** What's the best information?

21 **A.** We don't know. The best information is a
22 forecast of what the difference will be when FPL has to
23 go to the market to issue bonds which may be at a time
24 of financial distress. And as I point out in my
25 testimony, it could be as big as 400 basis points.

1 **Q.** But, essentially, we're back to the point
2 about a retrospective or a current look at facts as
3 compared to something that may take place in the future,
4 correct?

5 **A.** But to investors and to customers, the future
6 is what matters.

7 **MR. MOYLE:** Mr. Chairman, if I can just have
8 one final couple of questions on this line.

9 **BY MR. MOYLE:**

10 **Q.** So the last bullet point down there,
11 additional cost to ratepayers for access to debt if ROE
12 is increased from 10 percent to 11 percent, you would
13 agree that a 100-basis-point increase is approximately
14 160, correct?

15 **A.** I agree with the arithmetic, but that's not
16 the only cost that customers would have to pay, as I
17 expressed in my deposition.

18 **Q.** Okay. But if we were to carry out this
19 calculation, it wouldn't be minus 30 million, the number
20 would be a lot less, correct? Because the capital
21 expenditure of FP&L is not 3 billion, it's 2.4 billion,
22 and the interest rate spread is not 1 percent, it's
23 less. It is currently about, you know, half a percent,
24 is that right?

25 **MR. GUYTON:** Objection. It has not been

1 established and, in fact, he suggested that that value
2 is retrospective and wrong prospectively.

3 **CHAIRMAN BRISÉ:** Mr. Moyle.

4 **MR. MOYLE:** I think he established that it is
5 currently 44 percent, and he said that we don't know
6 what it's going to be tomorrow. Just like we don't know
7 whether the stock market is going to go up or down. So
8 I'm just trying to get him to confirm factually, as we
9 have the best facts today, that that this is -- that the
10 math is correct.

11 **CHAIRMAN BRISÉ:** Are you trying to ask him to
12 input the numbers? Based upon what you have gotten him
13 to testify, to just basically input that number to see
14 where it gets him?

15 **MR. MOYLE:** Yes, sir.

16 **MR. McGLOTHLIN:** Well, I have one more
17 objection to make, and it's the same objection I made
18 the other day. The question assumes, as does this
19 document, that if FP&L had a capital expenditure of
20 3 billion, or \$2.4 billion, it would raise that amount
21 only with debt, when the testimony of record is that it
22 has at current a 60 percent equity ratio and intends to
23 maintain that over time. So I think this overstates the
24 amount that would be borrowed. That is the basis for my
25 objection.

1 **CHAIRMAN BRISÉ:** Okay.

2 **MR. MOYLE:** I'll try to wrap it up. I know
3 it's getting late.

4 **BY MR. MOYLE:**

5 **Q.** Mr. Avera, the last line on here that shows
6 additional cost to ratepayers of 130 million, that's not
7 correct based on the facts, correct?

8 **A.** No. It's not correct. It's grossly
9 understated. It's like saying what a car cost looking
10 only at the tires.

11 **Q.** Well, actually it's overstated, I think.

12 **A.** No, sir.

13 **Q.** Okay. Well, we've established that
14 160 million is the spread on the ROE, correct?

15 **A.** We have established that --

16 **Q.** Yes/no.

17 **A.** I can't, from my own experience, testify to
18 that. I believe Mr. Barrett may have testified to it.

19 **Q.** Okay. So you would assume that. And assume
20 that the capital expenditure is 2.4 billion, okay?

21 **A.** Yes, sir.

22 **Q.** So 1 percent of 2.4 billion is 24 million,
23 correct?

24 **A.** That is the arithmetic, Mr. Moyle.

25 **Q.** Okay. And you just testified that the spread

1 in your exhibit is not 1 percent, it's 44 percent, so
2 that would be approximately -- you wouldn't do the 1
3 percent, you would do it at about half. I mean, isn't
4 ultimately the number I have shown here about the
5 additional cost, wouldn't it cost ratepayers a lot more
6 to allow for this additional return on equity as
7 compared to just paying the cost of debt? Can you just
8 give me a yes/no, and you don't have to explain.

9 **A.** No.

10 **Q.** Okay. Thank you. And you had answered one of
11 my other questions with respect to looking beyond the
12 horizon that your concern is what confronts the utility
13 in the future, is that correct?

14 **A.** That is correct. The company may have to
15 raise capital at a time of turmoil, at a time when the
16 customers really need the money because there has been a
17 storm, or a nuclear outage, or gas prices are flying.

18 **Q.** And do you have information about the
19 historical spreads on debt during times of crisis?

20 **A.** Well, first, it was moot during the fall of
21 2008. Bbb companies could not issue debt, and that's
22 documented in my testimony.

23 **Q.** Right. The Bbb, I mean, FPL is not Bbb. They
24 were A1, and they got downgraded to A2, correct?

25 **A.** That is correct. And then when the

1 stipulation allowed FPL to earn 11 percent, the
2 downgrade stopped.

3 **MR. MOYLE:** Okay. Can I have another exhibit
4 passed out?

5 **CHAIRMAN BRISÉ:** Sure.

6 Any objections to this document?

7 **MR. GUYTON:** It hasn't been authenticated, and
8 I don't know the purpose for which it is going to be
9 used, so I may.

10 **CHAIRMAN BRISÉ:** Okay. 545.

11 (Exhibit Number 545 marked for
12 identification.)

13 **BY MR. MOYLE:**

14 **Q.** When you're comfortable, having reviewed the
15 information on this, will you let me know, please?

16 **A.** I see it.

17 **Q.** Okay. And do you -- you're an expert in bonds
18 and bond yields, does this information in your belief
19 accurately represent the Moody's Bond Index spreads
20 between the time frames reflected on the exhibit?

21 **MR. GUYTON:** Objection. The exhibit has not
22 been authenticated. It has not even been established
23 that the witness is even familiar with it.

24 **MR. MOYLE:** That's what I was trying to do.

25 **MR. GUYTON:** Or the source, or the author.

1 **CHAIRMAN BRISÉ:** Okay.

2 **MR. MOYLE:** Authenticated is asking, you know,
3 if this is consistent with his understanding of the bond
4 yields.

5 **CHAIRMAN BRISÉ:** Yes, but I think the question
6 is where is this coming from and --

7 **MR. MOYLE:** I can represent it came from a
8 case that was in Texas. It was in a docket there. But,
9 again, I mean, it's simply a matter of he's the expert
10 on bond yields. If it's completely off base, he can say
11 it's off base. If it's accurate based on his
12 information, then I think he can say it's accurate based
13 on his general understanding and knowledge.

14 **MS. HELTON:** I don't think a proper foundation
15 has been laid yet to be able to ask the witness a
16 question about -- I think if we can walk through some of
17 the questions with the witness about if he's familiar
18 with it, if he know what it is, if he is familiar with
19 the docket that was in Texas.

20 **CHAIRMAN BRISÉ:** Okay. If we can go that
21 route.

22 **MR. MOYLE:** Okay.

23 **BY MR. MOYLE:**

24 **Q.** Are you familiar with historical bond spreads?

25 **A.** Yes.

1 Q. Okay. Do you have anything in reviewing the
2 information contained on this exhibit that would suggest
3 that the historical bond spreads depicted in this
4 exhibit are not accurate?

5 **MR. GUYTON:** Objection. It has not even been
6 established that there are historical bond spreads on
7 this document.

8 **MR. MOYLE:** Okay.

9 **BY MR. MOYLE:**

10 Q. Mr. Witness, do you see the April 2006 date at
11 the upper left-hand corner?

12 A. Yes.

13 Q. And then it goes May 2006?

14 A. Yes.

15 Q. And then it goes June 2006?

16 A. Yes.

17 Q. And it goes all the way down till
18 September 11?

19 A. Yes.

20 Q. Okay. Does that indicate to you that this is
21 suggesting historical bond spreads?

22 A. Those are dates. These numbers are
23 approximately the right magnitude, but I can't say they
24 are the right numbers.

25 Q. But you believe they are in the approximately

1 right magnitude?

2 A. Only in a gross sense. I mean, the sixes and
3 the fives are close to my memory of where they were, but
4 I cannot validate these specific numbers or line them up
5 with these specific dates.

6 Q. Okay. Let me ask you some questions about
7 your Exhibit WEA-15. You there?

8 A. Yes, sir.

9 Q. Okay. This is a proxy group that you used,
10 correct?

11 A. 15, Page 1 of 1?

12 Q. Yes, sir.

13 A. These are the operating companies that are
14 part of the holding companies that are in the proxy
15 group.

16 Q. Okay. And you would agree with the general
17 prospect that the greater the risk the greater the
18 return as an investment proposition?

19 A. Yes.

20 MR. GUYTON: I'm sorry.

21 THE WITNESS: No, not -- I can agree that
22 investors require higher returns if they expect to bear
23 higher risk, but that's not a guarantee.

24 BY MR. MOYLE:

25 Q. All right. So if they are expecting to have

1 higher risk, then they expect a higher return?

2 A. That's right. Now, what they get is what
3 happens.

4 Q. Sure. So you would also agree, would you not,
5 that to the extent that a company has more debt that it
6 presents a higher risk, all other things being equal?

7 A. All other things being equal, which is seldom
8 the case, but in that hypothetical it would be true.

9 Q. Okay. And Number 4 here is Gulf Power, do you
10 see that?

11 A. Yes.

12 Q. And Gulf Power has more debt than Florida
13 Power and Light, correct?

14 A. On the financial basis here, yes.

15 Q. Okay. And how much debt does Gulf Power have?

16 A. Gulf Power has 51.1 percent debt, and then
17 they also have preferred, which is a split between debt
18 and equity.

19 Q. Okay. And FPL in the proposed capital
20 structure that you are supporting has approximately 40
21 percent debt?

22 A. Yes.

23 Q. All right. So with respect to the financial
24 matrix, and that's what we're talking about, if Gulf
25 Power, which has more debt, which you have testified is

1 tantamount to more risk, had a return on equity of 10.25
2 percent, wouldn't that suggest that the return on equity
3 for Florida Power and Light should be lower, all other
4 things being equal?

5 **A.** No, I don't think I testified Gulf Power had
6 more risk. In my deposition I said it had less risk.

7 **Q.** Okay. But, again, I'm trying to get you to
8 focus just on the financials. Okay. Do you know what
9 the ROE awarded Gulf was?

10 **A.** 10.25.

11 **Q.** Okay. So just with respect to the financials,
12 based on your testimony about relative risk and capital
13 structure, assume all things are equal relative to risk.
14 If you make that assumption, which I understand you
15 disagree with, but if you assume it, you are an expert
16 for purposes for the question, wouldn't it follow that
17 Florida Power and Light with greater equity, less debt
18 would warrant less of a return as compared to Gulf
19 Power?

20 **A.** I can't accept your hypothetical. It's
21 contrary to fact.

22 **Q.** Not even for the purposes of expert testimony?

23 **A.** That's correct. If you do a hypothetical
24 without names, but once you say Gulf Power and Florida
25 Power and Light, I cannot go into an analysis which

1 assumes equivalent business risk.

2 Q. Okay. Assume there was Company A and it had
3 an equity component of 60 percent, and Company B had an
4 equity component of 50 percent. If the company with the
5 50 percent equity component had a 10.25 return, wouldn't
6 it follow logically that the company with the higher
7 equity component, the 60 percent equity component would
8 get a lower return on equity?

9 MR. GUYTON: Objection. He has got to add
10 all other things being equal.

11 BY MR. MOYLE:

12 Q. All other things being equal.

13 A. And you are assuming that they are under the
14 same regulatory jurisdiction, that there are no adders,
15 there is no difference in the regulatory framework under
16 which they operate?

17 Q. Yes, sir.

18 A. And you assume this at the very same time,
19 simultaneous, so the world has not changed?

20 Q. All other things being equal. I think that
21 that's the convention that we have talked about.

22 A. Okay. All other things being equal, more
23 financial risk suggests that there should be more
24 investment risk, which suggests there should be a higher
25 return in that hypothetical, assuming we have frozen

1 everything.

2 Q. But the reason you can't accept that when I
3 use the words FPL and Gulf is because you think that the
4 risks aren't the same, is that right?

5 A. Well, again, it doesn't matter what Bill Avera
6 thinks. Those five characteristics of FPL are
7 documented in bond rating reports, in Value Line, in
8 other investment commentary that I quote in my
9 testimony. FPL is in a unique position among Florida
10 utilities and among United States utilities in operating
11 risk and the requirement for financial strength.

12 Q. And the individual components that you said,
13 the five, one is natural gas?

14 A. Yes.

15 Q. And isn't natural gas a good thing, low
16 emissions, and -- you know, Florida Power and Light has
17 a lot of natural gas. I thought that was a positive.

18 A. It is a positive, but there is a risk aspect
19 to natural gas in that the prices are very volatile.
20 And one way to defend against volatility is to hedge.
21 And in order to effectively hedge you have to have a
22 strong balance sheet. And as it is now, I understand,
23 and Mr. Dewhurst can tell you more, FPL does not have a
24 strong enough balance sheet to do as much hedging as
25 would probably be in the customers' best interest.

1 Natural gas is volatile --

2 Q. I mean, that is beyond your testimony. You
3 don't have anything specifically about hedging and the
4 level of hedging in FPL, correct?

5 A. Yes. I mean, I am aware of that. I talk
6 about it in my direct testimony as one of the benefits
7 of a strong balance sheet.

8 Q. Are you aware that FPL is suggesting to the
9 ratepayers that to the extent this Commission authorizes
10 a rate increase that it will be mitigated because of the
11 low cost of natural gas?

12 A. I understand that the --

13 Q. Yes?

14 A. -- fuel will go down, yes.

15 Q. All right. But your testimony is natural gas
16 is a volatile fuel source?

17 A. It is. It is a good fuel source. Presently
18 it is cheap, and Boone Pickens tells us it's going to
19 stay cheap. But it will probably be volatile in the
20 meantime. And from an investor perspective, you have to
21 be financially strong to effectively manipulate or deal
22 with the natural gas markets. Especially, if you are at
23 the end of a peninsula completely removed from the
24 national pipeline infrastructure.

25 Q. Another risk you have identified is the risk

1 to storms, isn't that right, that that makes Florida
2 Power and Light more risky?

3 A. Yes. Again, given the other characteristics,
4 its location at the end of a peninsula and only having
5 the north as a source of replacement power.

6 Q. Okay. And wouldn't you agree, however, that
7 with respect to the service area of Florida Power and
8 Light -- you're familiar with the service area of
9 Florida Power and Light?

10 A. Yes, sir.

11 Q. Okay. That being spread out in 30-plus
12 counties from North Florida to South Florida, from East
13 Florida to West Florida also acts as a bit of a hedge or
14 a mitigation against the risk of a hurricane hitting and
15 wiping out all of the service, correct?

16 A. No. The rating agencies regard Florida Power
17 and Light Company as being geographically compact. They
18 regard Florida Power and Light as being vulnerable to
19 large parts of its service area being simultaneously
20 affected by a storm of a hurricane nature.

21 Q. Mr. Avera, do you recall that I asked you that
22 question in your deposition and you gave me a different
23 answer?

24 A. Please read it to me. I don't recall giving a
25 different answer.

1 Q. I would refer you -- and I think it has
2 already just been admitted into evidence. It's on Page
3 43, Line 1. I asked you if it -- and it was referencing
4 a hurricane -- struck Lake City, which FPL has service
5 territory in Lake City, and didn't strike any of South
6 Florida or any other places --

7 **MR. GUYTON:** I'm sorry, Jon. I apologize for
8 interrupting, but it's not a Page 43, Line 1, of my
9 deposition. I want to make sure we have got the same --

10 **BY MR. MOYLE:**

11 Q. Where do you have it at, Mr. Avera?

12 A. I haven't found it yet. I remember talking
13 about Lake City, because one of my sailors lived there.
14 I remember the conversation, Mr. Moyle, but I don't see
15 it in the neighborhood that we have been talking about.

16 Q. Okay.

17 **COMMISSIONER BROWN:** I think it's on Page 109.

18 **MR. MOYLE:** Thank you.

19 **BY MR. MOYLE:**

20 Q. If you would go to Page 109 of your
21 deposition. I apologize. I think what happened, I got
22 an excerpt of the deposition, so because it was an
23 excerpt the pages didn't match up. My apologies.

24 So I asked you about -- let me just go right
25 to the Lake City.

1 Line 12, Page 109, "If it struck Lake City,
2 which FPL has service territory in Lake City, and didn't
3 strike any of the South Florida or any other place
4 because of FPL's diverse geographic characteristics,
5 that would serve to mitigate that risk, right?"

6 "Yes, if you had a hurricane with such a small
7 footprint. That sounds more like a tornado than a
8 hurricane."

9 "I guess I could ask the same question with
10 respect to hitting Manatee County, which FPL also
11 serves?

12 "Yes, you're asking the same question?"

13 "Question: Yes, sir.

14 "And the answer would be the same."

15 **A.** And I talked about the limited geographic
16 scope. That is not the nature of hurricanes.

17 **MR. GUYTON:** It's not the full answer, but we
18 still haven't established that there is a prior
19 inconsistent statement or that the deposition is being
20 used appropriately.

21 **MR. MOYLE:** Well, the deposition is in
22 evidence, I think. I think it speaks for itself with
23 respect to diversity of risk relative to hurricanes.
24 And I can keep exploring it with him if Mr. Guyton wants
25 me to.

1 **MR. GUYTON:** I'm not inviting that; I'm just
2 trying to invite a relevant question here.

3 **BY MR. MOYLE:**

4 **Q.** Do you think that Tampa Electric Company -- do
5 you have familiarity with Tampa Electric Company and its
6 service area?

7 **A.** Yes, sir.

8 **Q.** Do you think that Tampa Electric Company,
9 which has a very confined service area, is more akin to
10 putting all of its eggs in one geographic basket as
11 compared to Florida Power and Light, which has its
12 service territory spread out over a larger area?

13 **A.** I think in terms of the risk from hurricanes,
14 the density and scope of a hurricane striking South
15 Florida would eclipse anything that Tampa Electric would
16 have to deal with.

17 **Q.** So would that be a yes or a no?

18 **A.** That would be a no, I think, the way you asked
19 the question.

20 **Q.** That having a utility confined to one
21 geographic area is not akin to having all the eggs in
22 one basket?

23 **A.** Yes, it lacks diversification; but, no, Tampa
24 Electric doesn't face the magnitude of restoration that
25 Florida Power and Light would stand. And, of course,

1 Florida Power and Light Company is even more remote from
2 the rest of the nation's infrastructure to get
3 replacement power, supplies, crews, and all the things
4 you need to recover from a hurricane.

5 Q. Let me refer you to Page 10, Line 6. You are
6 asked the question, "Is the ROE in this case an
7 important signal to investors?" And you answer yes, is
8 that correct?

9 A. Yes.

10 Q. Wouldn't you also agree that the decision this
11 Commission ultimately makes with respect to how much, if
12 at all, to increase base rates on Florida businesses, on
13 Florida's military, and others is also an important
14 signal that is being watched by not only Floridians, but
15 those around the country?

16 A. It is an important signal, but I think they
17 would also look -- my experience with industrial
18 customers, and I have worked a lot as a consultant to
19 industrial customers --

20 MR. MOYLE: Mr. Chairman, I think I got enough
21 of an answer. I mean, he says it's an important signal.
22 I mean --

23 MR. GUYTON: Can the witness at least be
24 allowed to finish his answer?

25 CHAIRMAN BRISÉ: If he could finish the

1 sentence. As we instructed everyone, yes, if it needs a
2 supplemental sentence that is concise to the question.

3 **THE WITNESS:** Yes, Mr. Chairman.

4 Customers, industrial customers care about the
5 reliability and sustainability of electric service, in
6 my experience, more than the short-run price.

7 **BY MR. MOYLE:**

8 Q. That wasn't my question. I didn't use the
9 word industrial in there. I was just asking as a
10 general proposition, don't you think that the decision
11 that the Commission makes with respect to the base rate
12 increase, that it will send a signal to not only to
13 industrials, but to homeowners, and commercial
14 customers, and others with respect to the Florida
15 economy; yes/no?

16 **MR. GUYTON:** Objection. Goes beyond this
17 witness' testimony. He is testifying to cost of equity.
18 He is not testifying as to signals that are being sent
19 by the Commission's decision to customers.

20 **MR. MOYLE:** Mr. Chairman, I think in his own
21 words he talk about an important signal on Page 10,
22 Line 6.

23 **MR. GUYTON:** To investors.

24 **CHAIRMAN BRISÉ:** If the question is based upon
25 Page 10, Line 6, it's a signal to investors.

1 **BY MR. MOYLE:**

2 Q. Okay. Do you think it's more important to
3 send signals to investors as compared to ratepayers?

4 A. Yes, when you care about having capital
5 available on reasonable terms to the utility.

6 Q. And you probably are aware that there are some
7 people that might disagree with you on that point?

8 A. Yes.

9 Q. The ratepayers of Florida, correct?

10 **MR. MOYLE:** Thank you. I have nothing else.

11 **CHAIRMAN BRISÉ:** Thank you, Mr. Moyle.

12 Mr. Sundback from South Florida Hospital
13 Association.

14 **MR. SUNDBACK:** Thank you, Mr. Chairman.

15 **CROSS EXAMINATION**

16 **BY MR. SUNDBACK:**

17 Q. Good evening, Dr. Avera. Like Mr. Moyle, I
18 would appreciate your cooperation in focusing your
19 answers in the most efficient and succinct fashion
20 possible given the hour we are at.

21 A. Yes, sir.

22 Q. Thank you. Let's start with a point that you
23 discussed with Mr. Moyle briefly. I'm not sure the ears
24 are working quite as well as they should at this hour,
25 so let's see if this is correct.

1 You recall you had a discussion with Mr. Moyle
2 about Gulf Power's capital structure and its authorized
3 ROE. Do you recall that?

4 **A.** Yes.

5 **Q.** Okay. And I think Mr. Moyle -- you recall Mr.
6 Moyle was trying to suggest to you, perhaps, that the
7 thinner equity structure of Gulf Power and lower ROE
8 might be compared in some fashion, without getting into
9 the merits of the comparison, compared in some fashion
10 to FPL, right?

11 **A.** That was my understanding of what he was
12 trying to do.

13 **Q.** Okay. And if I understood your assertion, you
14 concluded that Gulf Power generally had less risk than
15 FPL. Is that a fair conclusion?

16 **A.** Yes, less risk and less need for financial
17 strength.

18 **MR. SUNDBACK:** Mr. Chairman, could we ask to
19 have marked an interrogatory response of FPL? It is
20 FPL's response to it Staff's 11th Set of Interrogatories
21 Number 352.

22 **CHAIRMAN BRISÉ:** Okay. That would be Number
23 546.

24 (Exhibit Number 546 marked for
25 identification.)

1 **MR. SUNDBACK:** Thank you, Mr. Chairman.

2 **CHAIRMAN BRISÉ:** Any objections to this
3 document?

4 Okay. Seeing none, you may proceed.

5 **MR. SUNDBACK:** Thank you, Mr. Chairman.

6 **BY MR. SUNDBACK:**

7 **Q.** Dr. Avera, if you would look at the second
8 sense of your answer. It's correct that you haven't
9 performed any analyses or studies comparing the risks
10 FPL faces to those of other Florida utilities, to the
11 extent those utilities have recently received between a
12 10 and 11 percent ROE, right?

13 **A.** Yes.

14 **Q.** Okay. Let's look at your Direct Page 3, Line
15 20, through Page 4, Line 9, if we could, please. There,
16 as we understand it, you're talking about some of the
17 sources of your information, how you went about
18 gathering information relevant to your testimony, right?

19 **A.** Yes.

20 **Q.** Okay. And that included information placed in
21 the public domain by FPL, right?

22 **A.** Yes.

23 **Q.** Information that would typically be relied
24 upon by investors, right?

25 **A.** Yes.

1 Q. And it's important to you that you focus on
2 information available to investors such that you can see
3 what they are seeing and be privy to the kind of
4 information that would influence their opinions, right?

5 A. Yes, as it affects their decisions to buy or
6 sell FPL stock or similarly situated companies.

7 Q. And when you were preparing your testimony,
8 did you speak with FPL management?

9 A. Yes.

10 Q. And you spoke to them about issues in your
11 testimony, right?

12 A. Yes.

13 Q. Okay. And did their questions or concerns,
14 without getting into the specifics of what they may have
15 said to you, did their questions or concerns help shape
16 the scope or focus of your testimony?

17 A. They were an input. I was very careful not to
18 go into any area that was not in the public domain in my
19 discussions.

20 Q. You talked to them in that case about
21 information that was in the public domain?

22 A. That is correct.

23 Q. Okay. Let's look at Page 16 of your
24 testimony, if we could, just briefly. And going over to
25 Page 17, is it fair to conclude this is a general

1 overview of FPL's operations?

2 A. Yes.

3 Q. And you identify in there some factors that
4 you believe affect FPL's risks, and you have discussed
5 some of those with Mr. Moyle, right?

6 A. Yes.

7 Q. Okay. And that includes gas-fired generation,
8 nuclear generation, the existence of the PPAs, the
9 composition of the customer universe served by FPL,
10 among other factors?

11 A. Yes.

12 Q. And so from your perspective, when we discuss
13 risk it's important to have that kind of factual context
14 associated with FPL's operations, right?

15 A. Yes, to the extent that it is known and
16 relevant by investors.

17 Q. Okay. Let's look at Page 5 of your Direct
18 Testimony, please, Lines 1 through 7. And this probably
19 goes to both your summary of testimony and a little bit
20 of what you discussed with Mr. Moyle.

21 You're talking about at least at a very high
22 level at least three items, FPL's capital structure, the
23 ROE adder for what you deem to be excellence in
24 management, and then the overall requested ROE by FPL,
25 right?

1 A. What line numbers are you on, sir?

2 Q. I'm sorry, it's Page 5, and it's sort of the
3 carryover paragraph from 4.

4 A. I think the answer to your question is no.

5 Q. Well, let's see. On Line 2, you are talking
6 about excellence in management, right? And that leads
7 you to suggest that the 25-basis-point adder is an
8 appropriate step, right?

9 A. Yes.

10 Q. Okay. And on the last two lines of that
11 answer at Lines 6 and 7 you're talking about the capital
12 structure, right?

13 A. Yes.

14 Q. And how that influences your determination on
15 a fair ROE range, right?

16 A. Yes, sir. But I thought you said ROR, rate of
17 return.

18 Q. Oh, I'm sorry. If I did, I apologize, and
19 thank you for that correction.

20 Would you agree with that clarification with
21 the three enumerated categories that were proffered to
22 you?

23 A. Yes, sir.

24 Q. Thank you. All right. Let's start with that
25 first one, excellence in management. Can we agree on

1 some hallmarks of what constitutes excellence in
2 management? Let's see if we can run through just a few
3 of those. One would be to thoroughly analyze important
4 issues facing the company, right?

5 A. I am not the witness on excellence in
6 management. My role, as I explain here, is the
7 regulatory policy of recognizing excellence in
8 management. Others, like Mr. Reed, have presented
9 evidence on the excellence in management of FPL.

10 Q. So if we read anything in your testimony that
11 we would interpret as a qualitative endorsement or a
12 demonstration that FPL has engaged in excellent
13 management, we should strike it, because that wasn't
14 your intent, is that your testimony?

15 A. No, you shouldn't strike it. I'm describing
16 what I believe, as a regulatory policy and financial
17 analyst, what should be a consideration of this
18 Commission. And I believe excellence in management is
19 an appropriate thing to consider, but I am not
20 testifying that that is present. I don't disagree that
21 it is present, but that is not my expertise and my
22 testimony only talks about the criteria, not the
23 fulfillment of the criteria.

24 Q. All right. But the criteria itself, wouldn't
25 you want to -- well, let's back up.

1 To earn or justify the 25-basis-point award,
2 wouldn't you want to know before you assigned it or
3 before you would even advocate its being awarded that
4 there was a series of processes that were rational and
5 reasonable, and that the goals to be obtained through
6 the implementation of these policies were, in fact,
7 attained? Or does that not matter at all to you, you
8 simply were told that they were, and you concluded that
9 based on that information alone a 25-basis-point adder
10 is justified?

11 **A.** I have not made that conclusion and my
12 testimony does not purport to do that. What I say is
13 that it is good policy for this Commission. It's
14 consistent with what this Commission and other
15 commissions have done, and it will be beneficial to
16 customers. But I don't say --

17 **Q.** Thank you. I think you have answered my
18 question. Certainly two sentences would be sufficient
19 to address the question.

20 Now, if you haven't engaged in any qualitative
21 assessment -- let me make sure I understand, yes or no,
22 please, if you could -- you have made no qualitative
23 assessment of whether FPL is, in fact, entitled to the
24 25-basis-point adder, right?

25 **A.** Yes, as to the substance.

1 Q. Okay. And to the extent that we were to
2 have -- if we had interpreted any portion of your
3 testimony to represent an assertion that FPL, in fact,
4 was entitled to the 25-basis-point adder, that would be
5 a misinterpretation of your testimony, right?

6 **MR. GUYTON:** Objection, asked and answered.

7 **MR. SUNDBACK:** I don't think we got a clean
8 answer on that one, Mr. Chairman.

9 **CHAIRMAN BRISÉ:** I would agree. You can
10 answer the question.

11 **THE WITNESS:** Yes, it's a misinterpretation.
12 I think my testimony is clear, my role in the regulatory
13 policy and precedent.

14 **BY MR. SUNDBACK:**

15 Q. Okay. Thank you. Let's look at your Direct
16 Testimony, please, Page 30, and in particular Lines 17
17 through 19.

18 A. Yes, sir.

19 Q. Thank you. Your belief is that FPL's current
20 investor-supplied equity ratio of about 60 percent is a
21 sufficient equity cushion, according to that testimony,
22 right?

23 A. Yes. It has maintained the credit ratings.
24 They haven't been raised, but they haven't been lowered.

25 Q. Your conclusion was informed, among other

1 things, by the information that FPL has made available
2 in public to credit and capital markets, right?

3 A. What they have made available, and then the
4 inferences that the rating agencies and others have
5 drawn from that information.

6 Q. All right. And you presumably believe that
7 FPL's employees are making informed decisions based on
8 their analyses of the effect of different equity ratios
9 on their operations, right?

10 MR. GUYTON: Objection. I think it calls for
11 a presumption, and I don't think it has been established
12 that this witness has made a presumption.

13 MR. SUNDBACK: Mr. Chairman, I think that's a
14 perfectly appropriate question based on his assertion
15 that the 60 percent is appropriate. We're trying to
16 test how it is that the 60 percent has been determined
17 to be appropriate. It may be that this is not a factor
18 that he accords any weight to. That's fine. That's an
19 answer.

20 CHAIRMAN BRISÉ: I think it's a fair question.

21 THE WITNESS: Would please repeat the
22 question?

23 BY MR. SUNDBACK:

24 Q. You believe that FPL's, let's say management,
25 is making an informed decision based upon their analyses

1 of the effect that different equity ratios could have on
2 their operations, right?

3 A. I don't know.

4 Q. You don't know.

5 A. I have made -- I have observed what the equity
6 ratio is, I have observed how investors have reacted to
7 it, and it is on that basis that I draw this inference.

8 Q. Well, you would agree that the company should
9 be following a rational policy regarding the
10 capitalization that it utilizes for its utility
11 operations, right?

12 A. Yes, and I have no reason to believe they
13 don't. I have great regard for the company, and
14 certainly it has delivered good results for its
15 customers. I didn't make an inquiry.

16 Q. Thank you. I'm sorry, you didn't make an
17 inquiry?

18 A. I didn't make an inquiry as to the process
19 they used. I looked at what the capital structure was
20 and the effect it had on investors.

21 **MR. SUNDBACK:** Thank you, sir.

22 Mr. Chairman, could we have marked with the
23 next available exhibit number a interrogatory response
24 to SFHHA's first round of productions -- I'm sorry, it
25 is Production of Document Response Number 14, please.

1 **CHAIRMAN BRISÉ:** Okay. That would be Number
2 547. Are there any objections to this document?

3 **MR. GUYTON:** I don't know how it's going be
4 used, so I'm a little bit reluctant. If it's
5 established that Dr. Avera provided this, then I have no
6 objection.

7 **MR. SUNDBACK:** Mr. Chairman, this is furnished
8 in response to a question directly related to Dr.
9 Avera's testimony. So unless we're playing
10 hide-and-go-seek, he's about the best witness to get it
11 into the record.

12 (Exhibit Number 547 marked for
13 identification.)

14 **BY MR. SUNDBACK:**

15 **Q.** Doctor Avera, you believe this statement to be
16 correct when you provided it in response to the request
17 for the production of documents, correct?

18 **A.** Yes.

19 **MR. SUNDBACK:** Okay. Thank you.

20 Mr. Chairman, if we could have marked -- if
21 the record keeping on this end is correct -- with
22 Exhibit 548, a response to SFHHA Request for Production
23 of Documents Number 25, please.

24 **CHAIRMAN BRISÉ:** Okay. And 548 would be
25 correct.

1 Any objections to this document? Okay.

2 Seeing none, you may proceed.

3 (Exhibit Number 548 marked for
4 identification.)

5 **MR. SUNDBACK:** Thank you, Mr. Chairman.

6 **BY MR. SUNDBACK:**

7 **Q.** Dr. Avera, this was a correct response when
8 you provided it, is that true?

9 **A.** Yes.

10 **Q.** Okay. And just to make sure we're all on the
11 same page, there is an error in the question for which
12 we apologize. If we close the quotation marks in the
13 question after the period, that would be a correct
14 quotation of your testimony, would it not?

15 **A.** Yes, I think so.

16 **Q.** Thank you. Would you agree that both
17 institutional investors and individual investors rely on
18 professional security analysts to formulate their views
19 of the value of securities?

20 **A.** Yes.

21 **Q.** And you would agree that investors also rely
22 on such analysts when assessing a company's risks,
23 right?

24 **A.** Yes.

25 **Q.** Let's look at Page 33 of your Direct

1 Testimony, Line 17, going over to Page 34, Line 3. And
2 let us know once you have had a chance to look at that,
3 sir.

4 A. Yes, sir.

5 Q. And there you are discussing how you relied on
6 S&P and Value Line measures, right?

7 A. Yes, sir.

8 Q. Okay. Individuals and security analysts, such
9 as those at S&P and Value Line, have access to 10-Ks and
10 the information contained in that as well as other
11 public disclosure documents of the enterprises, right?

12 A. Yes.

13 Q. Okay. You're aware that companies filing such
14 documents are required to disclose the material risks to
15 their investors, right?

16 A. Yes, and they are supposed to disclose
17 material risks simultaneously under Reg FD.

18 Q. Fair enough. So that would provide a very
19 strong incentive for them to fairly and adequately
20 disclose the material risks they face, right?

21 A. Yes.

22 Q. Okay. Of the entities in your proxy utility
23 group that are summarized in Exhibit WEA-4, you have
24 chosen those in part because they file public disclosure
25 statements such as 10-Ks with the FCC, right?

1 **A.** Well, that's not the reason I chose them. I
2 chose them because they have public stock. They have
3 the parameters that you can use to apply the four
4 methods that I used. As a byproduct of having public
5 stock, under the Securities Exchange Act of '34 they
6 make the filings with the SEC.

7 **Q.** Thank you. Thank you for that clarification.
8 Still looking at this passage, would you agree
9 that besides the criteria that are described by --
10 excuse me, are utilized by Value Line and by S&P, you
11 didn't do any other independent analysis of the entities
12 that are listed in your utility proxy group?

13 **A.** Well, I inquired as to whether they had
14 dividends and you could apply the methods. And as I
15 express in my deposition, I have done work for many of
16 these companies, so I am familiar with them through my
17 consulting.

18 **Q.** Well, let's look at the scope of your inquiry
19 just a bit, if we could.

20 **MR. SUNDBACK:** Mr. Chairman, if we could have
21 the next available exhibit number for a series of data
22 responses -- I'm sorry, interrogatory responses and
23 production of documents provided by FPL.

24 **CHAIRMAN BRISÉ:** Okay. That would be 549.
25 Any objection to these documents?

1 **MR. GUYTON:** I haven't finished, but so far it
2 doesn't look like it. (Pause.)

3 No, Mr. Chairman.

4 **CHAIRMAN BRISÉ:** Okay. Seeing none, you may
5 proceed.

6 **MR. SUNDBACK:** Thank you, Mr. Chairman.

7 (Exhibit Number 549 marked for
8 identification.)

9 **BY MR. SUNDBACK:**

10 **Q.** And in these responses you state, in effect,
11 that you haven't done a study on a number of factors
12 that are identified in these responses and production of
13 document requests, right?

14 **A.** Yes, that is correct.

15 **Q.** Okay. Thank you. Now, when you relied on the
16 S&P analyses and credit ratings, presumably you have
17 some level of familiarity with the methodology that S&P
18 uses in assessing a company, is that correct?

19 **A.** Yes, but let me be clear. I used Value Line
20 and S&P criteria to select the company, because that is
21 what investors use.

22 **Q.** Fair enough. But for purposes of the next
23 series of questions it would be good to focus to S&P if
24 we could.

25 **A.** Yes, sir.

1 Q. You're familiar with the metrics and financial
2 ratios that S&P employs?

3 A. Yes, sir.

4 Q. Okay. And while you might disagree with
5 those, you would agree that investors would rely on that
6 information, right?

7 A. Yes.

8 Q. And S&P wouldn't put information in its
9 reports that it didn't think was important or material
10 to its analysis, right?

11 A. Yes.

12 Q. Okay. Let's look at Page 84 of your Direct
13 Testimony, if we could.

14 A. Yes, sir, I'm there.

15 Q. Okay. You are much faster than your
16 cross-examiner at this hour of the night. Apologies.
17 So starting at Line 19 and going over to Page 85, at
18 Line 5, you talk about an adjustment S&P made regarding
19 the purchase power agreements. Could we shorthand that,
20 first of all, to PPAs for our discussion?

21 A. Yes, sir.

22 Q. Okay. And you are discussing that adjustment
23 by S&P, right?

24 A. Yes.

25 Q. And that represented a \$949 million adjustment

1 in the debt level, right?

2 A. Yes.

3 Q. Okay. You wouldn't want to use a methodology
4 when you make an assessment like this that was different
5 than S&P's, would you?

6 A. Well, I'm not making the -- I'm reporting what
7 S&P's assessment is. I'm not doing my own independent
8 assessment.

9 Q. That is certainly fair enough, but you want us
10 to understand S&P's methodology for making the
11 adjustment to debt, because it's your belief that
12 investors look at this and rely on it, right?

13 A. Yes. I think investors make this or similar
14 adjustments in recognition of the PPA fixed obligations.

15 Q. Okay. And on the top of Page 85, in the
16 footnote, Footnote 67, you end up referencing an S&P
17 report dated April 18th, 2011, right?

18 A. Yes.

19 Q. Okay. Let's take a look at that, if we could.

20 MR. SUNDBACK: And if memory serves, we should
21 be at 550 now for a hearing exhibit.

22 COMMISSIONER EDGAR: That's correct.

23 MR. SUNDBACK: Thank you. For purposes of
24 identification, this represents the material furnished
25 in response to Staff's 1st Request for Production of

1 Documents Number 19.

2 (Exhibit Number 550 marked for
3 identification.)

4 **BY MR. SUNDBACK:**

5 Q. Does that appear to be material from the
6 report that was referenced in that Footnote 67?

7 A. Yes, sir.

8 Q. Okay. In the lower right-hand corner you will
9 see some page numbers. If we could turn to the page
10 numbered 7, please.

11 A. Yes, sir.

12 Q. All right. Now, first of all, this Table 3
13 that we see starting on Page Number 7, that's a
14 reconciliation at the parent level of the results of
15 operations of both FPL and NextEra Energy Resources,
16 correct?

17 A. Yes.

18 Q. Okay. And we're starting out -- if you look
19 under the column labeled debt on the line labeled
20 reported with \$20.8 billion of debt, about, more or
21 less, is that correct?

22 A. Yes.

23 Q. Okay. And that represents debt from FPL and
24 NextEra Energy Resources, right?

25 A. Yes, that's the consolidated debt of the

1 entity.

2 Q. Great. Okay. Now, immediately under that,
3 still in Table 3, we will see Standard & Poor's
4 adjustments. Do you see that?

5 A. Yes.

6 Q. Okay. Now, there are a number of adjustments
7 under the debt column, right?

8 A. Yes.

9 Q. Okay. But the only adjustment that you
10 discussed in your testimony at Pages 84 and 85 was the
11 adjustment associated with PPAs that we find on the page
12 labeled 8 in the lower right-hand column, in the fifth
13 line on that page, right?

14 A. Yes.

15 Q. Okay. Now, if we track that down to the
16 bottom line, the proverbial bottom line, under the
17 caption Standard & Poor's adjustment amounts, we'll see
18 \$15 billion of debt and 16.4 basically -- I'm sorry, to
19 be more on an apples-to-apples basis, 15.2 billion of
20 debt and 16.4 billion of equity, right?

21 A. Yes.

22 Q. And that would result in an equity ratio of
23 about 51 or 52 percent?

24 A. I haven't done the calculation, but this is
25 for NextEra, I believe.

1 Q. NextEra Energy, Inc., right?

2 A. Yes. Some of these adjustments don't apply to
3 FPL, like the nonrecourse debt.

4 Q. Uh-huh. All right. Now, recognizing that,
5 still when we go to market to get equity for the
6 enterprise, it's NextEra Energy, Inc. that is getting
7 the equity in the public markets, right, not FPL?

8 A. That's correct.

9 Q. Okay. Now, from a very primitive perspective
10 because you're talking to a lawyer and it's pretty late,
11 let's just think of this in a conceptual fashion almost.
12 If we had a 60 percent equity level for FPL and NextEra
13 Energy Inc.'s consolidated capital structure, which you
14 just told us was what this showed, was about 51 or 52
15 percent, then NextEra Energy Resources has to be even
16 thinner in terms of its equity component in debt
17 capitalization, right?

18 A. No.

19 Q. No. So when you put them all together, you
20 are able to have a result of 52 percent equity at the
21 consolidated level, but you could have equity components
22 of 60 percent, or something above 52 percent at FPL, and
23 also have an equity component above 52 percent for
24 NextEra Energy Resources, is that your testimony?

25 A. You asked me about thinness. Thinness, in my

1 terms, is a qualitative term, a judgmental term. And I
2 think you can't compare NextEra's capital structure to
3 FPL, because some of NextEra's activities are different
4 from FPL's.

5 Q. Well, let's just do it from a more literal
6 perspective, then, a numbers perspective. Just from a
7 math perspective, it's not possible to combine an
8 enterprise with an equity capitalization share of above
9 52 percent, being FPL, with another enterprise whose
10 equity capitalization is also at least 52 percent and
11 still come up with 52 percent, right? Somebody has got
12 to be lower if FPL is above the 52 percent.

13 A. As a matter of arithmetic, yes.

14 Q. Thank you. By the way, you had suggested that
15 not all of these adjustments apply to FPL. Could you
16 tell us of your own knowledge whether, for instance, the
17 last line on Page 7, accrued interest not included in
18 reported debt of 210 million, is related in any way to
19 FPL, or you don't know?

20 A. I really don't know. You would have to ask
21 Mr. Dewhurst.

22 Q. How about the line on Page 8 labeled
23 securitized utility cost recovery, do you think that is
24 a good bet that that might be associated with FPL
25 operations?

1 **A.** I believe it is.

2 **Q.** Okay. And what about on the other line, do
3 you think there might be something in there from FPL?

4 **MR. GUYTON:** I'm sorry, you said the other
5 line. I'm sorry, I misunderstood the line --

6 **MR. SUNDBACK:** No. People who like puns would
7 appreciate your clarification.

8 **BY MR. SUNDBACK:**

9 **Q.** The line labeled other, do you think there is
10 anything in that line from FPL? Or, once again, you
11 don't have a basis of knowledge that would allow you --

12 **A.** I don't have a basis of the knowledge. Mr.
13 Dewhurst would know.

14 **MR. SUNDBACK:** Thank you, sir.

15 Mr. Chairman, could we have marked with the
16 next available exhibit number, which if our scorekeeping
17 is correct, would now take us to 551, which consists of
18 a response of FPL to SFHHA's Interrogatory Number 23.

19 **COMMISSIONER EDGAR:** Mr. Sundback, I'm going
20 to pinch hit right now. And, yes, we will mark that as
21 Exhibit 551.

22 (Exhibit Number 551 marked for
23 identification.)

24 **MR. SUNDBACK:** Take any win that's offered.
25 Thank you.

1 **BY MR. SUNDBACK:**

2 Q. Was this response prepared by you or under
3 your direction and supervision?

4 A. Which one are we talking about?

5 Q. This is Interrogatory Number 23 marked as 551.

6 A. This is the one we have been talking about?

7 **COMMISSIONER EDGAR:** No. This is the one that
8 was just, I believe, put in front of you.

9 **MR. SUNDBACK:** It's so short, it's hard to
10 find sometimes.

11 **COMMISSIONER EDGAR:** Thank you.

12 **THE WITNESS:** Talking about short is like
13 talking about thin; it's qualitative, and I'm sensitive
14 to those things.

15 (Laughter.)

16 **COMMISSIONER EDGAR:** Are you comfortable now
17 that you have the correct document?

18 **THE WITNESS:** Yes.

19 **COMMISSIONER EDGAR:** Okay. Mr. Sundback.

20 **BY MR. SUNDBACK:**

21 Q. All right. And that response was prepared
22 under your direction or supervision, correct?

23 A. Yes.

24 Q. Okay. Let's go back -- sorry to jump around
25 on you like this -- to Page 33 of your Direct, Lines 17

1 through 22, again, where we were a few minutes ago. You
2 use the phrase, "FPL's jurisdictional utility
3 operations," on Lines 17 and 18. Do you see that?

4 **A.** Yes.

5 **Q.** Okay. And that is a reference to the types of
6 retail services that are regulated by this Commission,
7 right?

8 **A.** Yes, sir.

9 **Q.** Okay. Your utility proxy group was an attempt
10 to identify at least holding companies that owned
11 utilities that had comparable operations, right?

12 **A.** No, it was an attempt to identify publicly
13 traded companies that had similar risk profiles. I did
14 not attempt to match the operations. I was using
15 objective risk measures that investors use.

16 **Q.** Okay. And you're saying that investors don't
17 as a risk measure take into account the lines of
18 business that the particular entity engages in?

19 **A.** Investors do consider that, but whatever
20 effect it has along with other risk factors is
21 summarized in these objective measures of Value Line and
22 S&P.

23 **Q.** All right. But that is additional information
24 from the investor perspective, is it not, in the sense
25 that if you have a credit rating, you're looking at

1 simply an assessment of the credit rating agency of the
2 entire bundle, or at least the bundle of risks that the
3 credit rating agency thinks are material?

4 **A.** That is correct, and they express what they
5 regard as material in the narrative of their credit
6 rating, as does the Value Line page and they talk about
7 things like customer mix when it is material.

8 **Q.** Okay. Well, let's talk about some of those.
9 In your Exhibit WEA-4, we will see, for instance -- we
10 might as well so we don't have to move around too much
11 in this exhibit, start at the end, which is Page 3. Let
12 us know when you have found that, please.

13 **COMMISSIONER EDGAR:** And, Mr. Sundback, will
14 you pull the mike over a little bit as you are facing
15 the -- thank you. I think that will help.

16 **MR. SUNDBACK:** Slam me in the forehead.

17 **COMMISSIONER EDGAR:** I understand.

18 **BY MR. SUNDBACK:**

19 **A.** Mr. Sundback, I'm there.

20 **Q.** Thank you, sir. So on the fifth line, ITC
21 Holdings looks like an overachiever in some respects,
22 isn't it?

23 **A.** It has high projected earnings growth.

24 **Q.** Okay. And ITC holds no generation facilities,
25 right?

1 A. That is correct.

2 Q. Gas, or nuclear, or anything?

3 A. It is a pure play transmission utility.

4 Q. Okay. And it doesn't have any of the exposure
5 to natural gas prices that are the subject of some of
6 your testimony, right?

7 A. That's correct.

8 Q. It doesn't have any exposure to the nuclear
9 risks that you seem to think are material from an FPL --
10 important from an FPL perspective, right?

11 A. That's correct.

12 Q. Okay. It doesn't have any distribution
13 facilities, any distribution lines, right?

14 A. Right.

15 Q. Okay. It doesn't have any exposure to PPAs,
16 long-term PPAs that would, for instance, turn up in the
17 quantitative assessment by S&P, right?

18 A. No.

19 Q. Okay. What proportion of FPL's total future
20 liability, contingent liability is attributable to
21 generation?

22 A. I don't quite understand the question.

23 Q. You recognize that, for instance, in 10-Ks
24 publicly traded enterprises have to disclose future
25 obligations, whether it is leases, or contracts, or

1 future pensions, and post-retirement benefits, they have
2 to make an estimate of what those obligations are and
3 quantify it for the investor, so the investor can take a
4 look at that, right?

5 A. When it's material they do, yes.

6 Q. Yes. Okay. So in FPL's case, how much of
7 those future liabilities are associated with its
8 generation operation, if you know?

9 A. I don't know exactly. I would suspect a
10 material amount.

11 Q. Do you think it's a majority?

12 A. I would expect so.

13 Q. And what about distribution, do you think a
14 substantial portion of the remainder is associated with
15 distribution, the linemen who repair the lines and
16 maintain the poles, for instance?

17 A. Well, I don't think that would be set out
18 separately. I think that would be under a pension
19 obligation and post-retirement medical operation.

20 Q. I understand that's how it might be reported,
21 but nonetheless the incurrence of it would be through
22 providing the business segment function of distribution,
23 right? If they didn't provide distribution, they
24 wouldn't have those obligations with regard to those
25 personnel, right?

1 A. Yes, sir.

2 Q. Okay. What proportion of FPL's revenue is
3 attributable to generation, in your opinion?

4 A. I would think a major portion.

5 Q. A major. Can you quantify that for us, a
6 percentage?

7 A. Well, are we including fuel?

8 Q. Yep.

9 A. Well, I think if we include fuel and base
10 rates, it would be the vast majority.

11 Q. Okay. Do you think transmission would
12 represent something less than 10 percent of the revenues
13 of the company?

14 A. Yes.

15 Q. Okay. Let's look at Page 10 of your
16 testimony, if we could.

17 A. I'm there.

18 Q. Thank you. And at the bottom of the page you
19 talk about FPL's exposure to devastating storms, right?

20 A. Yes.

21 Q. Okay. Let's start with a compilation of three
22 responses that you provided.

23 **MR. SUNDBACK:** Mr. Chairman, these are
24 responses to Interrogatories 12 and 15 of SFHHA, and
25 Staff Number 359, and we'd ask that this be assigned the

1 next appropriate exhibit number.

2 **COMMISSIONER EDGAR:** We would be at 552.

3 **MR. SUNDBACK:** Thank you very much.

4 (Exhibit Number 552 marked for
5 identification.)

6 **BY MR. SUNDBACK:**

7 **Q.** Okay. And these responses were true and
8 correct when you prepared them, is that right?

9 **A.** Yes.

10 **Q.** Let's look at the response to Staff
11 Interrogatory 359, which is the last substantive
12 discovery response in the package, if we could?

13 **A.** I've got it.

14 **Q.** There is a reference to earthquakes,
15 tornadoes -- no locusts, but ice storms, also. Let's
16 start with ice storms. Are you familiar with how much
17 weight on a power line is occasioned if it is --
18 additional weight is occasioned by a coating of half an
19 inch of ice?

20 **A.** I think it's substantial, and I think it would
21 depend on the environmental factors.

22 **Q.** Would you be able to tell us what percentage
23 of power lines can carry that additional weight?

24 **A.** I know that when there is an ice storm of that
25 magnitude power lines break.

1 Q. How much damage was caused to utility
2 infrastructure in the New England January 1998 ice
3 storms?

4 A. A great deal. We worked for United
5 Illuminating, and I know they had substantial damage.

6 Q. Yeah. Do you have a number in mind?

7 A. I have probably seen the number, but I don't
8 have it in mind.

9 Q. Certainly in excess of a billion dollars,
10 right?

11 A. For all the New England utilities.

12 Q. And it took down over 10,000 distribution
13 poles, right?

14 A. I don't know the exact number. I know it was
15 a terrible storm.

16 Q. And about 25 people were killed in that storm,
17 right?

18 A. Again, I know people were killed. I don't
19 have the numbers in my head.

20 Q. Which utility suffered the most damage in that
21 storm, to your knowledge?

22 A. I think it was Connecticut Light and Power.

23 Q. And you have no idea how much damage they
24 actually sustained, you don't have a number for us?

25 A. No, I knew once, because we did a rate case

1 for them. But as I sit here today, I can't rattle it
2 off.

3 Q. Okay. How much damage was caused in New
4 England by the ice storm starting on December 11th,
5 2008, and continuing for several days?

6 A. It was a damaging storm.

7 Q. Do you have a number in mind?

8 A. No, sir, I do not.

9 Q. Would you agree that over a million and a
10 quarter people lost -- or households lost power?

11 A. I know a lot did. I can't validate the
12 number.

13 Q. Which utility sustained the most damage in
14 that storm?

15 A. I don't know if it was UIL or InStar, but they
16 both were affected.

17 Q. How much damage did it sustain?

18 A. I do not know.

19 Q. What percentage of its capital was needed to
20 be invested to restore power as a result of that storm?

21 If you don't know, that's a fair answer.

22 A. I don't know. I know it didn't have a
23 material affect on their bond ratings or their other
24 metrics.

25 Q. That might have been because they had a

1 tracker or other financial buffer in their rates, is it
2 not, is that not correct?

3 A. Well, they have that, and recently the
4 Connecticut regulators have adopted a more robust method
5 of recovery.

6 Q. If I asked you the same kind of questions we
7 have just gone through for the ice storms in '98 and
8 2008 with regard to the 2009 ice storm in New England,
9 would your answers be the same?

10 A. Yes. I know they occurred. I can't give you
11 quantification.

12 Q. If I asked you the same questions about the
13 winter storm in February 2011 in New England, would your
14 answers be the same?

15 A. Yes.

16 Q. Okay. Now, let's go back. You talk a little
17 bit about the organization of FPL and how it fits into
18 the NextEra Energy family, if you will, in your
19 overview. And you will recall you discuss -- well,
20 let's see if you're familiar with this. Is all of FPL's
21 common stock held by NextEra Energy, Inc.?

22 A. I believe so. There might be some
23 intermediate subsidiaries, but there is no external
24 holder.

25 Q. Okay. Thank you for that clarification. And

1 at least indirectly, NextEra Energy Resources' common
2 stock is also held by NextEra Energy, Inc., is that
3 correct?

4 **A.** Yes.

5 **COMMISSIONER EDGAR:** Mr. Sundback, is there a
6 page or a section of the Direct Testimony that you are
7 referring to or referencing that you could direct us to?

8 **MR. SUNDBACK:** Well, now you're calling out
9 the lawyer while he is vamping for time, but I believe
10 Page 16 is where he should have been to start this line
11 of questions.

12 **COMMISSIONER EDGAR:** Thank you.

13 **BY MR. SUNDBACK:**

14 **Q.** Okay. You would agree that investors are
15 influenced by, among other things, the earnings of the
16 entity in which they are investing, right?

17 **A.** Yes.

18 **Q.** Now, on Lines 15 through 21 of Page 16, you
19 note that Next Energy -- I'm sorry, NextEra Energy, Inc.
20 has the third largest nuclear power generation fleet
21 presumably in the U.S. Is that a fair interpretation?

22 **A.** Yes.

23 **Q.** Okay. And when you say collectively, you mean
24 both FPL and NextEra Energy Resources, is that right?

25 **A.** Yes.

1 **Q.** Okay. And so investors -- at least when they
2 are thinking of, for instance, that feature of NextEra
3 Energy, Inc., are looking at both enterprises, right?

4 **A.** Yes.

5 **MR. SUNDBACK:** Could we have assigned the next
6 available exhibit number for a series of materials
7 involving FPL investor presentations?

8 **COMMISSIONER EDGAR:** Okay. I believe we will
9 mark that as 553.

10 **MR. SUNDBACK:** Thank you.

11 (Exhibit Number 553 marked for
12 identification.)

13 **BY MR. SUNDBACK:**

14 **Q.** Now, consistent with our discussion at the
15 outset, pretty much, of your cross-examination, there is
16 a strong incentive on the part of an enterprise with
17 common stock trading in public exchanges to provide
18 correct and accurate information about its material
19 risks, is that correct?

20 **A.** Yes.

21 **Q.** Okay. Let's look at, I think it's the third
22 page of these materials, and you will see the headline
23 "2012 Through 2014 Will be Challenged by Head Winds."
24 Do you see that?

25 **A.** Yes.

1 **Q.** These lower natural gas prices in the
2 left-hand table are described as hurting merchant
3 segments. They benefit the utility operations of FPL,
4 do they not?

5 **MR. GUYTON:** Objection. We don't have this
6 authenticated yet or have we established that this
7 witness is familiar with this document or that this
8 document is a complete document.

9 **COMMISSIONER EDGAR:** Mr. Sundback.

10 **MR. SUNDBACK:** These materials are available
11 on the FPL website. They are maintained there for
12 investors. They obviously are offering information to
13 investors. It might be too strong to say that they are
14 soliciting investment in the company by keeping it
15 there, but is clearly placed there in a public fashion.
16 You can go there tonight and click on the link and get
17 it.

18 If FPL is providing information that is
19 materially incorrect, it would represent a Securities
20 Law violation. This is the best source of information
21 you can get because of the extraordinary sanctions that
22 are available against a company for misstatements of
23 financial information.

24 **MR. LITCHFIELD:** FPL objects to the
25 implication by counsel that FPL would post anything

1 materially or immaterially incorrect on its website.
2 The objection was simply that the document has not yet
3 been authenticated by Doctor Avera. He has not had a
4 chance to review it. It's not a complete document.

5 **MR. SUNDBACK:** Well, --

6 **COMMISSIONER EDGAR:** Mr. Sundback, this is not
7 the time for counsel for any party to testify, and I
8 think we may be coming somewhat close to that. What I
9 would ask is for you to re-ask the question to the
10 witness, and if the witness can answer it, then please
11 do.

12 And if you can't, let us know that you can't,
13 and we will see where it takes us, Mr. Guyton.

14 **MR. GUYTON:** Thank you, Commissioner.

15 **MR. SUNDBACK:** First, we want to make the
16 statement in response to Mr. Litchfield that we are not
17 implying that FPL has made a misstatement in its public
18 disclosure materials. And Mr. Litchfield's
19 extrapolation is incorrect in that regard, because we
20 are going 180 degrees the other way.

21 **COMMISSIONER EDGAR:** All right. Thank you for
22 the clarification.

23 **MR. SUNDBACK:** Thank you.

24 **COMMISSIONER EDGAR:** Let's go through the
25 Chair, and pose the question to the witness, please.

1 **MR. SUNDBACK:** Thank you very much.

2 **BY MR. SUNDBACK:**

3 **Q.** Doctor Avera, these materials that are before
4 you -- well, are you aware that publicly traded
5 companies, such as NextEra Energy, Inc., regularly post
6 materials made available to investors in presentations?

7 **A.** Yes.

8 **Q.** All right. And when you were going about
9 preparing your information, did you understand -- I'm
10 sorry, preparing your testimony, did you understand that
11 this information would be available, for instance, on
12 the NextEra Energy, Inc. website?

13 **A.** I understood there would be information. I
14 did not reference this information.

15 **Q.** I see. So you didn't think that this was a
16 useful source of information for the purposes of
17 preparing your testimony, given your focus on what
18 investors look at?

19 **A.** That is correct, because we were looking at
20 services that summarize relevant information for
21 investors.

22 **Q.** Well, in your testimony you also rely on
23 information from 10-Ks directly, do you not?

24 **A.** Yes. This is not a 10-K.

25 **Q.** That's correct. But nonetheless they are both

1 sources of -- they are both documents made publicly
2 available by the company for investors.

3 A. That is correct. But I think most investors
4 regard 10-Ks as a more holistic view of the company than
5 sporadic presentations.

6 Q. Okay. So is it your testimony that you have
7 never seen a document of this nature from FPL before?

8 A. I have not seen this document. I have seen
9 some documents, but this is not one that I saw.

10 Q. Let's turn to the next page and get an
11 understanding of that. That's labeled November/December
12 investor presentation. Do you see that?

13 A. Yes.

14 Q. And then the next page starts with the
15 caption, "In 2012 growth at FPL," do you see that?

16 A. Yes.

17 Q. Okay. Your testimony is you have never seen
18 this before?

19 A. Yes.

20 Q. Okay. You didn't happen to notice, then, in
21 Mr. Baudino's testimony, particularly Exhibit RAB-9,
22 Pages 34 and 35, that he reproduced those materials
23 exactly? Apparently you never read that portion of his
24 evidentiary submission?

25 A. I read his testimony. I didn't read all of

1 the exhibits to his testimony. I looked at those that
2 were his analyses.

3 Q. I see. And is that your typical mode of
4 operation when you are responding to witness testimony?

5 A. Yes. If there is an exhibit that is relevant
6 to me, I look at it.

7 Q. And so a public disclosure statement from the
8 company that is relied upon by an opposing witness who's
9 criticizing your conclusions is not material to you for
10 purposes of your review, is that your testimony?

11 A. My testimony is that reading his narrative
12 allowed me to understand the point he was making and to
13 respond to it, which I have done in my rebuttal.

14 Q. I see. And if you would just finish flipping
15 through the materials. I want to make sure, it's your
16 statement that you have never seen the information
17 contained in these materials?

18 A. Well, that's a different question.

19 Q. And that's why I'm asking it, sir. Do you
20 think you could try that one?

21 A. There is some information here, for example,
22 what natural gas prices have done, I have seen that
23 information displayed elsewhere, but not in this
24 document.

25 Q. Does that look accurate to you?

1 **A.** Yes.

2 **Q.** And would you agree that as natural gas prices
3 decrease that's helpful from an FPL perspective?

4 **A.** Generally, yes.

5 **Q.** And would you agree that from a near
6 perspective, Next Energy -- we'll never get this one
7 right -- NextEra Energy Resources' perspective, that is
8 not such good news?

9 **A.** That is correct in many cases because their
10 electricity is priced off of natural gas, or the price
11 of natural gas affects the market price of electricity
12 in various markets.

13 **Q.** Fair enough. And to the extent that -- well,
14 to your understanding are there other difficulties or
15 challenges facing NextEra Energy Resources aside from
16 the decrease in the price of natural gas that is
17 identified, for instance, in this document?

18 **A.** That's a very broad question. I mean, NextEra
19 Energy has many diversified operations, and the rating
20 agencies regard that diversity as a good thing, because
21 their various businesses are impacted by various
22 economic exogenous factors.

23 **Q.** Doctor Avera, nowhere in that answer is there
24 any response to the question you were posed.

25 Could you try that question on a yes or no

1 basis and see if you could answer it, please?

2 A. Would you make sure that I hear the question
3 correctly.

4 Q. Are there other challenges facing NextEra
5 Energy, material challenges, aside from the decrease in
6 natural gas prices that we've just identified, to your
7 knowledge?

8 A. Yes.

9 Q. And what are those?

10 A. They are such things as the regulatory
11 framework and the markets in which they operate, the tax
12 structure affecting their projects, the physical
13 operations of their projects, the ability to receive the
14 promised payments from their PPAs. Those are some that
15 come to mind, and I would say that those don't apply
16 equally to all the various activities, and I have read
17 from rating agencies they regard that as a good thing.

18 Q. Well, don't the rating agencies on occasion
19 cite risks facing NextEra Energy Resources as a reason
20 for concern and potential downgrading of securities
21 issued by the NextEra Energy, Inc. family?

22 A. They sometimes do, and they also mention the
23 strengths that NextEra brings to the table.

24 Q. All right. Have you done -- let's turn that
25 around. You haven't done any analysis of the

1 contribution of NextEra Energy Resources' operations to
2 negative comments or potential downgrades of NextEra
3 Energy, Inc. securities, have you?

4 **A.** To the extent that those are relevant, they
5 are reflected in the rating agency reports that I have
6 reviewed, but I haven't done an independent analysis.

7 **Q.** Thank you. Let's rewind the clock to an era
8 long ago, not the NextEra, past era, when FPL was a
9 stand-alone enterprise and its equity shares were
10 publicly traded.

11 If NextEra Energy Resources experienced
12 problems, for instance, from losses on its trading and
13 power markets, that wouldn't as a result diminish the
14 earnings or dividends that were flowing out of FPL,
15 right?

16 **MR. GUYTON:** Objection. I'm not sure that I
17 understand the question. You just asked him to assume
18 FPL was standing alone, and then you asked him about a
19 NextEra circumstance. I don't understand the
20 connection.

21 **COMMISSIONER EDGAR:** Can you rephrase to the
22 witness?

23 **MR. SUNDBACK:** Certainly, Commissioner.

24 **BY MR. SUNDBACK:**

25 **Q.** If FPL's stock was held directly by the

1 public -- do you understand that portion of the
2 hypothetical so far?

3 A. Yes, sir.

4 Q. Okay. And FPL operations produced a dollar of
5 dividends -- I'm sorry, a dollar of earnings, do you
6 understand that portion of the hypothetical?

7 A. Yes, sir.

8 Q. Okay. And out of that dollar of earnings, 20
9 cents was going to be dividended (phonetic) to the
10 shareholders. Do you understand that element of the
11 hypothetical?

12 A. Yes, sir.

13 Q. Okay. Now, on a stand-alone basis, then, any
14 other operation -- any other entities of losses would
15 not diminish or dilute either the earnings or the
16 dividends of FPL, right?

17 A. Right.

18 Q. Okay. But now when you buy of share of
19 NextEra Energy, Inc. stock, you can't just buy the
20 stream of revenue earnings or dividends that is
21 associated with FPL operations, right?

22 A. Yes, sir.

23 Q. Okay. Would you agree that on a stand-alone
24 basis NextEra Energy Resources couldn't maintain both
25 its current equity ratio and its A- corporate credit

1 rating from S&P?

2 A. No, I can't agree.

3 Q. Have you done any analysis whether that would
4 be feasible or not?

5 A. No.

6 Q. Okay. Could you identify for us another
7 entity that is engaged in the type of business that
8 NextEra Energy Resources has that also has a credit
9 rating of A- and a level of leverage that is comparable
10 to NextEra Energy Resources?

11 A. As I sit here today, I can't identify such an
12 entity.

13 Q. Would you agree that the ability to achieve
14 NextEra Energy Resources' financial profile depends at
15 least in part on the results of operations of FPL?

16 A. Yes, and vice versa. There are synergies as I
17 understand it between --

18 (Inaudible; simultaneous conversation.)

19 Q. Okay. But you have done no analysis of the --

20 MR. GUYTON: May the witness finish his
21 answer, or at least the sentence?

22 COMMISSIONER EDGAR: I would ask Mr. Sundback
23 to not interrupt the witness unless he is going on and
24 on and on, but I don't believe that was the case in this
25 instance.

1 **MR. SUNDBACK:** Okay. Thank you, Commissioner.

2 **THE WITNESS:** It goes both ways. I understand
3 there are synergies.

4 **BY MR. SUNDBACK:**

5 **Q.** Okay. But you haven't quantified those or
6 identified the preponderance of the flows in your
7 testimony, right?

8 **A.** No. Mr. Dewhurst could talk to you about
9 that.

10 **Q.** Let's look at your Direct Testimony on Page
11 22, if we could, Lines 12 through 14.

12 **A.** Yes, sir.

13 **Q.** You haven't actually done any studies or
14 analyses of FPL's fuel procurement or management
15 activities, have you?

16 **A.** No.

17 **Q.** Okay. Let's look at data -- I'm sorry, an
18 interrogatory response.

19 **MR. SUNDBACK:** If we could have marked with
20 the next available exhibit number, which --

21 **COMMISSIONER EDGAR:** 554.

22 **MR. SUNDBACK:** Thank you, Commissioner.

23 And this document is FPL's response to Staff's
24 11th Set of Interrogatories Number 340.

25 (Exhibit Number 554 marked for

1 identification.)

2 **BY MR. SUNDBACK:**

3 Q. Now, this interrogatory response relates to
4 Pages 18 and 19 of your testimony --

5 A. Yes, sir.

6 Q. -- and this is a response prepared under your
7 supervision and direction, is that correct?

8 A. It was.

9 Q. Okay. Thank you. Let's look at -- because
10 the hour is late, and this will be a real test for our
11 eyesight -- your end notes, which are in Exhibit WEA-18.
12 Particularly this one is on Page 4, and it's Note 68.
13 Please let us know when you have found that.

14 A. Footnote 68?

15 Q. Yes, sir.

16 A. I can read it.

17 Q. Well, you are way ahead of some of us then.
18 In the second line you state that higher fixed charges
19 also reduce ongoing financial flexibility, right?

20 A. Yes.

21 Q. The converse is also true, right?

22 A. Yes.

23 Q. Okay. And so if you can reduce fixed charges
24 for an obligation, that would increase your financial
25 flexibility?

1 **A.** All else being equal, yes, sir.

2 **Q.** Okay. And investment grade of utility bonds
3 and the rates -- well, the rates associated with
4 investment grade utility bonds have decreased
5 substantially since the 2009/2010 period, is that
6 correct?

7 **A.** They have decreased. The spread to Treasuries
8 has increased.

9 **Q.** All right. But the overall has decreased, is
10 that correct?

11 **A.** I think you misspoke; decreased.

12 **Q.** Decreased. I'm sorry if I said increased.
13 Your testimony doesn't present any analysis of the
14 savings that FPL has realized from refinancing its debt
15 at lower interest rates since 2008 because of this
16 general decline in investment grade utility debt, is
17 that correct?

18 **A.** That's correct.

19 **Q.** Okay. Let's take a look at -- Mr. Moyle has
20 left. Well, we can start with your CV. If we look at
21 Exhibit WEA-1, Page 6, you state you have testified in
22 over 300 cases before regulatory agencies, right?

23 **A.** Yes.

24 **Q.** How many of those, approximately, were cost of
25 capital cases?

1 A. Almost all.

2 Q. Almost all of them. And how many of those
3 took place since 2005?

4 A. Many.

5 Q. Okay. And let's look at Pages 50 through 52
6 of your testimony in this case. You're talking about
7 interest rates applicable to, for instance, utility
8 bonds in a relatively recent period to inform our
9 assessment of the ROE for FPL, right?

10 A. Yes.

11 Q. And you do that on a regular basis in your
12 cost of capital testimony, right?

13 A. Yes.

14 Q. You're not just doing a one off for this case,
15 is that right?

16 A. That's right.

17 Q. And you did this same kind of analysis in
18 testimony you filed in the last case.

19 A. I think I remember doing that.

20 Q. All right. And do you have some assessment
21 for us of how many times you have testified since 2005
22 on cost of capital?

23 A. Do you want -- I mean, many times.

24 Q. One hundred? Is one hundred fair?

25 A. Probably so.

1 Q. Okay.

2 A. Maybe even 100 at FERC, including for ITC.
3 I've got to get that commercial in.

4 Q. I'd like you to look back at what has been
5 marked as Exhibit Number 545.

6 A. I don't have the exhibit numbers here. Can
7 you help me?

8 Q. This is the one-page schedule of yields, debt
9 yields --

10 A. Yes.

11 Q. -- for various rated bonds?

12 A. Yes.

13 Q. Given your expertise in this area and your
14 testimony on over 100 occasions since 2005 about these
15 topics, are you unable to form an opinion as to the
16 correctness of the yields that are shown on this table?

17 A. Yes. I can't resolve this down to the basis
18 point. As I testified to Mr. Moyle, the numbers look
19 about right. But if you're asking me to say these are
20 the actual bond yields month-by-month, I can't do that.

21 Q. Okay. Well, let's just work with that. Let's
22 work with that. If we look at October 2008, that was
23 kind of a traumatic time in financial markets, was it
24 not?

25 A. Yes.

1 Q. Okay. And we see the spread between the Aas
2 on the second column and the As in the third column was
3 a total of, what, 60 basis points?

4 A. Let's see. Let me find this.

5 Q. This requires some very fine classes at this
6 hour of the night.

7 A. Yes. Now you are challenging my eyesight.

8 Q. And the question would be: Does that sound
9 about right, just, you know, ballparkish for the
10 differential at that time?

11 A. Yes, that looks about right. But as I
12 mentioned to Mr. Moyle, some of it is moot because these
13 are seasoned bonds. Bbb companies could not issue new
14 bonds in that environment, Baa.

15 Q. I understand the point you're making, but I
16 just want to make sure, this looks like about something
17 that you think is a reasonable approximation of the
18 differential in financing costs between these two
19 ratings of utility bonds for October 2008?

20 A. Yes, the index of long-term seasoned bonds.

21 Q. Okay. Very good. Now, in October of 2008 --

22 **MR. GUYTON:** Excuse me. We have been going
23 about two hours and 15 minutes. Would it be
24 inappropriate to ask for a break? I apologize for
25 interrupting, but I've just been looking for a place to

1 ask.

2 **COMMISSIONER EDGAR:** If I may, Mr. Sundback,
3 just so we have a feel, about how much longer do you
4 have with your questioning, do you think?

5 **MR. SUNDBACK:** I was going say I have, I
6 believe -- I wouldn't say one more question, because you
7 never say that, but two more questions.

8 **COMMISSIONER EDGAR:** Okay.

9 **MR. SUNDBACK:** If that would be appropriate.

10 **COMMISSIONER EDGAR:** Then, Mr. Guyton, what I
11 would ask is let's allow Mr. Sundback -- if the witness
12 is still okay -- to go ahead and finish his questioning,
13 and then we will take a stretch break, a slight recess
14 after that before we move on to the next cross.

15 **MR. SUNDBACK:** Commissioner, would it be fair
16 to inquire directly of the witness whether he is okay
17 with doing that?

18 **THE WITNESS:** Yes, if we are talking a short
19 period of time. I'm on board.

20 **MR. SUNDBACK:** Well, we both can contribute to
21 that resolution.

22 (Laughter.)

23 **COMMISSIONER EDGAR:** Okay. Mr. Sundback, go
24 ahead.

25 **MR. SUNDBACK:** Thank you, Commissioner.

1 **BY MR. SUNDBACK:**

2 Q. Now, in this little schedule we were just
3 looking at, October 2008, that was a somewhat -- you
4 would agree in the parlance of some financial markets
5 that that was a risk off market, is that correct?

6 A. Yes. That is sometimes called when investors
7 flee to the safety of government bonds and away from
8 corporate securities.

9 Q. Right. So they are more risk adverse in that
10 environment?

11 A. Yes.

12 Q. And you would agree that at least under
13 traditional finance theory, equity is even more risky
14 than debt, isn't that right?

15 A. Yes.

16 **MR. SUNDBACK:** Okay. That's great.

17 Thank you for your patience, Doctor Avera. I
18 appreciate your time.

19 **COMMISSIONER EDGAR:** Okay. Thank you very
20 much. We are going to take a stretch break, so to
21 speak, and we will come back at -- I'm going to say 8:35
22 on the clock, and we will move on to the next party for
23 cross.

24 **MR. GUYTON:** Thank you, Commissioner.

25 **COMMISSIONER EDGAR:** We are on break.

1 (Recess.)

2 **CHAIRMAN BRISÉ:** Okay. At this time we are
3 going to go ahead and reconvene.

4 I think Mr. Sundback has a statement.

5 **MR. SUNDBACK:** Thank you, Mr. Chairman.

6 During the break, I've had a couple of
7 discussions, and I wanted to make sure that the record
8 was accurate on this point because it is an important
9 point for any publicly traded enterprise.

10 We don't want our statements to be
11 misconstrued in any way to suggest that FPL has made,
12 or, I'm sorry, NextEra Energy, Inc., or any of its
13 affiliates has made an inaccurate statement in any
14 public disclosure materials provided to investors, and
15 just want to make sure the record was clear on that
16 point.

17 **CHAIRMAN BRISÉ:** Okay. Thank you.

18 **MR. SUNDBACK:** Thank you.

19 **CHAIRMAN BRISÉ:** FEA.

20 **CAPTAIN MILLER:** Very briefly.

21 **CROSS EXAMINATION**

22 **BY CAPTAIN MILLER:**

23 Q. Hello, Mr. Avera.

24 A. Hello.

25 Q. One quick question for you. Do you recall

1 telling Mr. Sundback that when preparing your testimony
2 you consulted with FPL management?

3 A. Yes.

4 Q. Can you tell me specifically who those
5 managers were?

6 A. They were people in the treasury and
7 regulatory department; Mr. Dewhurst, and various other
8 members of the treasury team, and Mr. Litchfield.
9 Primarily Mr. Bryan Anderson.

10 **CAPTAIN MILLER:** Thank you.

11 **CHAIRMAN BRISÉ:** Thank you very much.

12 Office of Public Counsel, Mr. McGlothlin.

13 **MR. McGLOTHLIN:** Commissioners and Doctor
14 Avera, in light of the very thorough examination
15 conducted by Mr. Sundback, I will be able to cull some
16 questions, and my time requirements will be very modest
17 tonight.

18 **CROSS EXAMINATION**

19 **BY MR. McGLOTHLIN:**

20 Q. Doctor Avera, if you will turn to your WEA-4,
21 which is your utility proxy group.

22 A. Yes, sir.

23 Q. You included a company called Integrys in that
24 group, is that correct?

25 A. Yes.

1 Q. Would you agree that Integrys receives only
2 28 percent of its revenues from regulated electric
3 operations?

4 A. Yes. It has regulated gas and regulated
5 steam, but it is classified as an electric utility by
6 Value Line.

7 Q. Sempra is in your proxy group?

8 A. Yes.

9 Q. Would you agree that Sempra receives
10 28 percent of its revenues from regulated electric
11 operations?

12 A. Yes. It has a very large regulated natural
13 gas operation.

14 Q. Vectren is in your group?

15 A. Yes.

16 Q. Would you agree that Vectren receives
17 28 percent of its revenues from regulated electric
18 operations?

19 A. I don't believe that's accurate. Now, we have
20 done several cases for Vectren, and while they have
21 substantial natural gas operations, I believe their
22 electric operations are greater than reported by U.S.

23 Q. Do you know what the value would be?

24 A. I think it would be closer to 50 percent
25 electric.

1 Q. With respect to the subject of capital
2 structure, if you will turn to Page 86 of your
3 testimony, and you will probably recall this statement.
4 You say that the capital structures for the operating
5 utility companies in your proxy group are consistent
6 with the company's -- and by that I mean FPL's --
7 proposed 59 percent equity ratio, correct?

8 A. Yes.

9 Q. What is the average common equity ratio for
10 the operating utility companies of the proxy group that
11 you employed?

12 A. The equity ratio is 53.8 percent.

13 Q. And what is the average common equity ratio
14 for the holding companies in your proxy group?

15 A. Well, if you measure the holding companies on
16 book value, the average equity ratio in 2010 was 45.9.
17 It is projected to be 48.1. It's substantially higher
18 on market value.

19 Q. My question is book value. And in using your
20 utility proxy group for the purpose of estimating equity
21 cost rate, did you use the regulated -- the operating
22 companies or the holding companies?

23 A. I used the holding companies, because that's
24 where you have market information on stock prices.

25 Q. And FPL does not trade in the market, correct?

1 A. That is correct. NextEra Energy is traded in
2 the market.

3 Q. Now, in the course of your analysis you also
4 used a group of nonutility companies?

5 A. Yes, sir.

6 Q. And you used some risk indicators with which
7 to screen and select that group, correct?

8 A. Yes, sir.

9 Q. I'm referring you to Page 38, Lines 19 to 23.
10 I'll give you a second to turn there.

11 A. Yes, sir.

12 Q. There is a sentence there that compares the
13 beta of .70 of the nonutility companies with FPL,
14 correct?

15 A. Yes. I might have answered too quickly, Mr.
16 McGlothlin. I want to make sure I understand. You said
17 about the betas the .7 is the utility proxy group.
18 NextEra has a .75.

19 Q. My question is since, as you say, FPL does not
20 trade in the market, how does FPL have a beta?

21 A. As I explained in the testimony, I used the
22 NextEra beta as a proxy for FPL, the same thing that Dr.
23 Woolridge did.

24 Q. With respect to the subject of ROEs and
25 referring you to Exhibit WEA-11?

1 A. Yes, sir.

2 Q. This is taken from a published report of
3 authorized returns on equity over time, correct?

4 A. Yes.

5 Q. And it's provided by the -- who is it provided
6 by?

7 A. Regulatory Research Associates. It has gone
8 through several memberships, or ownerships, but it has
9 been consistently published since 1974.

10 Q. And there is a notation there called
11 *Regulatory Focus*. Can we refer to this as a *Regulatory*
12 *Focus* document?

13 A. Yes. Again, the name has changed over time,
14 but the most recent publication is called *Regulatory*
15 *Focus*.

16 Q. And this provides the authorized returns on
17 equity that have been authorized by regulators in
18 particular time frames, correct?

19 A. Yes, sir.

20 Q. And you indicate that the average ROE
21 authorized in 2011 was 10.22 percent, correct?

22 A. Yes, sir.

23 Q. That is in the Column A, the second column
24 from the left by the year 2011. There has been an
25 additional publication or edition *Regulatory Focus* since

1 that time, correct?

2 A. Yes, sir.

3 Q. Would you agree that according to the July of
4 2012 edition of *Regulatory Focus* that the average
5 authorized return on equity for an electric utility in
6 the second quarter of 2012 was 9.92 percent?

7 A. That's if you exclude the Virginia cases,
8 which I don't think you should. I was in those Virginia
9 cases, and they looked like, smelled like, and acted
10 like rate cases, so I don't know why you would disregard
11 the ROE. And if you include those, the number is 10.36.

12 Q. Did *Regulatory Focus* exclude it?

13 A. They reported it both ways. Their headline
14 uses the 10.36.

15 MR. McGLOTHLIN: I believe those are all of my
16 questions. Thank you.

17 CHAIRMAN BRISÉ: All right. Thank you, Mr.
18 McGlothlin.

19 Mr. LaVia.

20 MR. LaVIA: Thank you, Mr. Chairman.

21 **CROSS EXAMINATION**

22 **BY MR. LaVIA:**

23 Q. Good evening, Doctor Avera.

24 A. Good evening.

25 Q. It has been a long day.

1 **A.** It has indeed.

2 **Q.** I just have a very questions for you. And I
3 never can pass up the opportunity when I have a Tarheel
4 under oath to ask a few questions.

5 **A.** (Laughter.) I will endeavor to be honest and
6 reflect well on my school.

7 **Q.** Now, you have testified tonight several times
8 about the reaction of the investors in general to the
9 2009 rate case decision by this Commission, have you
10 not?

11 **A.** Yes, sir.

12 **Q.** And is it fair to say you used terms such as
13 shocking, disappointed, and in your testimony you say
14 unsettling, is that all consistent?

15 **A.** Those words were used, but they are not my
16 words. They were words that actually appeared either in
17 Value Line or bond rating reports.

18 **Q.** Fair enough. Is it fair to say that one way
19 of gauging investor reaction to an event affecting a
20 publicly traded company is what happens to the company's
21 stock price?

22 **A.** That's one way of doing it. There's a lot of
23 noise, but you can look at the effect on stock price,
24 which was indeed traumatic.

25 **Q.** Now you testified in the -- you said it wasn't

1 too dramatic, is that what you said?

2 A. No, it was indeed traumatic as to NextEra
3 Energy.

4 Q. Well, let me ask some question about that.
5 You testified in the last rate case, did you not?

6 A. Yes.

7 Q. So you know you filed -- you know some of the
8 dates?

9 A. Yes, sir.

10 Q. Do you happen to remember the date on which
11 the Commission voted and issued its -- well, voted on
12 the rate case?

13 A. Well, there was an Agenda Conference on
14 January 10th.

15 Q. It was January 13th, subject to check?

16 A. And then the 13th was when the -- excuse me,
17 the Agenda Conference for Progress was on the 11th. It
18 was the 13th for FPL.

19 Q. Okay. Thank you. That's the date I was
20 looking for.

21 A. Right.

22 **MR. LaVIA:** I have previously -- we have
23 previously introduced into evidence Exhibit Number 496,
24 and I'm not going to do it again. I'm going to just
25 hand a copy so the witness has one, if that's okay.

1 **CHAIRMAN BRISÉ:** That's okay. I've just got
2 to make sure everyone has access to that exhibit, 496.

3 **MR. LaVIA:** For the record, this is the Retail
4 Federation's exhibit entitled NextEra Energy Common
5 Stock Prices, 1/12/2010 through 8/17/2012.

6 **CHAIRMAN BRISÉ:** Okay. Does everyone have
7 access to that document before you move forward?

8 **MR. GUYTON:** FPL does.

9 **CHAIRMAN BRISÉ:** Okay. It looks like
10 everyone's nodding.

11 **BY MR. LaVIA:**

12 **Q.** Mr. Avera, if you could go to the last page of
13 that document.

14 **A.** Yes.

15 **Q.** January 13th, 2010, do you see that?

16 **A.** Yes.

17 **Q.** First column -- if you go back to the second
18 page, you can see that is opening price. Can you tell
19 me what that is?

20 **A.** The opening price is 51.19.

21 **Q.** Can you tell me what the closing price was on
22 January 13th, 2010?

23 **A.** Let's see. That would be the next column.

24 **Q.** No, it's the fourth column, I believe.

25 **A.** The fourth column, the 50.58, or the 51.58.

1 Q. 51.50, yes, sir.

2 A. Okay.

3 Q. What is that difference between 51.19 and
4 51.50?

5 A. It's a few cents.

6 Q. But it increased, did it not?

7 A. Yes.

8 Q. Would you call that reaction shocking?

9 A. Well, I think it was after the events --

10 Q. Well, answer my question.

11 A. Not on the day itself, but event studies
12 usually take a period of time for the market to absorb
13 and react to the information. So by February 8th it had
14 dropped. The price was 41.27.

15 Q. And then what happened subsequent to
16 February 8th? Say, take a date in July. July 12th,
17 2010. It's on the top of page -- well, the page numbers
18 aren't very good on this. You can work your way back to
19 it. Is it back up to 51.20?

20 A. Yes.

21 Q. And that all occurred before the settlement
22 agreement was approved, did it not?

23 A. That's true. It hadn't yet recovered --

24 **MR. LaVIA:** No further questions. Thank you.

25 **MR. GUYTON:** May he complete his answer?

1 **CHAIRMAN BRISÉ:** Yes. You may complete your
2 sentence.

3 **THE WITNESS:** Yes, it hasn't occurred -- the
4 settlement was announced on 8/20, but FPL started
5 negotiating the settlement in March, and I think it was
6 generally known that the negotiations were ongoing.

7 **CHAIRMAN BRISÉ:** Thank you.

8 **MR. LaVIA:** Thank you.

9 **CHAIRMAN BRISÉ:** Mr. Saporito.

10 **MR. SAPORITO:** Very briefly, Mr. Chairman.

11 **CROSS EXAMINATION**

12 **BY MR. SAPORITO:**

13 **Q.** Good evening, sir. My name is Thomas
14 Saporito. I'm here pro se representing myself, and I
15 will be very brief with you. I'm just going to briefly
16 ask you a follow-up.

17 Mr. Moyle, who represents FIPUG, was probing
18 you with respect to your testimony regarding risks that
19 were weather associated. And if I recall correctly you
20 made some testimony that, you know, Florida is a
21 peninsula and the risks are accelerated because of that
22 physical outline of being a peninsula, or words to that
23 effect. Do you recall that testimony?

24 **A.** Yes, sir.

25 **Q.** And do you still have Exhibit Number 552,

1 which is Staff's 11th Set of Interrogatories,
2 Interrogatory 359, Page 1 of 1?

3 A. I don't have numbers on these. This was one
4 that was handed out?

5 Q. Yes. It is Interrogatory 359, the Staff's
6 11th Set of Interrogatories, Page 1 of 1.

7 A. I think I have it in this stack here. 359.
8 I'm there.

9 Q. And at the very last sentence it reads -- the
10 last sentence of the second paragraph reads, "As a
11 result, weather emergencies can devastate parts of
12 Florida and require that FPL have the financial
13 capability to fund enormous recovery efforts." Do you
14 see that?

15 A. Yes, sir.

16 Q. Would you agree with me that the nationally
17 televised devastating hurricane named Andrew completely
18 devastated Homestead, yet the rest of Florida remained
19 intact in FPL's service territory?

20 A. That's not my memory. My memory was Homestead
21 was totally devastated, but there was damage throughout
22 South Florida.

23 Q. All right. And on another topic here, if this
24 Commission were to entirely reject this rate case in its
25 entirety, in your opinion, what would Florida Power and

1 Light's return on equity be as a value?

2 **A.** Well, I heard Mr. Barrett testify about the
3 effect. I haven't done any calculations on my own, but
4 I understand it would be, depending on how you looked at
5 it, between 6 and 8 percent, whether you did it on a
6 cash or a non-cash basis.

7 **Q.** And would that cause the lights to go out?

8 **A.** It wouldn't cause the lights to go out
9 instantly, but I think it would set the utility on a
10 road that wouldn't be good news for the customers. I
11 think the utility would have difficult raising the
12 capital it needs. I think if we had another Andrew or
13 we had another financial turmoil, FPL would not be able
14 to raise capital as it has been able to in the past.

15 **MR. SAPORITO:** That's all I have, Mr. Chair.

16 **CHAIRMAN BRISÉ:** Thank you, Mr. Saporito.

17 Mr. Hendricks.

18 **MR. HENDRICKS:** I just wanted to ask you one
19 brief series of questions.

20 **CROSS EXAMINATION**

21 **BY MR. HENDRICKS:**

22 **Q.** Would it be correct to say that the weight of
23 your analytical effort on this project was on
24 establishing a reasonable range of ROE for this case?

25 **A.** The analytical work that I did, the models,

1 the four approaches were directed to ROE, but I also
2 looked at the equity adder from a policy perspective and
3 then looked also at the capital structure.

4 Q. And the reasonable range that you are
5 supporting for ROE in this case is 10.25 to
6 12.25 percent?

7 A. Yes, sir.

8 Q. And your summary recommendation is for an
9 11.5 percent ROE paired with a 59.6 percent equity
10 ratio?

11 A. That's true if the Commission chooses to
12 implement the 25-basis-point adder, which I say is a
13 good policy if the Commission finds it's warranted in
14 this circumstance.

15 Q. Let me ask you a simple hypothetical question.
16 If you learned that the Commission was going to choose
17 to set the equity ratio at 10.25, the lower end of your
18 range, but still within your range, would you recommend
19 a different equity ratio?

20 A. Well, I think at a minimum the equity ratio
21 should not be reduced because they go together, and Mr.
22 Moyle and I talked about it, and if you go to the lower
23 end of the ROE range, you are adding risk that you need
24 to offset with the capital structure.

25 Q. The same question if they made a 12.25 percent

1 ROE? If they picked the top end of your range, would
2 you recommend reducing the equity ratio, and by how
3 much?

4 A. I wouldn't recommend -- we know the equity
5 ratio has been in this neighborhood for many years, and
6 we know it really, really works as they say on late
7 night TV. FPL has been able to maintain --

8 Q. Thank you.

9 A. -- bond ratings.

10 MR. HENDRICKS: That was the only question I
11 wished to ask him. Thank you.

12 CHAIRMAN BRISÉ: Okay. Redirect.

13 MR. McGLOTHLIN: Mr. Chairman, before go to
14 redirect, the witness made a statement about knowledge
15 of settlement discussions in 2010 that surprised
16 everybody from our office, and I'd like to pursue that
17 with him for a moment, please.

18 CHAIRMAN BRISÉ: You have multiple questions
19 on that?

20 MR. McGLOTHLIN: Oh, it's going be a very
21 short series, but I think the surprising nature of it
22 does warrant some followup.

23 CHAIRMAN BRISÉ: The witness did open that
24 box, so go ahead.

25 **FURTHER CROSS EXAMINATION**

1 **BY MR. McGLOTHLIN:**

2 Q. Doctor Avera, I'm trying to understand your
3 response to a question from Mr. LaVia. Did I hear you
4 correctly to say that your view was that in the March
5 time frame of 2010 the general investment community was
6 aware of and betting on some kind of results from
7 ongoing settlements?

8 A. I don't know if they were betting on it. As I
9 testified in my deposition, I was personally involved in
10 gathering data for FPL after the decision in 2010,
11 looking at what other states had done, other mechanisms
12 for adjusting ROE over time. So I knew that I was
13 participating in a process. And from talking to Mr.
14 Barrett and some of the other FPL people that I was
15 interfacing with, I think that knowledge was known more
16 widely.

17 Now, I don't know, and I haven't gone back to
18 look at the state of public disclosure, but certainly my
19 own personal experience is that there were negotiations
20 going on, and I did, in my small way, things to support
21 them.

22 Q. Well, it's one thing for you, as a consultant
23 to FPL, to be aware and have some input and be part of
24 that process, but your statement was the investment
25 community was so aware of it that the stock rose as a

1 consequence. How is that possible?

2 **A.** Well, I don't think I drew the cause and
3 effect. My understanding, though, is that FPL had
4 announced to the investment community that they were
5 trying to deal with the problem that had been created by
6 the order and the investor reaction to the order, the
7 downgradings. So I think that was known.

8 Now, as to what the substance of the
9 settlement discussions were, I doubt that was known, or
10 where they were in terms of reaching fruition, I doubt
11 that was known. But I believe, and this -- my personal
12 knowledge was my participation. But based on
13 discussions with the FPL personnel, I believe they had
14 told the investment community that they were going to
15 try to deal with the adverse reaction to the decision,
16 and that was the basis of my comments earlier this
17 evening.

18 **Q.** Well, it's one thing to say deal with, it's
19 quite another to say we are in potential settlement
20 negotiations. Isn't it true, sir, that in response to a
21 question from Mr. LaVia, who pointed out that the stock
22 price had risen by July 2010 back to the 50 or \$51
23 level, you offered some conjecture as to what might have
24 explained that?

25 **A.** Yes, that was conjecture, Mr. McGlothlin, and

1 I hope the Commission took it as that. The stock price
2 even at that point was well below where it was in 2009.

3 **MR. McGLOTHLIN:** No further questions.

4 Thank you for your indulgence, sir.

5 **CHAIRMAN BRISÉ:** Thank you. I think staff is
6 good because we covered --

7 **MR. YOUNG:** Yes, staff went first.

8 **CHAIRMAN BRISÉ:** All right. Commissioners?

9 All right. Redirect.

10 **REDIRECT EXAMINATION**

11 **BY MR. GUYTON:**

12 **Q.** Doctor Avera, Mr. Moyle asked you about the
13 downgrade to FPL's sound credit rating. Do you recall
14 that line of questions?

15 **A.** Yes, sir.

16 **Q.** Could you describe what the impact would have
17 been of such a downgrade if it had occurred during a
18 time of financial crisis such as you described in your
19 testimony?

20 **A.** If there were a financial crisis, of course,
21 the higher your rating, the more solid your rating the
22 more likely you are to have access to the market. At
23 the time immediately in February, the ratings agencies
24 put FPL on a credit watch negative, and then
25 subsequently through March and April they downgraded the

1 company. That would have been a cloud over the company,
2 because of the experience of the market, and there have
3 been some academic studies of this, is that very often
4 when you have one downgrade there is a cascading effect.
5 So a company that starts slipping is more likely to go
6 down than to come back, and it's much harder to regain
7 the credit rating once it has been lost.

8 Q. And do you have an opinion as to what the
9 impact would have been if that downgrading had happened
10 in the fall of 2008 when the market reacted to that
11 market crisis?

12 A. Well, based on the feedback we got from our
13 other clients who were large and some A-rated utilities,
14 or low A-rated utilities, they were not able to access
15 the market during that period and they had to make
16 extraordinary arrangements to keep their business going.

17 Q. And what would the impact of having to make
18 extraordinary arrangements to keep their business going
19 be on FPL customers?

20 MR. MOYLE: Objection. He's leading the
21 witness.

22 MR. GUYTON: I'm just asking what the impact
23 would be; I'm not suggesting the answer.

24 A. It would cost the customers money. The
25 company would have to negotiate from a position of

1 weakness, it would impair its ability to hedge in the
2 fuel markets, and it would make it a less attractive
3 counter-party in contractual negotiations.

4 Q. You were asked a series of questions about ITC
5 Holdings and the distinctions between ITC and FPL. Do
6 you recall that?

7 A. Yes.

8 Q. And what is the effect of considering those
9 differences in terms of your assessment of relative
10 risk?

11 A. Well, the reason ITC Holdings is in the group
12 is its financial risk profile is the same as NextEra
13 and FPL. Valve Line, S&P, their objective beta are all
14 in the same range as NextEra and FPL. It happens that
15 we do the rate cases for ITC, all of which are at the
16 FERC. And I can tell you that ITC is very different.
17 It doesn't have generation, it doesn't have
18 distribution, but it has its own set of risks and
19 challenges. And that's why its ratings are comparable
20 to FPL. And that's why FERC when they allow a return on
21 all of the subsidiaries have started at an ROE of 11.7
22 and an equity ratio of 60 percent.

23 Q. Doctor Avera, I have two questions about some
24 of the exhibits that were handed out to you, and I
25 apologize if you don't have them readily available by

1 number, but we're going to try by number anyway.

2 A. Yes, sir.

3 Q. Would you turn to Exhibit Number 356, which
4 was Staff's 11th Set of Interrogatories Number 352.

5 A. Here it is. Got it.

6 Q. And do you recall being asked to read part of
7 the second sentence of that answer?

8 A. Yes.

9 Q. Would you read the entire second sentence of
10 that answer, please, sir?

11 A. Doctor Avera has not performed any analyses or
12 studies to compare the risks faced by FPL and those
13 other Florida utilities that have recently received
14 between 10 and 11 percent ROE, and no such studies were
15 necessary to support his opinions and conclusions.

16 Q. And why were no such studies necessary?

17 A. Because I did an independent study of what the
18 market requires of FPL, and I am familiar with the
19 challenges that FPL faces that are articulated in my
20 testimony that are the same things that are relevant to
21 investors.

22 Q. You were also asked about what has been
23 identified as Exhibit Number 549, which is a series of
24 responses to South Florida's First Request for
25 Production and South Florida's First Set of

1 Interrogatories. It's about a, I don't know, ten-page
2 document.

3 A. Is this the price series of NextEra prices?

4 Q. No, sir. It begins with South Florida's First
5 Set of Interrogatories Interrogatory Number 12.

6 A. Could you help me a little bit? Thank you.
7 Yes, I have those.

8 Q. Okay. And you were asked there whether or not
9 there were a series of studies that were performed in
10 those questions. Do you recall that?

11 A. Yes, sir.

12 Q. Okay. And your answer there also indicated,
13 but I don't think you got an opportunity to say it, that
14 the analysis was not necessary to support your testimony
15 and conclusions?

16 A. That is what --

17 MR. SUNDBACK: I'm sorry, Mr. Chairman, I'm
18 going to object to that one. You couldn't ask for a
19 more --

20 (Inaudible; simultaneous conversation.)

21 MR. GUYTON: He is absolutely right. He is
22 absolutely right. I apologize.

23 MR. SUNDBACK: Mr. Chairman, I mean, the skunk
24 is in the jury box now on this one. Is the witness
25 supposed to completely forget what he was just

1 instructed to say?

2 **MR. GUYTON:** The answer is what the answer is.

3 **BY MR. GUYTON:**

4 **Q.** I will move beyond that and simply ask why in
5 your answer to these various interrogatories did you say
6 that such an analysis was not necessary to support your
7 testimony?

8 **A.** Because my selection of these companies was
9 based on objective risk measures that investors use. So
10 looking at Value Line, looking at the bond ratings,
11 looking at the beta, these indicated that these
12 companies were in the same risk class as FPL. And then
13 in terms of where to position FPL and whether or not the
14 capital structure was reasonable, I looked at those
15 challenges that FPL faces that require financial
16 strength to the benefit of customers.

17 **MR. GUYTON:** That's all our redirect.

18 We would move Exhibits 193 through 210.

19 **CHAIRMAN BRISÉ:** Okay. 193 to 210.

20 Are there any objections? Seeing none, we
21 will move 193 to 210 into the record.

22 (Exhibit Number 193 through 210 admitted into
23 the record.)

24 **CHAIRMAN BRISÉ:** FIPUG?

25 **MR. MOYLE:** 543 to 545 in, please.

1 **MR. GUYTON:** Mr. Chairman, we object to 543.
2 The exhibit was not used, it was not authorized, there
3 was no reliance on it, and he wasn't asked about it.

4 **MR. MOYLE:** I think -- let me just do them one
5 at a time because I think we're missing each other on
6 the documents. 543 was the current -- he did refer to
7 it, and he affirmed, yes, he was referring to that in
8 his testimony. So I would move 543.

9 **CHAIRMAN BRISÉ:** 543 was used.

10 **MR. MOYLE:** I think Mr. Guyton is waiting for
11 the --

12 **MR. GUYTON:** I think the question that was
13 posed was -- that he answered was it was of his own
14 independent knowledge. It wasn't relying upon this
15 document to establish the factual premise that he was
16 using to rely upon to give his answer. And it is
17 otherwise hearsay. I mean, it hasn't been
18 authenticated.

19 **MR. MOYLE:** Mr. Chairman, it's late. His
20 whole testimony is based on hearsay. He's reading the
21 Moody's and Standard & Poor's reports and parroting them
22 as to what they say, and we would object. I don't think
23 we have to by law, but object to any finding of fact
24 that is based on hearsay. It's not permitted under 120,
25 respectfully, but I think a document came in the other

1 day that had a price of pizza on it.

2 **CHAIRMAN BRISÉ:** We will accept the document,
3 and we will give it the appropriate weight.

4 **MR. MOYLE:** Okay. Thanks. That was 543.

5 544 was the excerpt from Moody's that the
6 witness looked at, authenticated, and said, yes, this is
7 my understanding, so I would move 544.

8 **CHAIRMAN BRISÉ:** Any objections to 544?

9 **MR. GUYTON:** No objection.

10 **CHAIRMAN BRISÉ:** Okay. We will move that into
11 the record.

12 **MR. MOYLE:** And 545 was the document with the
13 bond spread that I attempted to have the witness
14 authenticate. I think he said something along the lines
15 about he had some general familiarity with it, but I'm
16 not sure he said, yes, this is it. So I will just hold
17 onto 545, and maybe try to get in through another
18 witness who might be more familiar with something like
19 that.

20 **CHAIRMAN BRISÉ:** Okay.

21 (Exhibit Number 543 and 544 admitted into the
22 record.)

23 **CHAIRMAN BRISÉ:** South Florida Hospital
24 Association.

25 **MR. SUNDBACK:** Yes, Mr. Chairman. We would

1 move the admission of Exhibit Numbers 546 through 554,
2 please.

3 **CHAIRMAN BRISÉ:** Okay. 546 through 554. Any
4 objections?

5 **MR. GUYTON:** FPL would object to Exhibit 553.
6 It has not been authenticated. The witness stated that
7 he was not familiar with these particular investor
8 reports. They are selective and incomplete. Mr.
9 Dewhurst would be in a position to address and
10 authenticate this, but it hasn't been properly
11 authenticated for the Commission. We'll be happy to
12 bring full copies if you so desire.

13 **MR. SUNDBACK:** Mr. Chairman, because of the
14 late hour and the age of the counsel, we will be happy
15 to withdraw our request on 553.

16 **CHAIRMAN BRISÉ:** Okay. So 553 is withdrawn.
17 Okay. So in that case, 546 through 552 and 554 for
18 South Florida Hospital Association.

19 **MR. SUNDBACK:** Thank you, Mr. Chairman.

20 **CHAIRMAN BRISÉ:** Okay. Seeing no objections
21 on those exhibits, we will move those into the record.

22 (Exhibit Numbers 546 through 552 and Exhibit
23 Number 554 admitted into the record.)

24 **MR. SAPORITO:** Mr. Chairman, I would just like
25 to proffer that I believe Mr. Moyle wasn't present

1 during a lot of -- or part of Mr. Sundback's inquiry of
2 this witness, and I believe this witness testified
3 sufficiently on Exhibit 545 to substantiate its validity
4 for this proceeding. So I just wanted to put that in
5 there.

6 **CHAIRMAN BRISÉ:** Thank you for your point.

7 All right. Is there anything else for this
8 witness at this point? All right.

9 Well, thank you. Are we seeking to excuse
10 this witness from direct?

11 **MR. GUYTON:** Yes. And thank you for reminding
12 me, Mr. Chair.

13 **CHAIRMAN BRISÉ:** All right. We are excusing
14 Doctor Avera from Direct Testimony.

15 **THE WITNESS:** Thank you, Mr. Chairman.

16 **CHAIRMAN BRISÉ:** Have a great evening.

17 **THE WITNESS:** I will.

18 **CHAIRMAN BRISÉ:** All right. At this time it
19 is 9:15. What we plan to do at this point is swear in
20 our next witness, take up their summary, and that's all
21 we're going to do for this evening.

22 Okay. So if Mr. Dewhurst is here, then --

23 **MR. LITCHFIELD:** Mr. Chairman, Mr. Dewhurst is
24 FPL's next witness. I believe he was sworn. He was
25 present on day one.

1 **CHAIRMAN BRISÉ:** Okay. Perfect. You may
2 proceed.

3 **MR. LITCHFIELD:** Thank you, Mr. Chairman.

4 **MORAY P. DEWHURST**

5 was called as a witness on behalf of Florida Power and
6 Light Company, and having been duly sworn, testified as
7 follows:

8 **DIRECT EXAMINATION**

9 **BY MR. LITCHFIELD:**

10 **Q.** Good evening, Mr. Dewhurst.

11 **A.** Good evening.

12 **Q.** Would you please state your name and business
13 address for the record.

14 **A.** Moray Peter Dewhurst, 700 Universe Boulevard,
15 Juno Beach, Florida.

16 **Q.** And by whom are you employed and in what
17 capacity?

18 **A.** I'm employed by NextEra Energy; I'm the Chief
19 Financial Officer of NextEra Energy and of FPL.

20 **Q.** And have you prepared and caused you to be
21 filed 54 pages of Prefiled Direct Testimony in this
22 proceeding?

23 **A.** I have.

24 **Q.** And you submitted errata to that testimony on
25 August 16th relative to MFR D-4a?

1 **A.** I did.

2 **Q.** Do you have any further changes or revisions
3 to your Prefiled Direct Testimony or exhibits?

4 **A.** No.

5 **Q.** Then with those changes reflected in the
6 errata, if I were to ask you the same questions this
7 evening contained in your Direct Testimony, would your
8 answers be the same?

9 **A.** Yes.

10 **MR. LITCHFIELD:** Mr. Chairman, I would ask at
11 this time that Mr. Dewhurst's Prefiled Direct Testimony
12 be inserted into the record as though read.

13 **CHAIRMAN BRISÉ:** Okay. We will insert Mr.
14 Dewhurst's testimony into the record as though read.

15 Are there any objections? Okay. Seeing none.

16

17

18

19

20

21

22

23

24

25

I. INTRODUCTION

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

Q. Please state your name and business address.

A. My name is Moray P. Dewhurst. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420.

Q. By whom are you employed and what is your position?

A. I am Vice Chairman and Chief Financial Officer at NextEra Energy, Inc. I also serve as Executive Vice President of Finance and Chief Financial Officer of Florida Power & Light Company (“FPL” or the “Company”).

Q. Please describe your duties and responsibilities in that position.

A. I am responsible for the major financial areas of the Company and its parent, including the accounting and control functions, tax, treasury, and risk management. I oversee the establishment and maintenance of the financial plans, controls and policies for FPL. I am also responsible for establishing and maintaining effective working relations with the investment and banking communities, and for communicating the results of our operations to investors and rating agencies.

Q. How often do you meet with the investment community?

A. I meet frequently with equity and debt investors as well as securities analysts. In a typical year I will hold two to three hundred individual and small group meetings and participate in several conferences at which other utility companies also communicate with investors. I also meet at least twice annually with each of our three rating agencies. These meetings allow me to

1 understand both equity and debt investor and credit rating perceptions and
2 concerns.

3 **Q. Please describe your educational background and professional**
4 **experience.**

5 A. I have a Bachelor's degree in Naval Architecture from MIT and a Master's
6 degree in Management, with a concentration in finance, from MIT's Sloan
7 School of Management. I have approximately twenty years of experience
8 consulting to Fortune 500 and equivalent companies in many different
9 industries on matters of corporate and business strategy. Much of my work
10 has involved financial strategy and financial re-structuring. I was appointed to
11 my present position in October 2011 but also served as the Company's Chief
12 Financial Officer ("CFO") from 2001 through 2008. Since 2009, I have
13 served as Vice Chairman of NextEra Energy, Inc., which responsibilities I still
14 retain.

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

16 A. Yes. I am sponsoring the following exhibits:

- 17 • MD-1, MFRs Sponsored and Co-sponsored by Moray P. Dewhurst
- 18 • MD-2, Matrix of Florida PSC-Approved ROEs Since 1960

19 **Q. Are you sponsoring or co-sponsoring any Minimum Filing Requirements**
20 **("MFRs") filed in this case?**

21 A. Yes. Exhibit MD-1 shows my sponsorship and co-sponsorship of MFRs.

22

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

2 A. My testimony presents the current financial position of the company and
3 explains the importance of financial strength for a regulated utility,
4 particularly in challenging economic times. To that end, I support the
5 Company's continued use of its current capital structure for rate making
6 purposes, and its requested Return on Equity ("ROE"). I also explain why an
7 ROE performance adder of 25 basis points ("bps") contingent on maintaining
8 the lowest typical residential 1,000 kilowatt-hour bill in the state is good
9 policy and will benefit customers. Finally, I provide support for the
10 Company's requested storm cost recovery mechanism.

11 **Q. Please summarize your testimony.**

12 A. In general, the provision for an appropriate capital structure and an adequate
13 ROE are essential if a regulated utility is to be able to provide superior value
14 to its customers over time and to provide a fair rate of return to its investors.
15 The manner in which the Florida Public Service Commission ("FPSC" or
16 "Commission") establishes the allowed ROE can also play an important role
17 in providing the right incentives for all utilities in the state to seek to provide
18 superior value to their customers.

19

20 Specifically, I recommend that the Commission maintain FPL's capital
21 structure at current levels. FPL's capital structure has been consistently
22 maintained at or near current levels for many years, and this has served its
23 customers well through a variety of economic and operational environments.

1 I also recommend that the Commission authorize a base allowed ROE of
2 11.25%, which will provide adequate financial strength and the opportunity
3 for investors to earn a fair rate of return. In addition, I recommend that the
4 Commission authorize a performance premium of 25 bps which is warranted
5 by the superior value that FPL is currently delivering to its customers and
6 would provide an incentive to all utilities to strive to deliver superior
7 performance. However, I recommend that this performance premium should
8 be applied only so long as FPL maintains the lowest typical bill in the state, as
9 it does today.

10

11 My testimony explains the factors that determine FPL's risk profile and the
12 Company's requirements for financial strength and shows why a strong
13 financial position is beneficial for customers. My testimony further explains
14 the policy basis for determining an appropriate capital structure and ROE and
15 shows why adding an incentive factor to the allowed ROE can be beneficial
16 over time for the customers of all utilities regulated by the Florida PSC, not
17 just FPL's customers, while simultaneously ensuring affordable rates.

18

19 FPL occupies a unique position in the utility industry broadly and within
20 Florida specifically and has requirements for financial strength that many
21 other companies do not. Historically, FPL has been able to maintain a strong
22 financial position while simultaneously delivering superior value – in the form
23 of high reliability, low rates and excellent customer service and a risk-

1 mitigating clean emissions profile – to its customers. Indeed, today FPL’s
2 customer value proposition is arguably the best in the state and one of the best
3 anywhere in the country.

4
5 Unfortunately, FPL’s very strong financial position was significantly
6 weakened as a result of the FPSC’s initial post-hearing order addressing
7 FPL’s base rate case of 2009, Order No. PSC-10-0153-FOF-EI (“2010 Pre-
8 Settlement Order”). FPL’s credit ratings were downgraded and/or placed on
9 negative outlook as a direct result of what investors perceived as a politicized
10 environment and an outcome that did not adequately reflect FPL’s need for
11 financial strength or a fair compensation for the Company’s risk profile.

12
13 Because the outcome was perceived by investors as such a departure from
14 Florida’s reputation for generally constructive and evenhanded regulation, the
15 Company felt compelled at first to suspend major capital projects pending a
16 thorough opportunity to reassure investors that capital would not be
17 committed into an environment in which fair cost recovery could no longer be
18 expected. To ameliorate the situation, FPL entered into a settlement
19 agreement (the “2010 Rate Settlement” or “Settlement Agreement”) to help
20 improve the financial stability of the Company. One key benefit of the
21 Settlement Agreement was that it provided sufficient (though temporary) re-
22 assurance to investors to enable FPL to continue with major capital
23 investments for the benefit of our customers.

24

1 The Settlement Agreement allowed FPL to earn an ROE of 11%, which more
2 nearly reflected investors' opportunity cost of capital. However, it did so
3 primarily by permitting (indeed requiring) the rapid amortization of surplus
4 depreciation, a non-cash item. Thus the Company's cash flow profile was
5 weakened and the amortization of the so-called surplus depreciation merely
6 masked and temporarily delayed the need for rate relief to properly reflect the
7 Company's underlying cost of providing service. The Settlement Agreement
8 was thus a useful stop-gap measure, which was positively acknowledged as
9 such by investors, but it did not address the fundamental issues created by the
10 Commission's 2010 Pre-Settlement Order.

11

12 Authorization of FPL's requested 11.25% ROE, coupled with maintenance of
13 the existing capital structure, will provide the financial strength needed for
14 FPL to continue to deliver superior value to its customers and will also
15 provide investors the opportunity to earn a fair rate of return. The addition of
16 a 25 bps premium to the ROE will offer an important incentive for FPL and
17 for other regulated utilities to improve their performance and deliver superior
18 value to customers.

19

20 Finally, I also propose to continue the storm recovery approach that was
21 included in the 2010 Settlement Agreement approved by the Commission.
22 From a policy perspective, a reversion to the historical approach of annually
23 contributing to the storm reserve with the contribution recovered through rates

1 would be preferable. However, for purposes of this proceeding, I am
2 recommending that the recovery mechanism approach approved by the
3 Commission in the 2010 Rate Settlement be continued.

4

5

II. RECOMMENDATION OVERVIEW

6

7 **Q. Please describe your overall recommendation for capital structure and**
8 **ROE.**

9 A. I recommend maintaining FPL’s equity ratio based on investor sources. This
10 approach was approved by the Commission in the 2010 Pre-Settlement Order
11 and through the Settlement Agreement. That ratio is 59.6% in the test year. I
12 recommend and provide support for an 11.25% ROE which is within the
13 established range identified in the testimony of FPL witness Avera. I also
14 present and provide the support for a 25 bps adder in recognition of FPL’s
15 superior performance and value and which for practical purposes I
16 recommend be made contingent on FPL maintaining the lowest typical bill in
17 the state. This performance adder would allow FPL’s authorized ROE to be
18 11.5% (which is still within FPL witness Avera’s fair return range), offering
19 investors the opportunity to earn a fair rate of return, while simultaneously
20 ensuring that FPL’s customers continue to enjoy today’s superior value and
21 the lowest typical bill in the state. Finally, an allowance for earnings variance
22 of 1% should also be established on either side of the midpoint.

23

1 **Q. Why is an adequate ROE important?**

2 A. An adequate ROE is important to (a) fairly compensate equity investors for
3 the use of their capital, (b) to enable the Company to offer a return sufficient
4 to compete with other firms and attract new capital on reasonable terms, and
5 (c) to help ensure that a regulated utility can achieve and maintain the
6 financial strength to meet its obligations to its customers.

7

8 A Company's ROE provides the economic return to its equity holders who
9 have less security and greater risk than bondholders who have a prior claim to
10 a firm's assets in the event of a corporate collapse. An adequate ROE also is
11 important to fixed-income (i.e., bond) investors. With respect to fixed-income
12 investors, as explained by Fitch Ratings Ltd. ("Fitch"):

13

14 "The adequacy of ROEs authorized to regulated utilities by
15 state regulatory commissions is important for fixed-income
16 investors. In cost of service regulation the ROE provides a
17 cushion for bondholders against deviations in operating
18 expenses, electricity sales, and other adverse circumstances,
19 and contributes to the differentiation in ratings." (Fitch Ratings
20 Ltd., "U.S. Electric Utility Allowed Returns on Equity Stable
21 Over the Last Five Years," *Press Release* (Mar. 22, 2010))

22

1 Failure to provide a competitive return makes a firm less attractive to
2 investors and will result in a loss of equity value and reduced access to capital
3 markets. FPL competes with companies and utilities around the world and
4 across the country for capital, not just against other Florida-based investor
5 owned utilities.

6
7 Finally, a fair rate of return, coupled with an appropriate capital structure,
8 enables a firm to withstand difficult economic and operational conditions in
9 meeting its obligations to its customers.

10 **Q. What policy factors should the Commission consider when determining**
11 **the appropriate capital structure and ROE?**

12 A. There are three key policy factors that the Commission should consider when
13 determining the appropriate capital structure and ROE. First, the Commission
14 should ensure that FPL has the financial resources to maintain and ideally
15 improve its customer value proposition, which includes low bills, superior
16 reliability and excellent customer service, over the long term. Second, it is
17 important that the Commission provides equity investors the opportunity – not
18 a guarantee – to earn a fair rate of return on their investment. A company
19 must provide a prospective return to shareholders that is at least as good as the
20 return that the shareholders could earn on an investment with equivalent risks.
21 This is essential if FPL is to compete with other companies and attract new
22 capital at reasonable terms. Finally, it is important that FPL and the other
23 utilities in the state have the right incentives to innovate and continuously

1 improve their delivery of value to their customers in the form of low customer
2 rates, high reliability and excellent customer service.

3

4

III. RISK PROFILE

5

6 **Q. What is a company's risk profile and why is it important?**

7 A. A company's risk profile is the unique collection of risks that it faces both in
8 normal operations and in unusual circumstances. It is important because it
9 heavily influences the degree of financial strength and flexibility that the
10 company requires and is therefore an important determinant of the appropriate
11 capital structure to employ and the level of ROE required to provide adequate
12 financial strength and a fair return to investors. Other things being equal, a
13 more challenging risk profile implies that a higher ROE is required and that it
14 is wise to employ a stronger capital structure.

15 **Q. What are the key risk factors that the FPSC should consider in assessing**
16 **FPL?**

17 A. FPL's risk factors can be grouped into five broad categories:

- 18 1. Risks involving basic financial measures such as revenues, costs and
19 capital expenditures;
- 20 2. Risks associated with infrastructure, including transmission system,
21 generation mix and fuel supply;
- 22 3. Risks associated with climate and weather such as tropical storms and
23 other extreme weather events which affects daily operations;

1 4. Environmental risks; and

2 5. Regulatory and political risks.

3 **Q. How does uncertainty regarding future revenues, costs and capital**
4 **expenditures affect FPL's risk profile?**

5 A. Uncertainty about future financial measures whether revenue, or cost-related,
6 represents a fundamental source of risk for all companies. Unexpected
7 changes in revenues or costs will have an impact on achieved financial
8 performance and investors must be compensated for accepting these risks.

9 **Q. How does FPL's risk profile compare with other utilities with respect to**
10 **risks around future revenues, costs and capital expenditures?**

11 A. FPL's risk profile with respect to these measures is greater than the typical
12 utility's. The Florida economy was particularly hard hit by the recent
13 recession and while it has recovered somewhat there is currently at least as
14 much uncertainty and likely more around the outlook for the Florida economy
15 as for other states in the nation. This is reflected for FPL in the risk around
16 future customer growth, future usage growth, and the associated risks around
17 the costs of providing service. In addition, FPL is currently in the midst of the
18 largest capital expansion program in its history and this adds to its risk profile
19 as seen through investor's eyes.

20 **Q. Please discuss customer growth and its impact on FPL's risk profile.**

21 A. FPL's projected customer growth rates are expected to be higher than the
22 depressed levels of customer growth experienced during the recent economic
23 downturn. As FPL witness Morley indicates, FPL's customer growth

1 averaged less than 8,000 per year between 2007 and 2010 versus the growth
2 of over 30,000 projected for 2012 and nearly 46,000 projected for 2013. By
3 2013, the cumulative increase in customers since 2010 is expected to be
4 almost 105,000. In general, volatility in customer growth increases FPL's risk
5 profile other things being equal.

6 **Q. How does uncertainty in customer growth affect FPL?**

7 A. From an investor perspective, uncertainty in customer growth is seen as
8 increasing risk. On balance, a rapid increase in customer growth (which in the
9 long term is a good thing) places more stress on a utility's short-term financial
10 position and acts to depress earned returns. From an investor perspective, this
11 is a risk for FPL.

12

13 Conversely, a drop in customer growth, or even a decline in the overall
14 customer base, as FPL experienced in 2009, has obvious negative impacts on
15 revenues and financial performance. While our base expectations are for an
16 increase of customer growth, there is uncertainty around these expectations
17 which increases the risk profile modestly from an investor perspective.

18 **Q. How is FPL's capital expenditure program viewed from an investor
19 perspective?**

20 A. From an investor perspective, capital expenditures are the necessary precursor
21 to the opportunity to earn a return. Capital expenditures represent dollars at
22 risk. Consequently, large capital expenditure programs, which may be very
23 beneficial for customers over the long haul, are also often perceived by

1 investors as risky. For example, Fitch noted that “[h]igh capex typically
2 places stress on credit metrics and bond spreads” (Fitch Ratings Ltd., “2012
3 Outlook: Utilities, Power, and Gas,” *Industry Outlook* (Dec. 5, 2011)) and
4 Moody’s Investors Service (“Moody’s”) indicated that “[f]inancing large
5 capital investment programs is a key risk factor to our outlook” (Moody’s
6 Investors Service, “U.S. Regulated Electric and Gas Utilities: Stable Despite
7 Rising Headline Rhetoric,” *Industry Outlook* (Jan. 17, 2012)). These
8 statements are particularly important to FPL since we are currently in the
9 midst of one of the largest capital expenditure programs of all investor-owned
10 utilities in the nation. While these investments will bring significant value to
11 customers, they represent a source of risk to investors, which must be
12 appropriately reflected when considering FPL’s overall risk profile.

13 **Q. Please describe the second risk category relating to infrastructure.**

14 A. FPL’s infrastructure, while appropriate for the delivery of superior value to its
15 customers, exposes investors to risks not seen in most other utilities. These
16 risks largely relate to Florida’s unique geographical position and certain
17 historical policy choices made by the state and the Commission. Florida’s
18 geographical position as a peninsula, with limited connectivity in transmission
19 and fuel supply, coupled with the state’s historical policies emphasizing the
20 importance of an attractive environment, place constraints on FPL’s
21 transmission system, generation mix and fuel supply which translate into
22 increased risk from an investor perspective. On balance, the result is good for
23 customers, but the incremental risk must be properly reflected when

1 considering the appropriate degree of financial strength that FPL should
2 maintain and the appropriate authorized ROE and capital structure.

3 **Q. Please describe FPL's transmission risk profile.**

4 A. FPL's transmission risk profile is greater than the typical utility's because of
5 the peninsular nature of Florida and FPL's position serving the southern part
6 of the state with its major population centers. With relatively limited
7 transmission connectivity to other parts of the nation, FPL is inherently more
8 limited in the degree of support it can expect under unusual circumstances.
9 FPL must plan to be more self-reliant – and the record of FPL's transmission
10 reliability shows that it does this well – but from an investor perspective it
11 faces greater transmission risk than the typical utility.

12 **Q. Please describe FPL's generation risk profile.**

13 A. FPL's generation mix exposes FPL and its investors to greater risk than the
14 typical utility, primarily through its extensive utilization of nuclear power.
15 Again, while the net effect is beneficial for customers, the incremental risk
16 must be properly reflected when considering financial strength and authorized
17 ROE. FPL today has the highest percentage of its supply from nuclear power
18 more than any utility in the state – approximately 12% by capacity and 20% of
19 actual energy supply – owing to the high reliability and low dispatch cost of
20 nuclear power. FPL is also actively pursuing expansion of its existing fleet
21 and planning for the long term addition of more nuclear capacity.

22

1 **Q. How has FPL come to be more reliant on nuclear power than many other**
2 **utilities?**

3 A. FPL's utilization of nuclear power stems from the conjunction of two factors:
4 emphasis on zero- or low-emissions generation consistent with the state's
5 long-term policies promoting a clean environment as an essential element of
6 the state's competitive positioning; and FPL's historical focus, supported by
7 the Commission, of long-term customer benefit. FPL's commitment to
8 nuclear power dates back to key decisions made in the 1970s which took a
9 long-term view and are responsible for the benefits customers enjoy today
10 from FPL's low cost, highly reliable and zero emissions nuclear power plants.
11 Replicating the value provided today by FPL's nuclear portfolio would be
12 literally impossible: producing the same output and reliability profile with
13 zero emissions today would be much more costly.

14 **Q. Why is nuclear power perceived by investors as more risky?**

15 A. Nuclear power is perceived as more risky not because of perceived risk with
16 the technology itself but because of the broader context within which nuclear
17 power must operate. Specifically, because of the combination of public
18 perception, regulatory scrutiny, and mutual interdependence, all nuclear
19 operations are subject to a greater degree of risk than is typical for other
20 generation technologies. This can be readily illustrated by the impact of the
21 events last year at Japan's Fukushima facility. While the incident: (1) was
22 totally outside U.S. operator's control; (2) occurred in a completely different
23 geography with a different environmental risk profile than Florida; (3)

1 affected units with different technologies and different physical and
2 operational readiness for extreme events; and (4) was governed by a
3 completely different regulatory regime, it nonetheless affected all U.S. plants
4 through its impact on public perceptions and regulatory reaction. Moody's
5 noted that: "Japan's Fukushima nuclear accident creates a material credit
6 negative for all issuers that own and operate nuclear generation due to
7 increased political intervention; emboldened opposition forces; intensified
8 regulatory scrutiny and higher costs." (Moody's Investors Service, "Moody's
9 Re-evaluating Creditworthiness for Global Nuclear Generators," *Special*
10 *Comment* (Apr. 7, 2011))

11 **Q. What are some specific financial risks associated with owning and**
12 **operating nuclear power plants?**

13 A. FPL could at any time be required to spend substantial sums to comply with
14 new federal regulatory requirements, such as those that may be required in
15 response to the event in Japan discussed above. Additionally, because nuclear
16 generation provides power at such a low cost, the cost to replace that power in
17 the event of an extended or unanticipated nuclear generating unit outage is a
18 constant financial risk. This is the case for Progress Energy Florida, which
19 recently agreed to refund customers \$288 million in replacement fuel and
20 purchased power costs that resulted from an extended shut down of its Crystal
21 River 3 nuclear generating unit. These are just two examples of financial risks
22 that the owners and operators of nuclear power plants face.

1 **Q. Should the Commission conclude that FPL's exposure to nuclear risk is a**
2 **negative for customers?**

3 A. No. On balance, FPL's nuclear exposure is very positive for customers. The
4 benefits far outweigh the modest increase to FPL's overall risk profile.
5 Nevertheless, this impact on the risk profile must be properly reflected when
6 considering the need for financial strength and therefore authorized ROE.

7 **Q. Please describe the risks to FPL associated with FPL's fossil fuel supply.**

8 A. Florida's peninsular geography, coupled with FPL's high dependence on a
9 reliable supply of natural gas, represents another source of risk not seen in
10 most utilities. Again, the balance of advantages and disadvantages is positive
11 for our customers, but the incremental risk must be acknowledged. Today,
12 approximately 65% of FPL's generation output is fueled by natural gas. This
13 is a higher fraction than for most utilities, and FPL is the largest utility user of
14 natural gas in the country. Natural gas has a relatively clean emissions profile
15 and today is attractively priced, although historically its price has been subject
16 to periods of volatility. Natural gas is also important as the fuel of choice for
17 those parts of the generation mix that must ramp up and down quickly to
18 accommodate fluctuations in demand on an hourly basis. FPL's extensive
19 utilization of natural gas presents risks of price volatility and fundamental
20 supply availability to FPL's investors.

21 **Q. Does the fuel clause affect the risk associated with price volatility?**

22 A. Yes. The fuel clause reduces but does not eliminate the risk to investors.
23 Like similar mechanisms that apply to many other utilities around the country,

1 which are well understood by investors, the fuel clause provides a degree of
2 re-assurance that fuel costs will be recovered on a relatively timely basis.
3 However, FPL must still bear the risks associated with timing and liquidity,
4 which can be substantial, and from the investor perspective there remains risk
5 of disallowance, which I consider an aspect of regulatory risk and discuss
6 later.

7
8 FPL, with the Commission's support, has for many years employed an
9 extensive short-term hedging program for its fuel purchases, which provides a
10 significant benefit to customers in the form of reducing the rate volatility that
11 the customer sees as a result of fluctuating fuel prices. This program requires
12 significant credit and liquidity support from FPL. At any given time FPL may
13 need access to credit and liquidity that may easily exceed \$1 billion. FPL
14 maintains large credit facilities to support those needs in addition to normal
15 working capital and cash management needs, and such facilities are only
16 available to utilities with strong financial positions. From an investor
17 perspective, the timing, credit and liquidity implications of FPL's natural gas
18 purchases and hedging program represent a source of risk not typically seen in
19 most other utilities. FPL's exposure to natural gas was recognized by
20 Standard & Poor's ("S&P") in its 2010 report:

21 "A large and growing reliance on natural gas to fuel utility
22 generation could, over time, turn from an advantage (because
23 of its favorable environmental status) to a weakness if gas

1 prices continue to significantly fluctuate and rise over time.”
2 (Standard & Poor’s, “FPL Group Inc. Downgraded To ‘A-’
3 From ‘A’, Off CreditWatch; Outlook Stable,” *Research Update*
4 (Mar. 11, 2010))

5 **Q. What impact does natural gas supply have on FPL’s risk profile?**

6 A. FPL’s natural gas supply is limited in the number of pipelines that serve the
7 state – which is another reflection of Florida’s unique, peninsular geography.
8 That limited number of independent pipelines represents another source of
9 risk to investors not typically seen at other utilities. The potential for
10 disruption of supply at the critical entry points, primarily in the Gulf of
11 Mexico, which could occur through natural disasters (hurricanes) or through
12 gas industry operational issues, also increases FPL’s risk profile slightly.

13 **Q. What actions has FPL taken to address the risks associated with fuel**
14 **supply?**

15 A. In 2007, FPL noted this concern and moved to diversify its natural gas
16 portfolio by planning two ultra-supercritical pulverized coal generating units
17 (“FGPP”) for a combined net capacity of 1,960 MW, with proposed in-service
18 dates of 2013 and 2014. In Order No. PSC-07-0557-FOF-EI, the Commission
19 denied this request indicating “....that the potential benefits regarding fuel
20 diversity offered by FPL in support of the FGPP fail to mitigate the additional
21 costs and risks of the project....” While FPL acknowledges the Commission’s
22 conclusion, it would be inappropriate to allow customers to enjoy the
23 advantages of the lower cost natural gas units that were substituted for the

1 proposed coal units without also recognizing the modest incremental risk
2 associated with the resulting increase in dependence on natural gas.

3

4 In addition, FPL petitioned the Commission for a determination of need for its
5 proposed Florida EnergySecure Pipeline in Docket 090172-EI. With regard
6 to the need for new gas infrastructure, the Commission agreed with FPL that
7 increased gas transportation infrastructure is needed to meet future electricity
8 needs, given the uncertainty surrounding both coal-fired and nuclear
9 generation in the state. However, the Commission nonetheless denied FPL's
10 petition in Order No. PSC-09-0715-FOF-EI.

11 **Q. Please explain the risks associated with climate and weather.**

12 A. Florida's peninsular geographic location exposes its electrical system to a
13 higher likelihood of adverse weather events than most other parts of the
14 country. In particular, FPL's service territory includes much of the east and
15 west coastlines of Florida and these coastlines are highly exposed to damage
16 from tropical storm activity. For example, FPL's service territory experienced
17 an unusually high level of storm activity in 2004 and 2005 and received
18 damage from seven hurricanes and incurred more than \$1.8 billion in costs to
19 restore the electric transmission and distribution system. While the recovery
20 of prudently incurred storm costs helps to mitigate this risk, investors are still
21 exposed to loss of revenues and other impacts during adverse weather

1 conditions and restoration periods.¹ This is a risk that is unmitigated by any
2 mechanism for storm cost recovery. Additionally, there is limited electrical
3 interconnection capacity serving Florida due to our unique peninsular
4 geographic location. This means that the ability to supply purchased power
5 from outside of Florida in the event that there is a significant need or
6 disruption, due to storm conditions, for example, is severely constrained.
7 FPL's ability to maintain reliable service is therefore more constrained than
8 utilities with better connectivity.

9 **Q. Do weather-related risks have an impact on FPL's financial position?**

10 A. Yes. In addition to increasing FPL's overall risk profile (which in turn has a
11 direct impact on requirements for financial strength), the exposure of FPL's
12 service territory to adverse weather impacts has a direct impact on FPL's need
13 for financial strength. FPL must maintain ready access to larger reserves of
14 credit and liquidity than most other utilities. Given the high value that FPL
15 and its customers place on service availability and reliability, rapid restoration
16 of service after a weather-induced outage is our highest priority. FPL must be
17 able to marshal both internal and external resources on a massive scale very
18 quickly, and this leads to large needs for credit and liquidity. Restoration
19 efforts must be funded long before the recovery of prudently incurred costs
20 can be expected.

21

¹ Note that rates are set on volume based expectations that are not reduced for the average expected impact of tropical storms.

1 **Q. Are there other examples of weather events having an impact on a**
 2 **utility's financial strength?**

3 A. Yes. To offer an extreme example, the 2005 "Katrina" storm essentially
 4 caused a "blackout" of the city of New Orleans, according to a 2009 U.S.
 5 Department of Energy ("DOE") report:

6 "As a result, Entergy New Orleans was unable to fully restore
 7 power for several months. The investor-owned utility ("IOU"),
 8 facing estimated restoration costs in the range of \$260 to \$325
 9 million and a loss of customer revenue estimated at \$147
 10 million, filed for bankruptcy in late September 2005." (U.S.
 11 Department of Energy, "Comparing the Impacts of the 2005
 12 and 2008 Hurricanes on U.S. Energy Infrastructure," (Feb.
 13 2009))

14
 15 Simply put, Entergy New Orleans did not have the financial strength to
 16 withstand Katrina. Quite apart from illustrating the risk to equity investors
 17 (whose position was obviously wiped out by the bankruptcy), this example
 18 shows that inadequate financial strength in a utility is not in customers'
 19 interest either.

20

1 **Q. How does FPL’s financial position differ from Entergy New Orleans with**
2 **respect to tropical storm exposure?**

3 A. FPL consistently maintains a much stronger financial position. This
4 difference is reflected in FPL’s experience with hurricane “Wilma” in 2005.
5 As the DOE report notes:

6 “Wilma made landfall in Florida as a Category 3 hurricane,
7 knocking out power to 3.5 million customers in the
8 population-dense communities of southern Florida on
9 October 24, 2005. Hurricane force winds cut a 180-mile
10 swath across the state, blacking out 60 percent of Florida
11 Power & Light’s 35-county territory. In Miami-Dade
12 County, 98 percent of the IOU’s customers, including major
13 airports, hospitals, and Port Everglades lost power.” (U.S.
14 Department of Energy, “Comparing the Impacts of the 2005
15 and 2008 Hurricanes on U.S. Energy Infrastructure,” (Feb.
16 2009))

17
18 Thus, even though the impact of Wilma caused extensive damage, “restoration
19 proceeded quickly with the help of 18,000 workers from 33 states and Canada,
20 and two weeks after Hurricane Wilma made landfall only 100,000 customers
21 remained without power.” FPL was able to manage this vast restoration
22 effort because of its strong financial position.

1 **Q. What conclusions should the Commission draw from your analysis of**
2 **weather exposure?**

3 A. In addition to emphasizing the importance of the basic principle that prudently
4 incurred restoration costs are recoverable as part of the cost of providing
5 service, my analysis also shows why it is in customers' interests for a utility to
6 maintain adequate financial strength to deal with the kind of extreme weather
7 events that may affect its service territory. FPL's overall risk profile is
8 increased by the nature of its service territory and its requirements for
9 financial strength are greater than most other utilities for the same reason.

10 **Q. What action has FPL taken to reduce the impact of its above average**
11 **exposure to extreme weather events?**

12 A. FPL has for many years imposed more stringent standards for its transmission
13 and distribution facilities than is normal for the industry in recognition of its
14 greater vulnerability. In the wake of the 2004 and 2005 hurricane seasons,
15 FPL went further and began a comprehensive, long-term investment program,
16 labeled Storm Secure, aimed at strengthening its core infrastructure. While no
17 utility system can be immune to the impacts of tropical storms, FPL's
18 proactive investments are designed to make its transmission and distribution
19 system more resistant so that less damage will be incurred, and more resilient
20 so that when damage does occur, restoration can proceed more quickly.

21

1 **Q. Please describe the risk category relating to environmental risks and**
2 **exposure?**

3 A. All utilities are subject to risks associated with environmental regulations.
4 From an investor perspective, regulations are unpredictable, outside a utility's
5 control, and can have a material impact on capital requirements and liquidity.

6 **Q. How are environmental requirements reflected in utility regulation?**

7 A. In most jurisdictions, environmental requirements are recognized as a cost of
8 providing service and mechanisms for recovery are provided, whether through
9 base rate proceedings, or special environmental clauses or "trackers."

10 **Q. How are environmental requirements addressed in Florida?**

11 A. In Florida, the longstanding use of the Environmental Cost Recovery Clause
12 ("ECRC") provides utilities a means of recovering costs associated with
13 compliance with environmental regulations imposed by government agencies.

14 **Q. What impact does the ECRC have on FPL's risk profile?**

15 A. The ECRC, coupled with FPL's proactive approach to environmental issues,
16 help to ameliorate the impact of environmental regulation on FPL's risk
17 profile. FPL must still respond to regulation and must maintain credit and
18 liquidity to address environmental issues, but risks associated with eventual
19 recovery are reduced.

20 **Q. How does FPL's environmental risk exposure compare with other**
21 **utilities?**

22 A. FPL has relatively lower risk exposure with respect to regulations around air
23 emissions. FPL has relatively higher risk exposure with respect to pending

1 Clean Water Act regulations governing cooling water intake and discharge
2 structures. On balance, investors perceive FPL to have slightly less
3 environmental risk exposure than most utilities.

4 **Q. Are your conclusions around environmental risk exposure reflected in**
5 **your overall assessment of risk?**

6 A. Yes.

7 **Q. Please summarize the fifth risk category you outlined, involving political**
8 **and regulatory risks facing FPL and its investors.**

9 A. Political and regulatory factors are generally perceived by investors as the
10 largest single source of risk in regulated utilities, but their nature and impact
11 are different from the other risk factors I have discussed so far. Investors
12 evaluate regulatory jurisdictions on the quality, consistency and predictability
13 of regulatory outcomes. Quality in this context means the extent to which
14 costs (including cost of capital) legitimately incurred in providing service are
15 recoverable on a full and timely basis. Investors are acutely aware of
16 regulatory factors in different jurisdictions they evaluate and compare these
17 factors across jurisdictions, and are extremely reluctant to commit capital to
18 utilities operating in jurisdictions with uncertain or negative regulatory
19 environments. This affects both the cost and availability of capital.

20 **Q. Are regulatory risks relevant to debt as well as equity investors?**

21 A. Yes. My direct conversations with equity and debt investors indicate that
22 regulatory factors are indeed relevant, but the impact on debt investors can
23 also be seen through the frameworks disclosed by rating agencies. For

1 example, Moody's incorporates four "Factors" in developing the ratings for
2 regulated electric and gas utilities. Factor 1 evaluates the regulatory
3 framework of the utility and constitutes 25% of the credit weighting for a
4 company. This Factor reviews the predictability and reliability of the
5 Regulatory Framework which includes a regulatory body or state commission.
6 Credit ratings are negatively impacted if the state public service commission
7 has a history of being unpredictable or adverse to utilities. Factor 2 also has a
8 weighting of 25% in the methodology and evaluates the ability of the utility to
9 recover costs and earn returns. Here, a utility is negatively impacted in its
10 credit ratings if regulators second-guess spending decisions or deny rate
11 increases or cost recovery needed to fund on-going operations. These two
12 rating factors have a full 50% impact on the Moody's credit rating of the
13 utility.

14 **Q. Please provide examples of the way in which regulatory risk has affected**
15 **FPL and its investors.**

16 A. Historically, Florida was for many years generally viewed as a jurisdiction
17 ranking low in regulatory risk. Two key decisions in particular in the 2010
18 Pre-Settlement Order contributed to a re-evaluation of this position. First,
19 establishing an ROE midpoint as low as 10%, the lowest among Florida IOUs,
20 and the lowest authorized in Florida in 50 years (and also ranks among the
21 bottom third in the nation) was viewed as inconsistent both with past practice
22 and with good policy. Second, the departure from historical practice in
23 ordering rapid amortization of surplus depreciation, in order to temporarily

1 avoid a base rate increase, was also viewed as inconsistent with past practice
2 as well as good policy. Both decisions, perceived as significant breaks with
3 past policy and practice, contributed materially to FPL's credit downgrade.

4 **Q. Why are historical decisions relevant in today's environment?**

5 A. Investors have long memories when it comes to events that they perceive may
6 have implications for the future. In my discussions, I have frequently been
7 confronted by investors and asked to explain events that occurred a decade or
8 more in the past. Particularly when it comes to regulatory environments,
9 investors value consistency and predictability, and they seek to avoid
10 committing capital to companies that cannot offer competitive levels of
11 regulatory and political consistency and predictability.

12 **Q. Why should the Commission be concerned with the impact of its actions
13 on investor risk perceptions?**

14 A. For all the reasons discussed elsewhere in my testimony, FPL is more reliant
15 than most utilities on timely, unfettered and competitive access to capital
16 markets. Regulatory risk, as perceived by investors, can be an important
17 impediment to FPL's ability to raise capital on competitive terms, which in
18 the long run is not good for its customers.

19 **Q. What impact will the Commission's decisions in this proceeding have on
20 regulatory risk?**

21 A. Once heightened, perceptions of regulatory risk may take several years to
22 abate. However, Commission decisions that are perceived as returning the
23 Florida regulatory environment toward its pre-2009 balance will be seen as

1 reducing regulatory risk. In particular, re-aligning FPL's allowed ROE to be
2 consistent both with FPL's opportunity cost of capital and with its superior
3 operating performance, as I discuss and recommend in Sections VI and VII,
4 will be an important signal to investors.

5 **Q. How does FPL manage its risk profile and what are the consequences for**
6 **its financial policies?**

7 A. FPL seeks, as a matter of policy, to minimize the impact that each major
8 source of risk has on its ability to deliver superior value to its customers. In
9 general, FPL responds to its risk profile by seeking to ensure that it has
10 sufficient resources – both financial and operational – as well as sufficient
11 flexibility to enable it to manage through risk events with as little impact to
12 customers as possible. As just one example, in keeping with other utilities
13 FPL manages its transmission system with sufficient redundancy that a single
14 point of failure does not result in widespread outages. Given its location in
15 the Florida peninsula with only limited ability to draw on resources outside
16 the state in the event of problems, this requires a relatively greater degree of
17 flexibility and redundancy.

18 **Q. What conclusions should the Commission draw from your analysis of**
19 **FPL's risk profile?**

20 A. FPL faces a unique mix of risk factors. Taken in aggregate, they imply that
21 FPL's risk profile is somewhat greater than most utilities in the country.
22 Accordingly, they suggest that FPL should maintain a stronger financial
23 position than the typical utility, which historically has been the case. FPL's

1 somewhat riskier investment profile should also be properly reflected in FPL's
2 authorized ROE.

3

4

IV. FINANCIAL STRENGTH

5

6 **Q. Why is financial strength important to FPL and its customers?**

7 A. Financial strength and flexibility are essential to support capital expenditure
8 requirements – both planned and unplanned – which are necessary to serve
9 (and at times of emergency to restore) power to FPL's customers. FPL
10 competes in a global market for capital and a strong balance sheet with
11 appropriate rates of returns attract capital market investors. Customers gain
12 the benefits of the financial strength, flexibility and optimization in the form
13 of quick access to capital in the event of power disruptions due to tropical
14 storms and other such unfortunate occasions as are inherent in the unique
15 geographic position of which Florida is located.

16

17 Customers benefit directly from the investments FPL is able to finance to
18 continuously improve its infrastructure. For example, transmission system
19 investments enhance service reliability, Advanced Metering Infrastructure
20 ("AMI") investments enhance customer control and access to information, and
21 generating fleet modernization investments improve fuel efficiency, thus
22 lowering fuel costs for customers, and environmental performance. FPL
23 customers also benefit from quick access to capital in responding to

1 unplanned events such as major tropical storms. As FPL has a strong
2 financial position and can access the financial markets on reasonable terms,
3 the cost to customers to finance system improvements and restore unplanned
4 power outages related to unforeseen events is lower than it would be
5 otherwise.

6
7 The Commission has recognized the importance of financial strength, as noted
8 in Commission Order in the 2010 Pre-Settlement Order:

9
10 “FPL’s position of financial strength has served it and its
11 customers by holding down the Company’s cost of capital.”
12 (page 119)

13
14 In this way, FPL directly reduces the costs to its customers and offers a
15 relative safe harbor with its financial strength for capital investors.

16
17 Additionally, as a regulated utility, FPL has a statutory obligation to serve all
18 customers. This obligation requires the Company to have the flexibility to
19 enter into the financial markets and access capital when needed, even when
20 the time may not be ideal from a market perspective. For example, FPL’s
21 financial strength and flexibility were critical to respond to events such as the
22 active storm seasons experienced in 2004 and 2005 and to access markets
23 during the financial crisis of 2008-2009. FPL’s balance sheet strength and

1 financial flexibility are important factors in its ability to finance major
2 infrastructure investments as well as manage unexpected events.

3 **Q. Please describe FPL's current financial position and credit profile.**

4 A. FPL's financial position is strong but has been weakened as a result of the
5 2010 Pre-Settlement Order. FPL's current S&P and Moody's credit ratings
6 have declined to A-/A2 respectively.

7 **Q. How was FPL affected by the 2010 Pre-Settlement Order?**

8 A. FPL was affected by the 2010 Pre-Settlement Order both directly and
9 indirectly. FPL was affected directly by the impact of a low authorized ROE
10 and the application of non-cash earnings through surplus depreciation. FPL
11 was also indirectly affected by the perceived politicization of the Florida
12 regulatory environment. Investors generally were concerned that the basis for
13 regulatory decisions had changed in a manner adverse to both investor and
14 long term customer interests. Both investors and credit rating agencies
15 negatively reacted to the perceived change in the regulatory climate.

16

17 As FPL cautioned during that rate case, its credit ratings were in fact
18 downgraded by both S&P and Moody's. On March 11, 2010, shortly after the
19 2010 Pre-Settlement Order, S&P downgraded FPL's corporate credit rating to
20 "A-" from "A" and FPL's commercial paper rating to "A-2" from "A-1."
21 S&P noted the challenges that FPL was facing and stated:

22 "FPL's credit fundamentals on its regulated utility side have been
23 among the strongest in the U.S., due primarily to low regulatory risk

1 and an attractive service territory with healthy economic growth and a
2 sound business environment. Both of those pillars have been weakened
3 in the past year as Florida, and FP&L's service territory in particular,
4 have suffered during the recession, and regulators have responded with
5 decisions that reflect more intense political influence over the
6 regulatory environment. Maintaining financial strength despite
7 regulatory setbacks and a slowly improving economy in Florida will
8 be challenging.” (Standard & Poor’s, “FPL Group Inc. Downgraded
9 To ‘A-’ From ‘A’, Off CreditWatch; Outlook Stable,” *Research*
10 *Update* (Mar. 11, 2010))

11

12 Moody’s rating action followed shortly thereafter. On April 9, 2010 Moody’s
13 downgraded FPL’s corporate credit rating to “A2” from “A1.” Finally on
14 April 30, 2010, Fitch took rating action on the parent company and
15 subsidiaries. Although Fitch maintained the “A” corporate credit rating at
16 FPL, they kept the ratings of FPL on “Negative Rating Outlook.” Fitch stated
17 that “Ratings of FP&L would be adversely affected if the FPSC adopts less
18 supportive policies on recovery of purchased power costs, fuel expense,
19 environmental compliance costs, new renewal resources, or storm related
20 expenses, or if the utility pursues major capital investment without assured
21 revenue recovery” (emphasis added). (Fitch Ratings Ltd., “Fitch Downgrades
22 FPL Group Inc. and FPL Group Capital to ‘A-’; Affirms Florida Power &
23 Light,” *Report*, (Apr. 30, 2010)).

1 **Q. Is the downgrade in commercial paper rating by Standard & Poor's a**
2 **concern for FPL?**

3 A. Yes. In difficult financial and economic times, it is important to have
4 significant and quick access to liquidity. Any downgrade in commercial paper
5 ratings can be expected to impact the terms upon which FPL will have access
6 to markets for working capital and needed liquidity. The downgrade in FPL's
7 commercial paper rating implies greater credit risk to investors which leads to
8 (1) increased credit spreads and (2) the potential for a reduced access to short-
9 term liquidity. Some commercial paper investors are not permitted by their
10 investment policies to invest in commercial paper that is rated below A-1/P-1
11 ratings, thus reducing the available market for liquidity immediately
12 accessible to FPL. On balance, companies with less or no ability to access the
13 commercial paper markets have to either hold higher average cash balances,
14 and/or establish higher costing credit facilities both of which represents a less
15 efficient, more costly financial structure. This is not in customers' interests.

16 **Q. Have FPL's credit ratings and investor perceptions been affected by the**
17 **regulatory and political environment?**

18 A. Yes. As noted above, FPL's credit ratings have been negatively impacted by
19 recent regulatory and political decisions. Investor perceptions were also
20 negatively impacted as returns on invested capital were seen as being subject
21 to political or regulatory risk. In this way, the regulatory and political
22 environment can have a direct impact on a utility and its subsequent ability to
23 serve its customer base. One of the essential components of the regulatory

1 compact is the obligation to serve. A regulated utility, like FPL, must make
2 the required investment when it is needed, not when it is convenient or
3 economically advantageous to do so. This is particularly critical in times of
4 economic challenges, when unregulated companies may defer capital
5 expenditures or even constrict their current operations. FPL has continued to
6 invest in the State of Florida even during challenging economic times which
7 also benefits the Florida economy at times when it is most needed. In fact,
8 over the three-year period from 2011 to 2013, FPL plans to invest
9 approximately \$9 billion to strengthen and improve Florida's electric
10 generation and delivery system. A regulated utility also does not have the
11 luxury to defer storm-damage restoration and capital expenditures which is a
12 key part of an overall risk profile. Investors and credit rating agencies
13 recognize this risk and rely on the regulatory and political constituencies to be
14 constructive and support a regulated utility's obligation to serve.

15 **Q. What actions did FPL take to minimize the negative impact of the**
16 **original Order?**

17 A. Reducing the impact of investor perception of higher risk was a primary
18 motivation for FPL to enter into the 2010 Rate Settlement. The Settlement
19 was not a long-term solution, but it provided investors a degree of assurance
20 that FPL could earn an ROE around 11% which more closely reflected
21 investor's opportunity cost of capital than the 10% ROE authorized by the
22 Commission in its 2010 Pre-Settlement Order. This was achieved by
23 allowing FPL to amortize a reserve surplus depreciation balance to generate

1 temporary non-cash earnings in an amount sufficient to produce a total ROE
2 close to 11%. The effect of this reversal is to temporarily lower expenses and
3 also to increase future rate base relative to what it would have been without
4 the surplus amortization. Thus it is a temporary expedient for keeping rates
5 low. Eventually the surplus is exhausted, and at that point not only does the
6 credit to expenses disappear, but also the rate base on which customers must
7 pay a rate of return is now higher than it otherwise would have been.
8 Unfortunately, that is the situation FPL and its customers are now facing.

9
10 FPL has applied the terms of the 2010 Rate Settlement as agreed. One result
11 was that on May 2, 2011, Fitch removed its “Negative Rating Outlook” for
12 FPL, pointing to the Settlement and the potential for “the improved economic
13 and utility regulatory environment in Florida.” (May 2, 2011; Fitch Affirms
14 Ratings of NextEra and Florida Power & Light; Outlook Revised to Stable).

15
16 While helpful, the Settlement could only serve as a temporary and imperfect
17 solution to the issues FPL is facing as a result of the 2010 Pre-Settlement
18 Order. Since that order did not address the underlying need for rate relief, the
19 amortization of the surplus depreciation simply masks the true cash flow
20 degradation that has occurred at FPL, and in any case, the reliance upon the
21 non-cash depreciation reserve adjustment mechanism to support earnings is
22 scheduled to expire at the end of this year.

23

1 In addition to entering into the 2010 Settlement Agreement, FPL also engaged
2 in a significant proactive investor outreach effort, to try and ameliorate the
3 impact on investor perceptions. This effort, in addition to explaining how the
4 2010 Settlement Agreement provided a reasonable although temporary
5 response, focused on convincing investors that the departure from Florida's
6 traditionally fair and constructive regulatory environment was not a
7 permanent change.

8 **Q. Did FPL take any measures to ease the pressure on its liquidity?**

9 A. Yes. FPL took actions to lessen pressure on its short term credit facility and
10 improve its liquidity. First, FPL borrowed \$250 million on its revolving credit
11 facility on March 11, 2010, when Standard & Poor's downgraded FPL's credit
12 ratings. Next, FPL added a substantial global credit facility and issued new
13 first mortgage bonds. These actions were directed at re-establishing
14 reasonable assurance that the Company would have adequate liquidity to
15 support customer electric service needs. These actions of course all came at a
16 cost, which was borne by FPL's shareholders.

17 **Q. How did the 2010 Rate Settlement affect investor perceptions?**

18 A. The settlement had a positive effect on investor perceptions and provided a
19 short term reduction in uncertainty. Investors viewed the Settlement
20 Agreement as a positive intermediate step which bought time for the Florida
21 regulatory environment to improve and for FPL to seek improvements in what
22 was viewed as an unattractive recovery proposition.

1 **Q. What is needed when the 2010 Rate Settlement expires for FPL to**
2 **maintain its financial strength?**

3 A. There are three principal conditions that are needed for FPL to maintain the
4 financial strength it requires in order to continue to provide the best long term
5 value proposition for its customers. First, base rates must properly reflect the
6 true cost of service once the temporary, unsustainable impact of surplus
7 depreciation amortization disappears. Second, the present capital structure
8 level should be maintained. And, third, the authorized ROE should be re-set
9 to a level more consistent with the true opportunity cost of capital for a utility
10 with above average risk.

11

12 **V. CAPITAL STRUCTURE**

13

14 **Q. What is your recommendation for an equity ratio for FPL for regulatory**
15 **purposes?**

16 A. FPL has consistently maintained a strong capital structure for many years. I
17 recommend that the test year equity ratio of 59.6% based on investor sources
18 (equivalent to 46.0% based on all sources) be approved. This is consistent
19 with the ratio approved by the Commission in 2010 and deemed appropriate
20 then. FPL's requirements for financial strength have in no way diminished in
21 the past two or three years, and therefore there should be no occasion to
22 reduce the equity ratio. If coupled with an adequate ROE and base rates that
23 properly reflect the true cost of service, which includes taking account of the

1 disappearance of surplus depreciation amortization, the current equity ratio
2 will provide adequate financial strength and therefore there is no reason to
3 increase it.

4 **Q. How does your recommendation compare with FPL's actual practice?**

5 A. It is the same. The Commission has stated that the capital structure used for
6 ratemaking purposes should bear an appropriate relationship to the utility's
7 actual sources of capital. (See e.g., Order No. 850246-EI, Petition of Tampa
8 Electric Company for Authority to Increase its Rates and Charges.) FPL has
9 for many years consistently maintained its capital structure. While FPL's
10 extensive capital program has in recent years exceeded internal cash flow
11 generation (by \$1.5 billion over the past three years), this cash flow deficit has
12 been met by a balanced program of incremental debt and incremental equity.
13 In fact, FPL's equity, representing the shareholders' commitment to the
14 business has increased by \$3.6 billion over the past five years (2007-11). That
15 commitment has been predicated on the expectation of a return to more
16 constructive regulation in Florida.

17 **Q. Does the investor community view FPL's current equity ratio as**
18 **adequate?**

19 A. Yes. Investors recognize FPL's particular risk profile and its particular need
20 for financial strength and accordingly expect it to maintain a strong capital
21 structure. Because FPL has maintained essentially the same actual capital
22 structure for many years, any change from this would likely raise questions in

1 investors' minds and would be viewed as a negative departure from past
2 practice.

3

4

VI. RETURN ON EQUITY

5

6 **Q. What is the basis for your ROE recommendation?**

7 A. My ROE recommendation of 11.25% is based on a combination of factors.
8 First, I have reviewed FPL witness Avera's testimony and the methodologies
9 underlying it, and based on my knowledge of financial theory and my
10 experience as a financial analyst and as a CFO agree that these are appropriate
11 and generally accepted methods for estimating allowed ROE. I concluded that
12 FPL witness Avera's range of 10.25% to 12.25% is reasonable under current
13 circumstances. Second, I have relied on my experience as a CFO and
14 familiarity with FPL's financial position, as well as my direct knowledge of
15 investor perceptions, to form a judgment as to the impact that my
16 recommendation will have on FPL's financial strength and the degree to
17 which it will be accepted by investors as appropriate given FPL's unique
18 circumstances. Third, I have considered the current allowed ROE for other
19 regulated utilities, particularly within the State of Florida, and the impact that
20 the relationship between these and my recommended ROE may have on
21 investor perceptions.

22

1 **Q. How do these considerations influence your recommendation?**

2 A. First, my recommended ROE of 11.25% is within the range supported by FPL
3 witness Avera's analysis. Second, it will support FPL's financial position and
4 enable FPL to continue on its present strategy and investment path, thereby
5 supporting the maintenance of and, hopefully, long-term improvement in
6 FPL's superior customer value proposition. In my judgment, it will be
7 perceived by investors and rating agencies as: (1) supportive of FPL's
8 financial position; (2) appropriate given FPL's unique risk profile; and (3)
9 offering a fair expected rate of return to equity investors. Finally, it will place
10 FPL in a more competitive position with the average allowed ROEs of other
11 utilities in Florida and in southeastern states with which FPL is frequently
12 compared by investors, instead of – as is true at present – leaving FPL with
13 the lowest authorized midpoint in the state and among the bottom third of
14 allowed ROEs nationally.

15 **Q. How is your analysis of FPL's risk profile reflected in your**
16 **recommendation?**

17 A. My recommendation is the mid-point of FPL witness Avera's recommended
18 range. Compared solely with the utility companies in FPL witness Avera's
19 analysis my recommendation is slightly above the mid-point of the range,
20 which is entirely consistent with my analysis of FPL's relative risk profile.
21 The inclusion in FPL witness Avera's analysis of some of the least risky, most
22 stable and mature participants in the non-utility sectors of the economy is also
23 consistent with this approach. As FPL witness Avera has explained, these

1 companies are included on the basis of risk comparability. With the inclusion
2 of these companies FPL's risk profile is roughly in line with the broadly
3 defined proxy group, and my recommendation falls well within the range that
4 FPL witness Avera has estimated for this broadly defined proxy group.

5 **Q. What is FPL's current allowed ROE?**

6 A. In the 2009 rate case, the FPSC approved a midpoint ROE of 10.0% for FPL,
7 the lowest ROE approved for any Florida electric, telecommunications, or
8 natural gas utility in at least the past 50 years, as shown on Exhibit MD-2.
9 The 10.0% allowed ROE was a decrease of 175 bps compared to FPL's
10 previously allowed return.

11 **Q. What was the impact of the 2009 decision to lower FPL's allowed ROE on**
12 **investors?**

13 A. Investors – both equity and fixed income – as well as rating agencies
14 perceived the decision as negative for financial strength and credit quality.
15 Along with other factors related to perceptions of the “politicization” of the
16 regulatory environment, the decision to decrease FPL's allowed ROE to such
17 a low level contributed to rating agency decisions to downgrade FPL's credit
18 ratings.

19 **Q. How do investors and credit rating agencies view allowed ROE?**

20 A. Allowed ROE is important to investors as well as credit rating agencies for
21 several reasons. First, it is an important indicator of the degree to which a
22 regulated utility will have the financial resources to serve its customers well.
23 It is also an important indicator of the *relative* attractiveness of a utility as a

1 place to invest capital. Finally, it is generally viewed as one indicator of the
2 quality of the broader regulatory environment. While investors and rating
3 agencies recognize that the allowed ROE is not a guarantee of profit, an
4 adjustment to a more competitive level would be consistent with maintaining
5 a good credit rating and encouraging and attracting investment with FPL and
6 within the State of Florida.

7 **Q. How does FPL's current allowed ROE compare to other utilities?**

8 A. FPL's current allowed ROE of 10.0% is the lowest of any of the IOUs within
9 Florida. It is also in the bottom third of allowed ROEs nationally. This places
10 FPL at a competitive disadvantage in seeking to attract capital investment at
11 the same time that it is engaged in the largest capital spending program in its
12 history. As explained earlier in my testimony, FPL has been able temporarily
13 to overcome this disadvantage through the 2010 Rate Settlement Agreement;
14 however, with the expiration of the Agreement at the end of 2012 a more
15 permanent solution is required. Increasing the allowed ROE to 11.25%,
16 consistent with my recommendations, will restore FPL's ability to compete
17 effectively for capital on an equal footing with other utilities. Over the long
18 run this is good for customers.

19 **Q. Should the Commission consider a utility's delivery of value to customers
20 when determining what ROE to authorize?**

21 A. Yes. From a policy perspective it is important that some general relationship
22 should exist between a utility's allowed ROE and its relative performance in
23 delivering value to its customers. It is in customers' long term interests that

1 utilities have a strong incentive to deliver superior value and to improve their
2 value delivery over time. FPL's value delivery is excellent overall and on key
3 measures (low typical bills, high reliability) clearly the best in the state. It is
4 inconsistent for a company with a superior record of delivering value to its
5 customers to emerge from a key regulatory proceeding with the lowest
6 allowed ROE in the state and among the bottom third nationally. As a
7 practical matter, FPL has been penalized with a low ROE even though it
8 provides superior performance and value. My recommended allowed ROE of
9 11.25% will restore balance in this respect that is lacking today. As a matter
10 of policy, the Commission can enhance the effectiveness of the incentive
11 through a modest performance adder, which I will discuss later in my
12 testimony.

13 **Q. How is FPL's ROE request consistent with maintaining low customer**
14 **bills?**

15 A. It is important to recognize that ROE is only one component of a company's
16 overall cost of capital. FPL's proposed overall cost of capital in the test year
17 is 7.0% which is very low. That low cost of capital is passed directly on to
18 customers and helps to maintain FPL's low typical bill level. As FPL witness
19 Deaton's testimony shows, even with the full base rate increase requested by
20 FPL, including the impact of re-setting ROE to a more appropriate level,
21 FPL's typical residential bill will increase by only a few cents per day and will
22 remain the lowest in the state. FPL's typical bill is roughly 25% below the
23 national average, and it will remain roughly 25% below the national average.

1 The Commission can be assured that approving FPL's requested ROE is fully
2 consistent with maintaining customer affordability: FPL provides very
3 affordable service in the state today; and it will continue to do so if FPL's
4 requested ROE is approved. An appropriate ROE will allow FPL to continue
5 the extensive program of capital investment that is designed to ensure that
6 bills remain affordable far out into the future.

7

8

VII. ROE PERFORMANCE ADDER

9

10 **Q. Please describe the ROE performance factor proposed by the Company.**

11 A. FPL is requesting an addition to its proposed authorized ROE of 25 bps to
12 create an incentive for all utilities regulated by the FPSC to achieve superior
13 customer value and to recognize that FPL provides superior customer value.
14 However, FPL is proposing that the adder only be applicable to the extent that
15 FPL maintains the lowest typical customer bill in the state.

16 **Q. What factors should the Commission consider when evaluating the
17 performance of utilities for purposes of determining whether or not to
18 authorize an ROE performance adder?**

19 A. The Commission should consider a broad array of performance measures that
20 contribute to the delivery of superior value. Chief among these are reliability
21 of service, cost or affordability, and customer service quality. In each case,
22 the Commission should also assess the sustainability of performance, in order
23 to avoid providing an incentive for temporary but unsustainable performance.

1 **Q. How does FPL's performance on these measures compare with other**
2 **utilities?**

3 A. Overall, FPL's performance compares extremely well on all principal
4 measures, both against other companies within Florida and considered more
5 broadly against utilities in other states. On most measures, FPL's service
6 reliability is top quartile or better; typical customer bills are the lowest in the
7 state and approximately 25% below national averages; and FPL has been
8 consistently commended by independent third parties for superior customer
9 service. Furthermore, high performance on these measures has been sustained
10 over a multi-year period. Nor is FPL's position merely an artifact of external
11 forces. While natural gas prices can certainly rise and fall, affecting the
12 relative position of FPL's typical bills, FPL's investments in modern efficient
13 generation have helped improve FPL's relative cost position across a wide
14 range of natural gas prices, and FPL's top decile performance in non-fuel
15 O&M benefits customers under all market conditions. FPL's superior
16 performance is a function of sustained effort, capital deployment, and a
17 willingness to take risks and innovate. These are all characteristics which the
18 Commission should encourage and support in all the utilities subject to its
19 oversight, and it can do so by authorizing FPL's proposed performance adder.

20
21 FPL witness Reed provides a detailed analysis in his testimony that shows
22 how well FPL has performed in recent years relative to other utilities, and
23 several other witnesses describe FPL's performance in specific areas.

1 **Q. Why is FPL proposing to make the ROE performance factor contingent**
2 **on maintaining the lowest typical bill in the state?**

3 A. To be clear, consistent with prior Commission practice, it is appropriate for
4 the Commission to consider all aspects of FPL's performance. But for
5 purposes of this case, FPL is requesting that the Commission use a simple
6 measure to assure that customers continue to receive the best possible value.
7 FPL is not suggesting that this is the only appropriate measure to assess
8 performance, or that it should be used by the Commission in all instances or
9 for other utilities that it regulates. That is not FPL's intention. The
10 Commission can continue to assess FPL's and other utilities' performance on
11 the basis of many factors. Indeed, as I have discussed, FPL's overall
12 performance remains the basis for the Commission determining, in the first
13 instance, whether a performance factor is appropriate. FPL is proposing that
14 its ROE performance factor be made contingent on FPL maintaining the
15 lowest typical bill in the state. This is an approach that is understandable to
16 customers and represents a challenge that FPL is willing to undertake.

17 **Q. Why should the Commission not simply focus on low bills in determining**
18 **whether to grant a performance factor?**

19 A. Were the Commission to focus solely on low bills to the exclusion of anything
20 else, it could set up inappropriate incentives, inadvertently encouraging
21 utilities to over-weight efforts aimed at improving cost position compared
22 with efforts aimed at reliability and broader measures of customer service. By
23 focusing attention on a 'balanced scorecard' and by maintaining an element of

1 judgment in considering whether to grant a performance factor, the
2 Commission will signal that it is concerned about the overall value
3 proposition that utilities provide their customers and encourage them to strive
4 for superior performance along all dimensions of importance to customers.
5 FPL has presented that balanced scorecard for the Commission to assess.
6 How to determine whether the adder should be maintained may be a case by
7 case determination, depending on what the Commission deems reasonable and
8 appropriate for a particular utility. For the reasons I have discussed, in this
9 instance FPL is proposing that its performance adder be contingent upon
10 maintaining the lowest bill in the state which takes into account the
11 importance of using a criterion that can be readily administered and easily
12 understood by customers.

13 **Q. Why is a performance factor appropriate if utilities have an obligation to**
14 **serve their customers?**

15 A. While all utilities with an obligation to serve will naturally strive to deliver
16 good value, there is in practice a wide range of activities that can be pursued
17 to deliver customer value. In many cases different courses of action can be
18 pursued, some with more and some with less risk, and some with more and
19 some with less potential for improving customer value. As a practical matter
20 there is no substitute for some positive, economic encouragement to induce a
21 higher degree of risk taking and innovation in pursuit of superior outcomes.
22 In this sense an ROE performance adder can partially mimic the natural
23 economic incentives present in freely competitive markets.

1 **Q. Couldn't the Commission simply penalize poor performance instead of**
2 **rewarding good performance?**

3 A. While penalties for deliberately or negligently poor performance may be
4 appropriate in some circumstances, in the vast majority of cases all regulated
5 utilities will be seeking to provide good value to customers. The practical
6 issue is how to encourage the new and different in order to advance the "state
7 of the art" in providing service to customers. Negative incentives will tend to
8 promote risk avoidance: utilities will work hard to avoid being penalized, but
9 they will be much less likely to take the risks needed to seek out new
10 possibilities. In contrast, a positive incentive such as FPL's proposed
11 performance adder will actively encourage the difficult challenge of seeking
12 new and different approaches in order to improve customer value.

13

14 **VIII. STORM COST RECOVERY**

15

16 **Q. Is FPL requesting a storm accrual in this proceeding?**

17 A. No. FPL is not requesting a storm accrual in this proceeding.

18 **Q. How does FPL propose to address storm recovery in this proceeding?**

19 A. FPL proposes for the immediate future to continue to recover prudently
20 incurred storm costs under the framework prescribed by the 2010 Rate
21 Settlement. Specifically, if FPL incurs storm costs related to a named tropical
22 storm, the Company may begin collecting up to \$4 per 1,000 kWh (roughly
23 \$400 million annually) beginning 60 days after filing a petition for recovery

1 with the FPSC. This interim recovery period will last up to 12 months. If
2 costs to FPL related to named storms exceed \$800 million in any one year, the
3 Company can also request that the Commission increase the \$4 per 1,000
4 KWh accordingly. This cost recovery mechanism also may be used to
5 replenish the Company's storm reserve. Any cost not recovered under this
6 mechanism is deferred on the balance sheet and recovered beyond the initial
7 12 months as determined by the Commission.

8 **Q. Is this proposal a departure from prior FPL positions on this issue?**

9 A. Yes. In the past the Commission has employed and FPL has endorsed an
10 overall framework for storm cost recovery consisting of three main parts: (1)
11 an annual storm accrual, adjusted over time as circumstances change; (2) a
12 storm damage reserve adequate to accommodate most but not all storm years;
13 and (3) a provision for utilities to seek recovery of costs that went beyond the
14 storm reserve. These three parts acting together allowed FPL over time to
15 recover the full costs of storm restoration, while at the same time balancing
16 competing customer interests: that is, minimizing and mitigating the ongoing
17 impact as much as possible, softening the volatility of "rate shock" in
18 customer bills because the reserve may have been insufficient, and
19 intergenerational equity. This balance required periodic adjustment in the
20 main components of the framework.

21

1 **Q. What considerations led to the development of this framework for storm**
2 **cost recovery?**

3 A. The historical framework arose primarily as a result of the disappearance of an
4 economical commercial market for transmission and distribution insurance
5 against windstorm loss in the wake of hurricane Andrew. The Commission
6 recognized that prudently incurred storm restoration costs are a cost of doing
7 business in Florida, legitimately recoverable under fundamental principles of
8 regulation. Had commercial insurance remained available on reasonable
9 terms, the cost of that insurance would have continued to be included in rates.
10 In lieu of including in rates the cost of insurance, FPL included in rates an
11 annual accrual, which was used to support a funded storm reserve. As a
12 general guide, this reserve was intended to be large enough to cover most but
13 not all tropical storm events. The Commission repeatedly acknowledged that
14 some storms might cause more damage than the existing reserve could handle
15 and provided an alternate mechanism for recovering restoration costs incurred
16 in excess of the reserve balance. This framework was successfully used by
17 FPL and the Commission through the 1990s and through the devastation of
18 back-to-back storm seasons of 2004 and 2005. FPL customers today continue
19 to pay a small charge for the 2004-2005 restoration costs that exceeded the
20 then value of the storm reserve.

21 **Q. What is FPL's current exposure to storm restoration costs?**

22 A. FPL's latest comprehensive Storm Loss and Reserve Performance Analysis in
23 2009 showed that over the long term, taking into account the statistically

1 probable incidence and size or power of tropical storms, FPL can expect to
2 incur, on average, about \$150 million per year in restoration costs.

3 **Q. Why is FPL not proposing in this proceeding to use a framework that has**
4 **proven successful in the past?**

5 A. FPL has attempted to reduce the number of complex issues to be decided in
6 this proceeding. Accordingly, FPL proposes temporarily to continue the
7 alternative cost recovery framework spelled out in the 2010 Rate Settlement.

8 **Q. Is there a risk with this approach?**

9 A. Yes. In the event of significant storm damage in the short term, before the
10 Florida economy has fully recovered, FPL will have access to a storm reserve
11 smaller than it otherwise would have been, and the resulting supplemental
12 charge will be larger and/or will last longer than it otherwise might have. FPL
13 continues to believe that the best long term policy is to revert to the traditional
14 proven framework and reinstitute an annual accrual, recovered through rates,
15 to the storm reserve. However, FPL believes that it is reasonable for the
16 Commission to continue the alternative framework of the 2010 Rate
17 Settlement at the present time.

18 **Q. Does this conclude your testimony?**

19 A. Yes.

1 **BY MR. LITCHFIELD:**

2 Q. Mr. Dewhurst, you included exhibits with your
3 prefiled testimony?

4 A. I did.

5 Q. Consisting of eight pages labeled MD-1 through
6 MD-2?

7 A. Correct.

8 **MR. LITCHFIELD:** And I would note, Mr.
9 Chairman, that those exhibits have been premarked for
10 identification as Numbers 211 and 212.

11 **CHAIRMAN BRISÉ:** Thank you.

12 **BY MR. LITCHFIELD:**

13 Q. Mr. Dewhurst, have you prepared a summary of
14 your direct testimony for the Commission?

15 A. I have.

16 Q. Would you please provide that at this time.

17 A. Good evening, Commissioners; Chairman Brisé.

18 My testimony addresses the subjects of
19 financial strength, risk profile, capital structure, and
20 ROE, including our proposed performance adder. I also
21 address our proposed framework for recovering prudently
22 incurred storm costs.

23 Financial strength is an important determinant
24 of a utility's ability to serve its customers well, and
25 the Commission has acknowledged that historically FPL's

1 financial strength has been a benefit to our customers.

2 What degree of financial strength is
3 appropriate for FPL must be a function of FPL's unique
4 position and requirements, which I call its risk
5 profile. Overall, FPL is exposed to greater risk than
6 most other utilities, and its requirements for financial
7 strength are greater than most other utilities. This
8 reality should be and is reflected in the capital
9 structure we employ to support our obligations to
10 customers, and it should also be reflected in the ROE
11 that this Commission will authorize in these
12 proceedings.

13 FPL is uniquely situated. It is one of the
14 largest utilities in the country, located at the
15 farthest extent of a peninsula that is relatively
16 unsupported by the rest of the U.S. power or fuel supply
17 systems, exposed to tropical storms, and subject to a
18 variety of other risks that I detail in my testimony.

19 Many of these risk factors it shares with
20 other Florida utilities, but its overall exposure is
21 greater. As a consequence, its need for financial
22 strength and resiliency is greater.

23 Historically, FPL's financial position is very
24 strong, but it was weakened as a result of the
25 Commission's 2010 presettlement order. Our credit

1 ratings were downgraded, and our access to capital and
2 to credit liquidity were adversely affected. FPL sought
3 to minimize these negative effects by, among other
4 things, entering into the 2010 settlement agreement.
5 This allowed the company to earn a book ROE closer to
6 investors expectations, but it did not address the
7 underlying cash flow degradation that has occurred as a
8 result of the presettlement order. In short, it was a
9 stopgap solution.

10 With the end of the accelerated amortization,
11 a so-called surplus depreciation in sight as required by
12 the Commission, rates must now be based on the true
13 underlying cost structure. Looking forward, what is
14 needed to support FPL's financial position and our
15 consequent ability to keep making large investments for
16 our customers' benefit is, in addition to rates based on
17 the true cost of service, the maintenances of FPL's
18 capital structure, and the provision of an adequate
19 authorized ROE.

20 FPL's capital structure has been maintained at
21 essentially its current level for many years. It has
22 served the company and its customers well. There is no
23 good reason to change it.

24 With respect to ROE, 11.25 percent, which is
25 the midpoint of Witness Avera's recommended range, is a

1 reasonable value. It will support FPL's ability to
2 invest, it will be perceived by investors as fair, and
3 it will put the company on a more competitive footing
4 with other utilities in Florida and the rest of the
5 southeast with which it is frequently compared.

6 It fairly reflects FPL's risk profile, and it
7 will also remedy the current anomaly whereby the utility
8 with the best customer value proposition has the lowest
9 allowed ROE in the state, and one that puts it in the
10 bottom third of utilities nationally. Yet, it will not
11 raise any issue of affordability. FPL's typical bills,
12 which are roughly 25 percent below the national average,
13 will remain roughly 25 percent below the national
14 average.

15 My testimony also supports -- or proposes,
16 excuse me, a performance adder of 25 basis points. This
17 adder is supported by FPL's superior overall
18 performance, low bills, high reliability, and excellent
19 customer service, but will be made contingent on our
20 retaining our current position as the lowest typical
21 residential bill in the state. This adder, if granted,
22 would provide meaningful positive encouragement to
23 induce a higher degree of risk taking and innovation in
24 pursuit of superior outcomes for customers. It would
25 thereby partially mimick the incentives naturally

1 present in nonregulated markets.

2 And, finally, I propose continuing the storm
3 cost recovery framework contained in the current
4 settlement agreement. While I believe the best
5 long-term policy is to revert to the three-part
6 framework that has been successfully employed in the
7 past, in the interest of limiting the number of complex
8 issues to be addressed in this proceeding, FPL is
9 willing to continue the current framework. And that
10 completes my summary.

11 **MR. LITCHFIELD:** Mr. Chairman, I guess Mr.
12 Dewhurst will be available for cross-examination
13 tomorrow morning.

14 **CHAIRMAN BRISÉ:** Yes. That was the agreement
15 with all the parties for this evening.

16 We thank you for working so hard today and
17 helping us move this schedule along. Tomorrow we seek
18 to start at 9:00 a.m. rather than 9:30, and we are going
19 to run until about between 6:00 and 7:00. We are going
20 to try to finish with the petitioner's portion of direct
21 tomorrow so that we will be in a posture to begin the
22 intervenors on Monday.

23 We will talk about the weather a little bit
24 tomorrow, and what scheduling options or alternatives we
25 may have to deal with based upon what we see in terms of

1 the forecast models as we get that information tomorrow
2 morning. So we will work off of that information that
3 we have in the morning.

4 Okay. And with that I trust that everyone
5 will have a good evening.

6 **MR. SUNDBACK:** Mr. Chairman, could we make one
7 housekeeping request, if we could --

8 **CHAIRMAN BRISÉ:** Sure.

9 **MR. SUNDBACK:** -- before we break? Could we
10 pose a request through the Chair to have from FPL a copy
11 of the prepared summary that Mr. Dewhurst was reading
12 from this evening so that we will have that available to
13 us tomorrow morning?

14 **MR. LITCHFIELD:** That's fine.

15 **CHAIRMAN BRISÉ:** Okay.

16 **MR. SUNDBACK:** Thank you.

17 **CHAIRMAN BRISÉ:** That works. All right.

18 Everyone drive safely.

19 (The hearing adjourned at 9:23 p.m.)

20 (Transcript continues in sequence with Volume
21 15.)

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Hearing Reporter
6 Services Section, FPSC Division of Commission Clerk, do
hereby certify that the foregoing proceeding was heard
at the time and place herein stated.

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

10 I FURTHER CERTIFY that I am not a relative,
11 employee, attorney or counsel of any of the parties, nor
12 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.

13 DATED THIS 28th day of August, 2012.

14
15 
16 -----
17 JANE FAUROT, RPR
FPSC Official Commission Reporter
(850) 413-6732