

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 120015-EI

In the Matter of:

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

VOLUME 15

Pages 1919 through 2070

PROCEEDINGS: HEARING

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

DATE: Friday, August 24, 2012

TIME: Commenced at 9:02 a.m.
Concluded at 12:27 p.m.

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

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

APPEARANCES: (As heretofore noted.)

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I N D E X

WITNESSES

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EXHIBITS

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P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 14.)

4 **CHAIRMAN BRISÉ:** Good morning.

5 **MR. MOYLE:** Good morning.

6 **CHAIRMAN BRISÉ:** We are continuing with Docket
7 Number 120015-EI. We are on cross-examination. At this
8 time we'll continue with Mr. Moyle from FIPUG.

9 **MR. MOYLE:** Thank you. Thank you, Mr.
10 Chairman.

CROSS EXAMINATION

11
12 **BY MR. MOYLE:**

13 **Q** Good morning, Mr. Dewhurst.

14 **A** Good morning.

15 **Q** You're wearing a couple of hats today; is that
16 right?

17 **A** I don't think I'm wearing a hat actually.

18 **Q** You're the Vice Chairman and Chief Financial
19 Officer for NextEra Energy.

20 **A** That's correct.

21 **Q** And you're also the Chief Financial Officer
22 for Florida Power & Light.

23 **A** That's correct.

24 **Q** And do you serve in any role -- there's been
25 some pension questions, and I think some of those have

1 been placed to you, but do you serve in a role with
2 respect to FPL's pension?

3 **A** Yes. Inasmuch as it contains financial
4 elements and all financial elements ultimately report up
5 to me, I know something about pension. I'd be happy to
6 try and help you.

7 **Q** Okay. Are you, are you a trustee of the
8 pension fund or involved in the management of the
9 pension fund?

10 **A** Yes on the second. I'm not a trustee. I do
11 have a fiduciary role with respect to the pension plan.

12 **Q** And, and what is that?

13 **MR. LITCHFIELD:** Mr. Chairman, I hate to start
14 out with an objection so early, but I don't believe that
15 Mr. Dewhurst is testifying as to the pension plan at
16 FPL. I don't recall any pension plan questions being
17 referred to him. If I'm mistaken, I'm happy to have
18 counsel correct me.

19 **MR. MOYLE:** I think there was some pension
20 discussion. There was an interrogatory that I think I
21 asked another witness about that had a billion-dollar
22 overfunding of the pension, and they said Mr. Dewhurst
23 is the best person to ask that question of.

24 **MR. LITCHFIELD:** Well, now he's testifying.

25 **MR. MOYLE:** And the record, the record will,

1 will bear out whether I'm right. I think I am.

2 I guess I'm just trying to understand his role
3 vis-a-vis the pension, and I have a couple of pension
4 questions for him. He just testified he's involved in
5 the management of it. I think part of the rate request
6 that FPL is seeking is related to funding their pension
7 program, so I think I should be allowed to ask the
8 questions.

9 **MR. LITCHFIELD:** Mr. Chairman, I'm just trying
10 to move things along. If you'd like to allow him to ask
11 a question or two, I guess we have no objection. I
12 really am just trying to move things along.

13 **CHAIRMAN BRISÉ:** Go ahead, Mr. Moyle.

14 **BY MR. MOYLE:**

15 **Q** I think, I think the pending question was you
16 said you had fiduciary responsibilities vis-a-vis the
17 pension fund, and I was trying to understand what those
18 were from your perspective.

19 **A** Well, I'm not a lawyer, so I'm just going to
20 give you a commonsense view. But as a fiduciary, I have
21 to act as a reasonable person would in the best
22 interests of the beneficiaries of the plan.

23 **Q** Okay. And you'd also agree -- and sometimes
24 lawyers have common sense, a lot of times they don't.
25 But with respect to the fiduciary, that's a legal term

1 that's often used; correct?

2 **A** That's correct. That's why I prefaced my
3 previous answer by saying I'm not a lawyer.

4 **Q** All right. So, so with respect to the various
5 roles that you play, you would agree with me, would you
6 not, that the, the interests of those entities are not
7 always aligned?

8 **A** I'm not sure I understand the question. The
9 interests of which entities?

10 **Q** Okay. Well, let's just, let's put the pension
11 off to the side and just talk about NextEra Energy, Inc.
12 That's the company that's publicly traded; is that
13 right?

14 **A** That's correct.

15 **Q** And Florida Power & Light. The interest of
16 NextEra Energy as the publicly traded company, its
17 interests are not necessarily always aligned with the,
18 with, with Florida Power & Light Company; correct?

19 **A** I don't know what you mean by the interests of
20 a corporation. Could you help me out a bit?

21 **Q** Sure. I mean, the interests of NextEra
22 Energy, the publicly traded company, if I understand it,
23 is to provide a return to people who buy stock in that
24 company. I mean, somebody today could go contact a
25 stockbroker and say, please, I'd like to buy a thousand

1 shares of NextEra Energy, Inc. And the objective of
2 NextEra Energy, Inc., vis-a-vis, you know, the
3 stockholders, is to maximize profits; is that fair?

4 **A** No. I don't agree with that.

5 **Q** The, the, to the investment community, are the
6 profits of NextEra Energy, the publicly traded company,
7 important?

8 **A** I would agree they're important.

9 **Q** Okay. And you've, you've been here, I think,
10 throughout this proceeding; correct?

11 **A** No, that's not correct.

12 **Q** Have you, have you watched the proceedings or
13 been made aware of the proceedings that have taken
14 place?

15 **A** I've been here for some of the proceedings. I
16 haven't been here for all of the proceedings.

17 **Q** Okay. You've heard -- are you aware that
18 Dr. Avera, Avera essentially provided testimony that
19 with respect to equity capital, that equity capital
20 looks to go where it can find the highest return for the
21 least risk in general terms? Would you agree with that
22 as a matter of economic principle?

23 **A** I think there were two questions in there. To
24 the first, I'm not sure that that's a correct
25 characterization of Dr. Avera's testimony. I'm not

1 saying it's not, I'm just not sure it's accurate. So
2 I'd have to review the transcript to be sure.

3 On the second, could you repeat the standard
4 that you set out in your question?

5 Q Sure. Just as a matter of economic principle,
6 that -- to the extent there is competition for capital
7 dollars, you would agree that you have to compete for
8 capital dollars; correct?

9 A I would agree with that.

10 Q Okay. That investors, consistent with
11 economic theory, all other things being equal, would
12 like to try to earn as high a return as they could with
13 as least risk as they could; correct?

14 A No. I don't think that's quite precise,
15 because I don't think it's possible to get maximum
16 return and minimum risk in the real world. There's a
17 tradeoff typically between risk and return, and I do
18 believe every investor considers both risk and return.
19 But, no, I don't believe that they try get the maximum
20 return and the lowest risk, nor do I believe that's
21 possible.

22 Q Okay. So what -- if the returns are the same
23 between two investment choices, investors would choose
24 the one with the lowest risk; isn't that right?

25 A All other things being equal, typically, yes.

1 If the return potential is viewed as equal and the risk
2 differential -- and there's a risk differential, then
3 they would opt for the lower risk option. I would agree
4 with that.

5 **MR. MOYLE:** Okay. Mr. Chairman, I, I used an
6 exhibit last night, and I have copies of it that may be
7 helpful just to repass out. This was the Moody's
8 corporate rating, so I can redistribute that.

9 **CHAIRMAN BRISÉ:** Sure.

10 **MR. MOYLE:** There's a lot of paper flying
11 around, and sometimes it may be easier just to
12 redistribute it.

13 **CHAIRMAN BRISÉ:** And if you could give us a
14 number of the exhibit that was assigned to it yesterday,
15 that would be helpful as well.

16 **MR. MOYLE:** Okay. It was --

17 **MR. LITCHFIELD:** I believe it was 544. It's
18 the Moody's rating symbols.

19 **MR. MOYLE:** 544.

20 **CHAIRMAN BRISÉ:** Thank you.

21 **BY MR. MOYLE:**

22 Q So this, this exhibit is already in evidence
23 as 544, but I just wanted to ask you to confirm that
24 these are the Moody's rating symbols that are used for
25 long-term corporate obligations.

1 **A** I believe they are. I cannot attest to where
2 this came from, but it appears to me to be the standard
3 Moody's definitions of how it rates specific fixed
4 income securities.

5 **Q** And in your testimony you state, on page 7, at
6 line 8, you talk about the results of the last rate case
7 and say that there was a downgrading that took place.
8 Is that right?

9 **A** That's correct. We were downgraded both by
10 Moody's and S&P in the spring of 2010.

11 **Q** Okay. And, and so the downgrade, the
12 downgrade that took place by Moody's was from what to
13 what?

14 **A** I would need to check my memory. It's within
15 the single A category.

16 **Q** So there was not a downgrade that went from
17 the categories that are shown on this document; correct?

18 **A** Correct. We're not in the B double A group
19 that contains certain speculative characteristics.
20 That's correct.

21 **Q** And are you aware that so within, let's just
22 look at the A category, that the further subgradients
23 within A are A1, A2, and A3?

24 **A** That's correct. In the Moody's terminology,
25 within the A is A1, that's the highest

1 subcategorization, then A2 and A3.

2 Q And what are you currently ranked?

3 A I would have to check, but I believe we are at
4 A2 today, for Florida Power & Light. I assume we're
5 talking Florida Power & Light here.

6 Q Yes. Yes, sir. And if I understand your
7 testimony, one of the reasons you're asking for a return
8 on equity of 11.5 is to help you get access to, to
9 capital; is that right?

10 A Yes. I would actually say more maintain very
11 competitive access to capital at attractive rates. I
12 think that would be more precise.

13 Q Okay. And I appreciate that. But I guess if,
14 if the Commission were to make a decision that was
15 perceived as not helpful to the financial aspects but
16 may be helpful to the ratepayers, you would potentially
17 have a risk of a further downgrade; is that fair?

18 A Well, I'm not sure I appreciate the premise of
19 your question, but I will agree that it's certainly
20 possible that outcomes from this, these proceedings
21 could cause us to further downgrade. Absolutely, yes.

22 Q Okay. And, and typically if a downgrade
23 occurs, it is a one-notch downgrade, correct, typically?
24 And when I say notch, it would be if you're currently
25 A2, then you might go to A3. That would be a one-notch

1 downgrade; is that right?

2 **A** I don't know. I haven't studied the
3 statistics of Moody's downgrades, so I can't say the
4 proportions that are single notch, two notch, or more.

5 **Q** But you've been in the financial industry for
6 a long time; correct? You don't have information with
7 respect to when a downgrade occurs is it typically a --
8 I mean, don't the, Moody's, don't they typically put you
9 on watch or warning and then follow that with a
10 downgrade that's typically one notch?

11 **A** Again, typically to me implies that I have to
12 know something about the relative proportions. I don't
13 have that information. And, no, it is not always true
14 that they give you advanced warning by putting you on
15 negative outlook. Sometimes they do, sometimes they
16 don't.

17 **Q** Okay. And you don't, you don't have that
18 information with respect to how the Moody's has dealt
19 with utility companies. I'm not asking with respect to,
20 you know, general corporate ratings, but just with
21 respect to utility companies and their ratings, you
22 likewise don't have information with respect to how
23 Moody's would, would treat those entities typically?

24 **A** No, I don't have those historical statistics.
25 I suspect they're available from Moody's, but I don't

1 have them.

2 Q Okay. And were you here last night when we
3 asked Mr. Avera questions about the spread differentials
4 between various ratings with respect to debt, bond
5 ratings?

6 A Yes, I was.

7 Q Okay. So with respect to the difference, and,
8 again, referenced in this chart, between A and going up
9 one, double A, he said he thought there was a difference
10 of approximately 44 basis points; is that your
11 recollection?

12 A No, that's not.

13 Q What do you recall the difference between --
14 or do you know? Let me -- I don't need to ask what you
15 remember of Mr. Avera.

16 What's currently, if you know, the difference
17 between the bond, the spread between A and double A?

18 A There is no single number.

19 Q So, so you can't -- the investment community
20 would not be able to look, or there's no place that
21 compiles information that says the average spread
22 between single A and double A is this, or the spread
23 between single A and BAA is that?

24 A Yes. That's -- you just changed gears.
25 You're now speaking about averages. Averages obviously

1 encompass a whole array. There are individual spreads
2 for individual instruments as they trade in the market,
3 so not every A1 security will trade at the same spread.
4 So it is -- I would certainly agree that you can compute
5 an average of those, all those spreads. But obviously
6 you'd need to be careful what you were going to try and
7 use it for.

8 Q Okay. That's fair, because sometimes there's
9 individual pieces of paper that are out there, bond
10 issuances that may have different variability as
11 compared to an average; correct?

12 A Yes. But every market point with interest
13 rate refers to a specific security. So I believe you're
14 now talking about averaging all of those within a
15 particular category.

16 Q All right. Well, let's talk about averages
17 within a 90, 90% confidence level, if you would. If you
18 assumed a 90% confidence level, would you be able to
19 tell me and this Commission what the average spread is
20 between an A and a double A?

21 **MR. McGLOTHLIN:** I need to ask for some
22 clarification to see if I have an objection or not. I
23 believe the witness answered a few minutes ago that FPL
24 is rated within the single A category within which
25 there's A1, 2, and 3, and now I'm not clear as to

1 whether Mr. Moyle's question relates to a spread between
2 the category which is shown on this paper as capital A,
3 small A, and capital A, or whether he's referring again
4 to the witness's earlier testimony, which was all
5 contained within the single A category, A1, 2, and 3,
6 because there's a difference in spreads in both
7 directions.

8 **MR. MOYLE:** And my question was to ask for the
9 larger spread between the single A and then the capital
10 A, little A, not the, not the spread within A1, 2, 3.

11 **MR. MCGLOTHLIN:** Well, if the question is
12 designed to relate to the particular downgrading that
13 the witness describes, I object because it's not
14 consistent with the, with the evidence. If it's for
15 some other reason, I may not object.

16 **MR. LITCHFIELD:** Well, I'll object, I'll
17 object to Mr. McGlothlin's objection as argumentative
18 and testimony.

19 **CHAIRMAN BRISÉ:** Mr. Moyle, you may pose your
20 question.

21 **MR. MOYLE:** Okay.

22 **CHAIRMAN BRISÉ:** Maybe restate it, considering
23 some of the factors.

24 **MR. MOYLE:** Sure.

25 **BY MR. MOYLE:**

1 Q As we sit here today, with respect to an
2 average, can you tell this Commission the average spread
3 between A, capital A, as depicted on the exhibit I've
4 provided to you that's been previously marked and
5 entered into the record, and capital A, small a, which
6 is the next general credit rating, long-term corporate
7 obligation, as reflected by Moody's?

8 A No. I don't have those data with me.

9 Q Is it your understanding that with respect to
10 these ratings, that when they are measured as a general
11 matter within the industry, that they are, they are
12 measured within the gradients as set forth on this
13 exhibit, so that, that typically single A is compared to
14 capital A, small a, and single A is compared to, you
15 know, going down, Baa?

16 A I'm sorry. I'm completely lost on the
17 question. Repeat it.

18 Q Okay. Sure. You're aware that sometimes debt
19 spreads are, are looked at on the average between
20 various corporate ratings; correct?

21 A Yes. I think average spreads have some uses.

22 Q Okay. And when average spreads are looked at,
23 aren't they looked at between the gradients as set forth
24 on this exhibit with respect to Moody's?

25 A Not necessarily. Obviously it depends who's

1 doing the looking and what they're looking for. So, no,
2 I can't agree with that as a general statement.

3 Q Who typically -- I'm sorry. Who typically
4 looks at, who typically does the spreads? Who looks at
5 the spreads and publishes information? Is that Value
6 Line?

7 A You've got several things in there. Who does
8 the spreads, the market sets the spreads.

9 Q Okay.

10 A We have individual instruments that are priced
11 in the market that create a spread relative to some
12 underlying baseline index. So that's where the spreads
13 come from. That's just the capital markets.

14 Who looks at those numbers or their averages
15 would be anyone who's interested in that, so clearly
16 investors would be interested in that kind of
17 information generally.

18 Q Are there services that look at those spreads
19 and publish information relative to them?

20 A There are a number of services that publish
21 historical data on average spreads, yes.

22 Q Okay. And those companies that do that, when
23 they look at Moody's, isn't it true that they do it in a
24 way that reflects the rankings set forth on this
25 exhibit?

1 **A** Yes and no. It wouldn't be inconsistent with
2 the rankings set forth on this exhibit, but they
3 wouldn't necessarily be restricted to these specific
4 rankings.

5 **Q** Right. But you, you just testified about the
6 market setting the spreads, but you don't have
7 information with respect to the spreads currently
8 between the gradients set forth in here?

9 **A** That's correct. I believe I already answered
10 that.

11 **Q** Okay. And isn't it true that at the end of
12 the day the spreads between, say, an A1 and an A2 are
13 such that that information is not collected and reported
14 by entities that, that set forth the market spreads;
15 that instead, the entities report it with respect to the
16 rankings that are set forth on this exhibit?

17 **A** No.

18 **Q** In all cases you're saying no, that, that,
19 that nobody, the rating agencies, the people that
20 compile the information, that none of them report it
21 just on, on these gradients, that they all go in and
22 say -- they use the 1, 2, and 3?

23 **A** No. I'm sorry. We may be missing each other.
24 I'm not saying that nobody produces indices of averages
25 expressed at the tranche level, let me call it. What I

1 thought you were asking was that, was that the only
2 level at which they're reported. And the answer to that
3 is no, which is what I tried to answer.

4 Q So what's the tranche level? That's the
5 gradients that are on this sheet?

6 A Yes. If we can agree on terminology. To me,
7 A double A is a tranche. It may have gradations within.

8 Q But isn't it true in your business, when
9 ratings are being referred to, you typically refer to
10 the tranche level?

11 A No, that's not correct.

12 Q How about with -- same question with respect
13 to how averages are reported.

14 A I think we've just been over that. Some
15 averages are reported at this level. You can also get
16 data on averages for the tranche -- for the gradations
17 within the tranches.

18 Q Okay.

19 **MR. LITCHFIELD:** Mr. Chairman, we're spending
20 a lot of time on what seems like discovery as opposed to
21 cross-examination. It's been a long time since we've
22 been referred back to Mr. Dewhurst's testimony. In
23 fact, I think in 25 minutes we've been referred to his
24 testimony once.

25 **MR. MOYLE:** Well, Mr. Chairman, I mean, he's

1 the ROE witness for the company. He's the Chief
2 Financial Officer. This issue is worth \$240 million out
3 of a, you know, rate case of nearly 700 million, so I
4 think it warrants some exploration of, of, of this
5 difference.

6 I mean, part of the reason that they're saying
7 they need this money is to maintain their credit
8 ratings, and I want to explore the difference between
9 the credit ratings with this witness.

10 I'll try to move it along.

11 **CHAIRMAN BRISÉ:** If we could move along,
12 because, I mean, we have spent considerable time on that
13 and we have not been back to the testimony, so.

14 **MR. MOYLE:** Okay.

15 **BY MR. MOYLE:**

16 **Q** Back to your testimony, you said that there
17 was a downgrade following the last rate case; correct?

18 **A** That's correct.

19 **Q** Okay. So with respect to the downgrade that
20 occurred, if you assume that it was from A, this broad
21 Category A1, to A2, okay, do you have any idea how much
22 that represented in terms of the additional basis points
23 that, that you would have to pay when you issue debt?

24 **A** No, there is no single value to that because
25 that will have an impact on every subsequent debt

1 issuance that we do, and every subsequent debt issuance
2 will go out at a different spread, which presumably will
3 reflect the new rating. But how that gets priced will
4 be dependent upon market conditions at the time.

5 So there's both a short-term effect and then
6 there's a longer term effect, and I don't have data with
7 me on either.

8 Q How about with respect to market conditions
9 when the Commission's decision that's the subject of
10 your testimony, when that was issued, do you have
11 information about the spread at that point in time?

12 A Not with me, no.

13 Q And no recollection in your mind?

14 A It's difficult because we were coming out of
15 the, we were out of the worst part of the crisis. But,
16 I -- no.

17 Q And not to hold you to specifics, but do you
18 have any idea with respect to range? Was it, you know,
19 30 basis points, 50 basis points; you just don't know?

20 A I wouldn't want to speculate.

21 **MR. MOYLE:** I have another exhibit I'd like to
22 have passed out, if I could.

23 **CHAIRMAN BRISÉ:** Sure. We are now on 555.

24 (Exhibit 555 marked for identification.)

25 **MR. LITCHFIELD:** Mr. Chairman, we're looking

1 at the document, and I think we would agree with regard
2 to the characterizations or the attributions in the
3 first two lines. We do not agree that, that, with the
4 attribution of the third element to Witness Avera.

5 **CHAIRMAN BRISÉ:** Mr. Moyle?

6 **MR. MOYLE:** Yeah. This is a variation on an
7 exhibit you've seen before that I'm trying to get in,
8 and --

9 **MR. LITCHFIELD:** I would agree it's a
10 variation.

11 **MR. MOYLE:** This is the witness that people
12 have asked me to ask of. So if, if it's wrong with
13 respect to what I thought I understood Mr. Avera, you
14 know, say last night, then he can correct me and tell me
15 if it's wrong. I mean, I appreciate Mr. Litchfield
16 previewing that, but probably it's more appropriately
17 coming from the witness.

18 **CHAIRMAN BRISÉ:** Any further objections to
19 this, to this exhibit?

20 Okay. You may pose your question.

21 **BY MR. MOYLE:**

22 **Q** Mr. Dewhurst, do you have a, a sense with
23 respect to the proposition or the contention that
24 Florida Power & Light, as I understand it, is making
25 that they need a higher ROE of 11.5 because it will help

1 them access capital markets, make their debt less
2 expensive, that if you do a comparison between the
3 increased revenue requirements that ratepayers would pay
4 of 240 million, look at your capital expend and apply
5 the interest rate differential, that you can do a
6 mathematical calculation that, that might suggest that
7 ratepayers would be better off paying a little more in
8 debt costs than paying a lot more in return on equity?

9 **CHAIRMAN BRISÉ:** Mr. Moyle. Mr. Moyle, if you
10 could find a question in there.

11 **MR. MOYLE:** All right.

12 **BY MR. MOYLE:**

13 **Q** Do you agree with, with the first item on this
14 chart that the ROE increase is 240 million, as requested
15 from 10%, your current midpoint of 10% to your requested
16 midpoint of 11.5?

17 **A** I agree that the, the first order, the revenue
18 requirement differential for a 150 basis point
19 differential in ROE is approximately 240 million.

20 **Q** Okay. And would you agree that your capital
21 expend in the test year is 2.4 billion?

22 **A** I agree that that's what we expect to spend
23 next year.

24 **Q** Okay. And would you agree that the interest
25 rate difference between the current credit rating of

1 Moody's A and the next highest rating of Moody's AA is,
2 is 44 basis points, less than half a percentage point?

3 **A** No.

4 **Q** Do you know what the current interest rate
5 differential is between Moody's A and the next highest
6 credit rating of AA?

7 **A** No, nor even if I did, would it be meaningful
8 to multiply one number by the other on this page.

9 **Q** When you build a new power plant, like Cape
10 Canaveral, do you fund it with a combination of debt and
11 equity? How do you finance it?

12 **A** When we are in the construction phase we will
13 be funding it essentially through our regular ongoing
14 liquidity program. So we will be pushing cash out the
15 door in response to invoices from vendors, and that will
16 come from our general sources of liquidity. So at the
17 margin the short-term debt may fluctuate up and down.

18 Periodically we finance the entire enterprise
19 through a mixture of common equity and debt, which for a
20 long time has been about 60% equity, 40% debt. The
21 timing of when we go to market for what are typically
22 first mortgage bonds for the long-term debt will
23 obviously depend upon market circumstances, but in
24 particular the volume of the capital amount that we're
25 seeking.

1 So it would not make sense for us to go to the
2 market every week for \$50 million issuances. So clearly
3 we have to aggregate.

4 So my answer is in the short-term we're
5 financing a new power plant the same way we finance the
6 entire enterprise, on a short-term basis. By the time
7 the asset has come into service, essentially it is being
8 financed at that long-term mix of 60/40.

9 **Q** So, in sum, you -- long-term you try to
10 finance it with a 60/40 mix, 40% debt, 60% equity?

11 **A** Yes. Assuming that the 60/40 is what we
12 consider to be the appropriate capital structure, which,
13 as I said, it has been for a long time, and that would
14 be the long-term effect, yes.

15 **Q** Okay. And you're aware that the test year in
16 this case is 2013?

17 **A** Yes, sir.

18 **Q** Okay. And do you have any plans in the test
19 year to go into the market to, to get debt?

20 **A** Yes. Those are listed in the MFRs.

21 **Q** How much debt do you plan to ask for in the
22 test year?

23 **A** In the test year there's 700 -- 750 million
24 issuance. There's also a 250 million issuance scheduled
25 for December of this year. Obviously when we actually

1 do those will depend upon market circumstances at the
2 time.

3 Q And then do you have plans to likewise go into
4 the markets to seek additional equity capital in the
5 test year?

6 A We might or we might not. The funding of
7 FPL's equity is a little different than the funding of
8 the debt.

9 Q And that's because all of the equity comes
10 from the parent; correct?

11 A No, that's not correct.

12 Q So FPL, the operating company, doesn't have
13 all of its equity from NextEra, the parent?

14 A No. It generates its own incremental equity
15 through retained earnings.

16 Q And are those retained earnings sufficient to
17 capitalize the equity of the operating company?

18 A Almost. For the last four years FPL has paid
19 no net dividends. So effectively over the last four
20 years it's just been able to support its own equity
21 needs by retaining everything that it's generated.

22 Q So that hasn't resulted -- I mean, I can't
23 invest equity in Florida Power & Light, the operating
24 company; correct? I have to, I have to buy NextEra
25 Energy stock, the holding company stock; correct?

1 **A** That's correct.

2 **Q** And then the only entity, as I understand it,
3 that can invest equity in the operating company is the
4 parent; isn't that the practice?

5 **A** Yes, that's correct. We maintain that 60/40
6 ratio by periodically, by dividending up to the parent
7 or reinjecting capital back down from the parent so that
8 the net effect is that we maintain that 60/40
9 consistently.

10 **Q** Isn't this case really at the end of the
11 day -- I mean, you just said that FPL's earning enough
12 money in retained earnings that there's no need for
13 additional equity from the parent. I mean --

14 **MR. LITCHFIELD:** I'll object. I don't believe
15 that was his testimony at all. Object, object to the
16 form of the question.

17 **CHAIRMAN BRISÉ:** Mr. Moyle?

18 **MR. MOYLE:** I thought he had testified that
19 there had not been any equity coming in from the parent
20 to the subsidiary in four years.

21 **BY MR. MOYLE:**

22 **Q** Is that not your testimony?

23 **A** That is not my testimony.

24 **Q** Okay. Well, would you clarify that?

25 **A** What my, in response to the earlier question,

1 I was doing a mental computation that said over the
2 four-year period since 2007 the net of the dividends up
3 from FPL to the parent and the injections of new equity
4 capital down from the parent have washed out. In
5 individual years there's been a net injection of
6 capital, in individual years there may be a net dividend
7 up, but roughly over that four-year period it's netted
8 out to zero.

9 Q So Mr. Silagy, when he was on the stand, he
10 said that there hadn't been a payment, a dividend
11 payment from the operating company to the parent in, in
12 four years. That, that's not correct, I guess. Based
13 on your testimony you're saying there have been dividend
14 payments but there have been equity infusions so they
15 net out.

16 MR. LITCHFIELD: I'm going to object to the
17 mischaracterization of Mr. Silagy's testimony now.

18 BY MR. MOYLE:

19 Q Were you here for Mr. Silagy's testimony?

20 A Yes, I was.

21 Q Did you hear him say that there hadn't been a
22 dividend payment from the operating company up to the
23 parent company in, I think he said five years, but did
24 you hear his testimony?

25 A I don't recall the exact details of what he

1 said.

2 Q All right. Well, the record will speak to
3 that. But, but just so I understand your testimony,
4 your testimony is in effect that equity coming down from
5 the parent to the subsidiary nets out with respect to
6 the dividends going up from the subsidiary to the
7 parent; is that right?

8 MR. LITCHFIELD: Asked and answered.

9 CHAIRMAN BRISÉ: You asked that.

10 MR. MOYLE: Okay. This is a confusion area.
11 It's technical. I, I'm a history major, not a finance
12 person, so.

13 CHAIRMAN BRISÉ: Understood. Understood. But
14 you've asked and it was answered.

15 MR. MOYLE: Okay.

16 BY MR. MOYLE:

17 Q And I guess the equity, the way the equity
18 works, Mr. Dewhurst, is, is that's the opportunity for
19 the parent to put equity in and, and to earn, earn the
20 money; is that right? That the, the equity going into
21 the operating company all comes from NextEra Energy, and
22 that's the opportunity to -- all the testimony from the
23 experts relates to the equity. That's all equity that
24 is provided by NextEra; is that right?

25 MR. LITCHFIELD: Asked and answered.

1 **CHAIRMAN BRISÉ:** Maybe if --

2 **MR. MOYLE:** I'm not sure it was answered. I
3 think it was asked, but I'm not sure it was answered.

4 **CHAIRMAN BRISÉ:** Okay. For clarity of the
5 record I'll allow you to ask it.

6 **THE WITNESS:** I'm not sure I understood your
7 question. It was so compound.

8 **BY MR. MOYLE:**

9 **Q** Okay. The only entity that can earn a return
10 on, on equity invested in Florida Power & Light, the
11 operating company, is NextEra, the parent; correct?

12 **A** No. FPL, the corporate entity, has an
13 opportunity to earn a return on the capital that it
14 deploys that's productive and for the customer's
15 benefit. Because FPL is a subsidiary of NextEra Energy,
16 it's also true that NextEra Energy, or more specifically
17 its shareholders, have the opportunity to earn on
18 capital that's productively employed at FPL.

19 **Q** Talk a little bit about the pension. What is
20 the long-term projected return for the FPL pension?

21 **A** It's in our SEC filings. I believe at the
22 moment it's 7.75. We can check.

23 **Q** And do you, are you aware that the pension
24 fund assets are invested in things like international
25 investments and large cap funds?

1 **A** Yes. Like most pension funds, there is a wide
2 array of asset classes that it's invested in.

3 **Q** And as -- with your fiduciary duties vis-a-vis
4 the pension fund that you talked about earlier, do you
5 believe that a 7.75 return is a reasonable return
6 long-term?

7 **A** Yes. For the specific asset mix that we have
8 in the pension fund and the specific subcomponents of
9 that, I believe 7.75 is a very reasonable long-term
10 return expectation for accounting purposes. What the
11 actual return turns out to be obviously is going to be
12 what it turns out to be.

13 **Q** Have you done any comparison to view the
14 relative risk of your investments via the pension fund
15 in things like large cap funds and international
16 investments, as compared to the risk associated with the
17 Florida Power & Light operating company?

18 **A** No, I haven't. There would be no relevance to
19 that.

20 **Q** Okay. And I guess, would it be, would it be
21 fair to say that the view with respect to a reasonable
22 return -- I mean, you have, you have a different view
23 when you're testifying on behalf of a reasonable return
24 for Florida Power & Light, the operating company, as
25 compared to the reasonable return expected for the

1 pension fund; correct?

2 **MR. LITCHFIELD:** Object to the form of the
3 question. Sounds like testimony, not a question.

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

5 **THE WITNESS:** It's a question that I don't
6 understand.

7 **BY MR. MOYLE:**

8 **Q** Okay. When, when you're exercising your
9 fiduciary duties with respect to the pension fund, you
10 would agree that long-term a reasonable return is 7.75%;
11 correct?

12 **A** I believe when I answered the previous
13 question I said that I believe that 7.75% is a
14 reasonable return expectation for accounting purposes
15 for the plan that we have today with its specific asset
16 mix, yes.

17 **Q** Okay. But when you're testifying as the Chief
18 Financial Officer on behalf of Florida Power & Light,
19 the regulated utility, your testimony is that the
20 reasonable return in that context is 11.5% return on
21 equity; is that right?

22 **A** In this particular case, yes, my testimony is
23 that 11.5% is a reasonable allowed return for Florida
24 Power & Light.

25 **Q** Have you ever heard of the saying where you

1 sit -- I'm sorry -- where you stand depends on where you
2 sit?

3 **A** Yes, I have.

4 **Q** And you made a filing with the SEC, you're the
5 person who signs filings with the SEC under the federal
6 Sarbanes-Oxley Act; is that right?

7 **A** I'm one of the people who signs our financial
8 statements, yes.

9 **Q** Okay. And, and isn't it true that last week
10 you made a filing with the SEC which informed the
11 investment community that, that you could live with,
12 operate with an ROE that was less than 11.5?

13 **A** Could you show me that filing?

14 **MR. LITCHFIELD:** And I'll object to the form
15 of the question. I think it's a mischaracterization of
16 our SEC filing and an attempt by Mr. Moyle to introduce
17 evidence into this record that I think we had agreed to
18 exclude.

19 **MR. LAVIA:** I would, I would join the
20 objection. I believe he is now straying into the issue
21 concerning the settlement agreement, and I think we've
22 done a good job of keeping it out of this record.

23 Thank you, Your Honor.

24 **CHAIRMAN BRISÉ:** Okay. Mr. Moyle?

25 **MR. MOYLE:** If I could speak, if I could speak

1 to that. They made, they made an SEC filing last week,
2 and the SEC filing had a 10.7 return on equity number in
3 it. You know, it's out there for the investment
4 community. It is something that is, you know, they're
5 telling the investment community that this is an
6 acceptable number. It seems that that filing in that
7 ROE is material and probative with respect to the ROE
8 issue in this case. And I'm not trying to get into
9 what's behind the settlement. I'm just trying to use
10 that filing as an admission against interest about the
11 ROE and --

12 **CHAIRMAN BRISÉ:** Mr. Moyle?

13 **MR. MOYLE:** -- a statement against interest.

14 **CHAIRMAN BRISÉ:** If we could move on from that
15 question.

16 **MR. MOYLE:** Okay. Well, I -- Mr. Chairman,
17 and I appreciate this, we've been spent two or three
18 days and we haven't had any discussion about the
19 settlement agreement. But I said in my opening
20 statement that FIPUG supports the settlement agreement
21 as a fair resolution of the issues, and I am not clear
22 as we sit here today whether I am supposed to be putting
23 in evidence with respect to fairness, because, because
24 that issue -- you know, there was a motion in limine
25 that was made, and I, I thought maybe that some of this

1 proceeding would, would touch on that.

2 So I -- if we're going to have a second,
3 second, you know, kind of continue along proceeding on
4 that where I'll have a chance to ask some questions
5 about fairness, then, then I'm good. But if not, I
6 don't want to be disadvantaged by some people saying,
7 well, you put the settlement in play and then you didn't
8 put any evidence in to support it.

9 So I just need some direction with respect to
10 procedurally where we are, and I can tailor and adjust
11 my questions accordingly.

12 **CHAIRMAN BRISÉ:** Well, right now you can move
13 on from that question. With respect to the, the larger
14 question, we were intending to address, address that on
15 yesterday afternoon, but we were trying to take into
16 consideration some of the factors that were, were sort
17 of natural factors that were out. And now that we have
18 a better sense of where those things will probably be,
19 then we'll be in a better position to talk about the
20 procedure with that.

21 So if you can move on with your question, and
22 then we'll address the procedure by late this afternoon.

23 **MR. MOYLE:** Okay. That's fine.

24 **MR. LITCHFIELD:** Mr. Chairman, just, just to
25 clarify though. I think from our perspective at this

1 end of the table, one of the reasons that we would
2 object to him exploring -- I just want to make this
3 clear for the record -- is that he was attempting to
4 explore just one element of a total package, and that is
5 what would be reflective in and of any filing at the
6 SEC.

7 **CHAIRMAN BRISÉ:** Understood.

8 **MR. McGLOTHLIN:** So that it's clear, OPC joins
9 in the objections for different reasons, one of which is
10 the provision of the evidence code relating to
11 compromise and offers to compromise being inadmissible
12 for any purpose.

13 **CHAIRMAN BRISÉ:** Understood.

14 So, Mr. Moyle, if you could move on.

15 **MR. MOYLE:** Okay. Thank you. I have no
16 further, further questions, given that. But thank you,
17 thank you for letting me raise the issue. I think I
18 understand where we are, and you overruled the request
19 to get into fairness, and we'll deal with that, it
20 sounds like, down the road.

21 **CHAIRMAN BRISÉ:** Sure.

22 **MR. MOYLE:** Thank you.

23 **CHAIRMAN BRISÉ:** Mr. Sundback with South
24 Florida Hospital Association.

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

CROSS EXAMINATION

BY MR. SUNDBACK:

Q Good morning, Mr. Dewhurst.

A Good morning.

Q You testify today in part because you are the CFO of relevant organizations; is that right?

A Correct.

Q Part of your job duties includes providing information about FPL and NextEra Energy, Inc., to the public and the SEC; is that correct?

A Yes.

Q And part of your job responsibilities are to make sure that those disclosures are accurate and thorough.

A Yes. We work very hard on that.

Q Thank you. Your job duties include interrelating with the credit rating agencies; is that not correct?

A Yes.

Q And do you have regular discussions with the credit rating agencies?

A Could you tell me what you mean by regular?

Q Do you speak with the credit rating agencies before the credit rating agencies issue reports or analyses of FPL or NextEra Energy, Inc., on a regular

1 basis?

2 **A** Usually, not always. Sometimes agencies will
3 put out reports without consulting the issuer.

4 **Q** But, but in more cases than not, you have a
5 discussion with the rating agency before the issuance of
6 the report; is that correct?

7 **A** Yes. In more cases than not, and we would
8 certainly try to.

9 **Q** And they solicit your input and response in
10 part to what they have as, for instance, a draft
11 document; is that correct?

12 **A** No, that's not correct.

13 **Q** Do you have a discussion with them about the
14 contents of what they propose to issue?

15 **A** Yes and no. What they typically allow us to
16 do is check their material or their draft report for
17 errors of fact.

18 **Q** Okay. You are familiar with the methodologies
19 employed by the credit rating agency, the primary credit
20 rating agencies, and for our discussion today can we
21 accept that the primary credit rating agencies would be
22 S&P, Moody's, and Fitch?

23 **A** I will accept that, yes.

24 **Q** Okay. And are you familiar with their
25 methodologies generally?

1 **A** I have a general familiarity. The detailed
2 familiarity rests with people within my staff.

3 **Q** Okay. In your Exhibit MD-6, you discuss some
4 of the criteria that are utilized by the credit rating
5 agencies; is that correct?

6 **MR. LITCHFIELD:** I believe MD-6 is in
7 Mr. Dewhurst's rebuttal testimony.

8 **BY MR. SUNDBACK:**

9 **Q** My apologies. Would you agree that you have
10 at least a general -- well, I'll strike that.

11 Would you agree that S&P, Moody's, and Fitch
12 look to measurements such as the relationship of debt to
13 cash flows, whether it's free cash or a different
14 measure of cash?

15 **A** Yes. I believe the cash flow is an important
16 part of their analysis.

17 **Q** And they also look at the relationship of debt
18 to total capital; is that right?

19 **A** Typically, yes.

20 **Q** And sometimes S&P, at least, includes the
21 results of their analyses in their reports; is that
22 correct?

23 **A** Yes, that's correct. More recently they have
24 been doing that.

25 **Q** And sometimes they in fact include their

1 computations, although that's not always the case.

2 A That's a fair characterization.

3 Q Okay. Would you agree that one of the, the
4 credit rating agencies like S&P wouldn't include a
5 calculation in their analyses if they didn't consider it
6 material and important?

7 A Yes. I would certainly hope so.

8 Q Okay. Let's look at page 47 of your direct
9 testimony, if we could, please.

10 A Yes, sir.

11 Q Starting at line 10, you're discussing the ROE
12 adder; right?

13 A That's correct. This section deals with the
14 ROE adder.

15 Q Thank you. And one of the justifications is
16 that you believe it will incent, among others, FPL to
17 pursue excellent management; right?

18 A Yes. That's the fundamental logic behind the
19 adder, is to provide a positive incentive for extra
20 performance.

21 Q You're not suggesting that FPL will not
22 maintain its current level of performance going forward
23 if it's not given the 25-basis-point adder, are you?

24 A I can't categorically state what level of
25 performance FPL will be able to deliver in the future,

1 so I don't think I can answer that question.

2 Q Thank you. It's true that the 25-basis-point
3 adder is not the only benefit that would accrue, for
4 instance, to shareholders as a result of excellent
5 management of an enterprise such as FPL; isn't that
6 right?

7 A I'm not sure I'm following you. Could -- I
8 may have missed the distinction here.

9 Q It's not your testimony that the
10 25-basis-point adder is the only benefit that would
11 accrue to shareholders in FPL as a result of excellent
12 management of FPL, is it? If you have no opinion,
13 that's a fair answer.

14 A Well, my answer is it depends. I would agree
15 it wouldn't necessarily be. It would depend upon the
16 facts and circumstances. If FPL was significantly
17 underearning hypothetically, then shareholders wouldn't
18 be gaining appropriate benefits. I think I need to
19 understand the specific circumstances.

20 Q Well, for instance, to the extent that
21 excellent management produces lower rates, lower rates,
22 all other things being equal, may increase demand for
23 the output of FPL's generation plants; is that correct?

24 A I agree that could be one outcome.

25 Q Okay. And to the extent --

1 **A** But that may not be a benefit to shareholders.

2 **Q** To the extent that excellent management
3 results in reducing costs while maintaining revenue,
4 that might increase the margin from time to time; is
5 that not correct?

6 **A** It might.

7 **Q** To the extent that FPL is making more sales at
8 a base rate that's fixed at a lower level of billing
9 determinants, does not that, at least between rate
10 cases, provide a higher cash flow for FPL?

11 **A** It probably would.

12 **Q** To the extent that FPL serves industrial
13 customers, FPL, if it has lower rates, may induce the
14 industrial customers to maintain or increase their
15 production within FPL's service territory; is that not
16 correct?

17 **A** It's possible. It would depend.

18 **Q** Uh-huh. You haven't done a study of that
19 issue, I gather, from your answer.

20 **A** I personally have not. Obviously it would
21 depend upon how important electricity was as a component
22 of their costs and a whole variety of other things, but
23 certainly in principle it could.

24 **Q** But just to make sure I understand your
25 answer, you have not particularly investigated this

1 issue before, for instance, filing your testimony before
2 this Commission.

3 **A** Correct. I personally have not.

4 **Q** Thank you.

5 **MR. SUNDBACK:** Mr. Chairman, at this time we'd
6 ask to have assigned the next appropriate exhibit number
7 to a document that we'd like to have distributed.

8 **CHAIRMAN BRISÉ:** Sure. That would be 556.

9 **MR. SUNDBACK:** 556?

10 **CHAIRMAN BRISÉ:** Yes.

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

12 (Exhibit 556 marked for identification.)

13 **CHAIRMAN BRISÉ:** Are there any objections to
14 this document?

15 **MR. LITCHFIELD:** Yes, Mr. Chairman. It again
16 appears to be yet another -- it's less than a subset,
17 isn't it? Just two pages, excluding the cover page, of
18 a much larger document.

19 **MR. SUNDBACK:** Mr. Chairman, we'd inquire
20 through the bench if that's the entirety of FPL's
21 objection. We're happy to address their objections, we
22 just don't want to interrupt their --

23 **CHAIRMAN BRISÉ:** Sure.

24 **MR. LITCHFIELD:** No. I'm -- well, and I
25 presume that Mr. Sundback will attempt to authenticate

1 it through this witness, but for now that's, that is my
2 objection.

3 **CHAIRMAN BRISÉ:** Okay.

4 **MR. SUNDBACK:** Mr. Chairman, we have a copy of
5 the full presentation for that company. And for that
6 matter, it's on the company's website, so the company
7 certainly is able to access this readily.

8 **MR. LITCHFIELD:** Thank you. We'd appreciate a
9 full copy. That would be helpful.

10 **MR. SUNDBACK:** Mr. Chairman, if we could at
11 this time, we'll provide a full copy to FPL.

12 **CHAIRMAN BRISÉ:** Sure.

13 **MR. LITCHFIELD:** Do you have full copies for
14 the witness and for the rest of the counsel?

15 **MR. SUNDBACK:** Mr. Chairman, we don't have a
16 full copy for everybody in the room. If that's the
17 request of FPL, I'm sure we can make copies and
18 distribute it at lunch. But we want to ask questions
19 about these pages. We're happy to give the witness a
20 full copy. And if he wants to refer to other pages,
21 presumably he can do so, if it's appropriate.

22 **MR. LITCHFIELD:** Well, I think it's more than
23 appropriate then when we are talking about a document
24 and -- that we have the full document before us, not
25 just for the witness but for everybody here this

1 morning. That's typically the practice if you want to
2 cross-examine on a document. You have it available if
3 someone would like to have a full copy.

4 **MR. SUNDBACK:** Mr. Chairman, Mr. Litchfield is
5 objecting in the first instance, as I understand it,
6 that he's not sure this document is authenticated. We
7 don't want to get into --

8 **MR. LITCHFIELD:** No, no, no, no, no --

9 **MR. SUNDBACK:** I'm sorry. Could I be allowed
10 to finish my --

11 **CHAIRMAN BRISÉ:** Gentlemen? Gentlemen? Thank
12 you.

13 What we're going to do is we're going to allow
14 questions to be made, to be posed on the document. If
15 you can make the document available to our staff, our
16 staff will make copies and the copies will be
17 distributed.

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

19 **CHAIRMAN BRISÉ:** Okay.

20 **MR. LITCHFIELD:** The -- excuse me,
21 Mr. Chairman. The copies will be made before questions
22 are asked or after questions are asked? That's my
23 confusion, I suppose.

24 **CHAIRMAN BRISÉ:** As questions are being asked.

25 **MR. LITCHFIELD:** I'd like then, I'd like the

1 witness to be given my copy. I'll give up my copy so
2 that the witness can have it. I believe for staff to
3 make --

4 **CHAIRMAN BRISÉ:** I believe they have a copy
5 available for the --

6 **MR. LITCHFIELD:** I don't believe the copy has
7 even been offered to the witness yet.

8 **CHAIRMAN BRISÉ:** Okay. All right. So then we
9 need to make sure that the witness has a full copy.

10 **MR. SUNDBACK:** Okay. Mr. Chairman, I
11 apologize. We had two full copies, of which
12 Mr. Litchfield has one and staff has one. So we're
13 not --

14 **CHAIRMAN BRISÉ:** Make one available to the
15 witness, a full copy.

16 **MR. MOYLE:** Mr. Chairman, I mean, in these
17 rate cases there's lots and lots of paper that is out
18 there, and I think the practice has been historically to
19 take excerpts and use them. I surely don't feel like I
20 need a full copy. That's going to kill a lot of, you
21 know, trees to do it that way. But if that's how we're
22 going to do it, then it's -- you know, I don't think
23 it's going to make the proceeding go any, any faster.

24 **CHAIRMAN BRISÉ:** Understood.

25 **MR. SAPORITO:** Mr. Chairman, I just want to

1 put on the record that the other day I put an excerpt
2 from FPL's annual report. The only objection from FPL's
3 counsel was he wanted to see the full copy. I showed it
4 to him, he returned it, and we proceeded.

5 **CHAIRMAN BRISÉ:** Understood.

6 You may proceed.

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

8 **BY MR. SUNDBACK:**

9 **Q** All right. Just as a general matter,
10 Mr. Dewhurst, in your role as CFO, do you regularly
11 undertake to make sure that disclosures made to, for
12 instance, investors are accurate?

13 **A** Yes, I do.

14 **Q** Okay. And would it be correct that it's
15 important to FPL to make accurate and careful statements
16 of its conditions to investors?

17 **A** Yes. We certainly try and do that.

18 **Q** Sanford Bernstein & Company, could you
19 describe for us who that is generally, if you have any
20 knowledge of them?

21 **A** Sanford Bernstein is a brokerage and coverage
22 firm, so they would be one of the firms that would trade
23 our stock and would probably have a coverage analyst who
24 would follow our performance and issue reports on it.

25 **Q** And this strategic decisions conference, this

1 involves other invitees aside from Sanford Bernstein
2 employees and, and officers?

3 **A** I wasn't present at the June 2nd, 2010,
4 presentation, but I would assume that was the case.
5 That would typically be the case.

6 **Q** You were the Vice Chairman at the time, were
7 you not?

8 **A** I, at that time I was Vice Chairman and Chief
9 of Staff. I was not the Chief Financial Officer.

10 **Q** Okay. And to the extent that you were Vice
11 Chairman, were you aware of the nature of the
12 presentations that are made to investors?

13 **A** At that -- yes and no. At that time, because
14 of my role, I would have a general knowledge of the
15 kinds of materials that we would present, but I wasn't
16 involved, for example, in this specific presentation.
17 So this is actually the first time I've ever seen this
18 particular document.

19 **Q** Well, but isn't it true that this presentation
20 is in large part simply a recitation of other materials
21 that are presented periodically, were presented
22 periodically by the company?

23 **A** No, that's not correct. Because this is the
24 visual part of the presentation. The more important
25 part is obviously the oral presentation that accompanies

1 that, which is obviously not available to us at this
2 point. So these are typically slides that we will use
3 to illustrate points that we wish to make. But without
4 the, without direct knowledge of the oral presentation,
5 it's difficult going back in time to interpret much from
6 it.

7 Q All right. But I think, as I understand your
8 statement, these are typically slides that are provided
9 in multiple presentations. In other words, you don't
10 just do a one-off presentation for, in this instance,
11 the strategic decisions conference that contains unique
12 information that's not, on a periodic basis, provided to
13 customers. Haven't you -- I'll strike that.

14 Haven't you seen information of this nature
15 repeatedly contained in FPL presentations to investors?

16 **MR. LITCHFIELD:** I'll object to the question.
17 It's incredibly vague. This information meaning what,
18 and other presentations meaning which?

19 **BY MR. SUNDBACK:**

20 Q Let's look at page 4 of the slides, if you
21 would, under Mr. Hay's presentation.

22 A I'm there.

23 Q Would you agree that information that's
24 contained on this slide is typically provided to
25 investors in presentations by FPL?

1 **A** Yes. It changes each time.

2 **Q** Would you agree that FPL on more than one
3 occasion has asserted that Next Energy -- I'm sorry --
4 NextEra Energy is a premier U.S. power company comprised
5 of two great businesses?

6 **A** Yes. To the extent the information remains
7 valid, it would obviously be repeated. To the extent
8 that it changes, we would update the information. The
9 purpose is to try and give a comprehensive view to
10 investors of where we are at any point in time,
11 consistent with Mr. Sundback's point about full
12 disclosure.

13 **Q** Thank you. And one of the two great
14 businesses is FP&L, is it not?

15 **A** It is now and it has been certainly as long as
16 I've been associated with it.

17 **Q** And, for instance, in June 2010?

18 **A** I believe it was a great business then, yes.

19 **Q** Thank you. Let's look at the slide numbered
20 18, please.

21 **A** I'm there.

22 **Q** On the right-hand side there is a caption,
23 drivers of growth. Do you see that?

24 **A** Yes, sir.

25 **Q** Florida had nice weather before FPL ever

1 existed; right?

2 **A** I believe so.

3 **Q** And FPL is not responsible for the baby boom
4 generation reaching retirement age or moving to Florida;
5 is that right?

6 **A** Correct.

7 **Q** Okay. FPL is not responsible for the fact
8 that there's no state income tax; right?

9 **A** Certainly not solely responsible. I don't
10 know if we ever played any role in that.

11 **Q** By the way, the -- okay.

12 The third bullet point, that represents a
13 statement by FPL that in fact lower housing prices may
14 be a source of attraction to individuals moving into
15 FPL's service territory; is that correct?

16 **A** Yes. At the time that this presentation was
17 made, I believe the, the view would have been that
18 because of the improvement in affordability, that would
19 be long-term a positive driver of growth.

20 **Q** Okay. And you're familiar with these types
21 of, the assertions we've just gone through from your
22 exposure to FPL presentations to investors from time to
23 time; is that correct?

24 **A** No. I believe I'm familiar with the
25 assertions through reviewing analyses that our staff

1 have done. The results of those analyses would then be
2 reflected in the presentations we make to the outside
3 world.

4 Q And your review with your staff would be
5 consistent with the conclusions articulated in this
6 document at that time; is that correct?

7 A Well, as I said earlier, I wasn't responsible
8 for this at the time, so I didn't review the material.
9 I would think it highly likely. I would have confidence
10 that Mr. Hay satisfied himself that these were valid
11 statements at the time.

12 Q You didn't discuss with Mr. Hay while you were
13 Vice President -- I'm sorry -- Vice Chairman, for
14 instance, the elements contained in the two pages we
15 just looked at?

16 A Oh, certainly. I discussed them in general
17 terms. I'm just saying I didn't do that at this
18 specific point in time, which is important because we
19 have to make sure that when we disclose things to
20 investors, we have a reasonable basis for all the
21 forward-looking statements that we are making.

22 Q Thank you.

23 Let's look at Page 6, lines 13 through 17 of
24 your direct testimony, if we could, please.

25 A I'm sorry. Page 6?

1 Q Yes, sir.

2 A And the lines?

3 Q 13 through 17.

4 A Thank you. Yes, sir.

5 Q And there you're discussing the ROE adder and
6 you're, you're summarizing your arguments in favor of
7 it; right?

8 A No, I don't believe I'm summarizing it. I
9 believe this is an additional statement, I believe. My
10 testimony further explains. That implies there has been
11 some other things beforehand.

12 Q Okay. Would you agree that, in order to
13 provide a proper incentive, the ROE adder has to be
14 based on metrics that can be objectively evaluated?

15 A No, I don't believe so.

16 Q Okay.

17 A I think that was desirable, but ultimately my
18 testimony is the adder, the decision to add the adder is
19 a matter of judgment.

20 Q You wouldn't want the criteria on which the
21 adder is evaluated, the opportunity to take advantage of
22 the adder is evaluated, to be based on circumstances
23 that are beyond the utility's control, would you?

24 A No. I disagree with that. I believe the
25 basis for the performance adder should be ultimately the

1 total value delivery for customers. I believe that's
2 the way free markets work. And as I say in my
3 testimony, one of the values of this is it's a way of
4 mimicking what free markets do. Free markets reward
5 outcomes regardless of how they are obtained. But by
6 doing so, they encourage the inputs that over time are
7 likely to lead to better outputs. So we are --

8 Q I'm sorry. Would you agree then, or is it
9 your position that to the extent a positive outcome is
10 the result of fortuitous circumstances not within the
11 utility's control, it should be entitled to the ROE
12 adder? Is that your --

13 A No, that's not what I said. What I'm saying
14 is that I believe the Commission should evaluate the
15 totality of the results and make a judgment, including
16 incorporating into its thinking which portions may be
17 attributable to management actions, which portions may
18 not. But the totality of the results is the ultimate
19 delivery of values that customers that I think you want
20 to incent.

21 Q All right. Mr. Dewhurst, I'd like an answer
22 to my question. I understand you have provided some
23 information in your last answer, but you have not
24 answered my question.

25 A Could you repeat your question?

1 **Q** If the beneficial results were purely the
2 result of fortuitous circumstances, is it your position
3 that the 25-basis-point adder should be awarded to the
4 utility?

5 **MR. LITCHFIELD:** I have no objection to this
6 question. I do have an objection to arguing with the
7 witness.

8 **MR. SUNDBACK:** Mr. Chairman, I could have
9 moved to strike the answer, because the question clearly
10 contemplated -- the prior question clearly contemplated
11 a circumstance in which the only reason the result was
12 obtained was fortuitous circumstances. The witness said
13 that's not what I'm saying, and then went off to a
14 different topic.

15 He didn't say, no, that's not correct or, yes,
16 that is correct. He deflected it and then moved to a
17 different topic.

18 I'd just like an answer to the question if I
19 could.

20 **CHAIRMAN BRISÉ:** Sure. If you could restate
21 the question -- I mean, if you could repose your
22 question and then give him an opportunity --

23 **MR. SUNDBACK:** You're setting a high hurdle,
24 Mr. Chairman, but we'll try.

25 **BY MR. SUNDBACK:**

1 Q It's not your position that if the positive
2 result was obtained purely through fortuitous
3 circumstances, that the utility should be awarded the
4 25-basis-point adder, is it?

5 A No. In a counterfactual situation I would say
6 no award.

7 Q I'm sorry. Could you repeat the answer? I'm
8 not sure I caught that entirely.

9 A No. In that counterfactual situation I don't
10 think it should be awarded.

11 Q Okay. Thank you.

12 Let me understand a little better how you
13 would like to apply the, the criteria. Let's presume we
14 have two utilities, A and B, and they each own one
15 natural gas-fired generator, and it's the same model of
16 generator, it's the same year. Utility A had
17 100 customers and they consumed 1,000 megawatts of
18 energy every month. Utility B had 1,000 customers and
19 they demanded 1,000 megawatts of energy every month.
20 The production non-fuel O&M associated with those units
21 would be the same; right?

22 A I don't know. Can you show me in my testimony
23 where this is? I speak to our request for an adder
24 based on our performance.

25 Q That's, that's correct. And I want to

1 understand how you would apply these criteria so that
2 the Commission can know, for instance, what their, the
3 product they're buying, if you will. If you are not
4 comfortable or don't feel yourself competent to address
5 the issues about how the Commission would apply the
6 criteria, that's a, that's a perfectly acceptable
7 answer.

8 **A** As my testimony shows, and also this is also a
9 question that Witness Deaton explains, she explains the
10 specific application, but mechanically what we have
11 proposed is that this Commission would grant us the
12 adder based on the totality of our performance. It
13 would be contingent on us maintaining the lowest typical
14 residential bill in the state going forward. If we were
15 not able to maintain that position, it would be stripped
16 away. If we subsequently recovered that position, it
17 would be reinstated until such time as the Commission
18 saw fit to next review our performance.

19 **Q** Okay. Mr. Dewhurst, now, could we address my
20 question? We have those two utilities A and B with the
21 fact pattern I gave you. Would you agree that the
22 non-fuel production O&M associated with each of those
23 units would be the same; right?

24 **A** I'm sorry. I lost all the hypothetical
25 assumptions.

1 Q Okay. I'd really appreciate if you'd focus
2 on, on the question I'm asking you, sir.

3 **MR. LITCHFIELD:** I'll object.

4 **BY MR. SUNDBACK:**

5 Q We have two utilities, A and B. Each owns the
6 same model of natural gas-fired generator that was
7 installed in the same year. Utility A has
8 100 customers. They each demand 1,000 megawatts of
9 hour -- 1,000 megawatt hours of energy every month.
10 Utility B is the same, except it has 1,000 customers
11 instead of 100 who also demand 1,000 megawatt hours of
12 energy every month. In that case, the production
13 non-fuel O&M associated with each of those units is the
14 same; right?

15 A I'm -- I really am trying to focus on your
16 question, sir, but I'm really having a hard time. Are
17 we saying that we've got two hypothetical utilities that
18 are equal in every other respect, meaning all their
19 other generating units are the same?

20 Q I'm sorry, sir. There are really only two
21 utilities and each has only one generating unit. It's
22 exactly the same. It's a, it's a 2000 GE combustion
23 turbine.

24 A Okay.

25 Q Same model.

1 **A** Yes. Okay.

2 **Q** Can you answer my question, sir?

3 **A** Are they operating exactly the same way?

4 **Q** They are operating in a way that allows
5 utility A to sell 1,000 megawatt hours of energy every
6 month to its 100 customers, and utility B is able to
7 sell 1,000 megawatt hours every month to 1,000
8 customers.

9 **A** If I'm understanding your hypothetical, the
10 only difference that you've given me -- the total
11 delivery of megawatt hours is the same. The only
12 difference is one is going to 100 customers and one is
13 going to 1,000 customers. Is that what you're saying?

14 **Q** That's correct.

15 **A** Okay. And the specific measure that you wish
16 me to look to is what?

17 **Q** Production non-fuel O&M.

18 **A** Total dollars would be the same.

19 **MR. LITCHFIELD:** May I ask for a clarification
20 with regard to the assumption? This may be part of the
21 struggle here. What is the assumption with respect to
22 the amount of capacity necessary to meet 100 customers
23 versus 1,000 customers? That, frankly, is unclear to
24 me.

25 **MR. SUNDBACK:** Mr. Chairman, we've posited

1 that it's the same generating unit. There's no
2 difference in capacity. I'm surprised by the confusion
3 that this engenders.

4 **MR. LITCHFIELD:** But -- so we're assuming
5 identical units to serve one load that is one-tenth of
6 the other load? I'm --

7 **MR. SUNDBACK:** Yes, that's what we're
8 assuming.

9 **THE WITNESS:** Okay. I'm sorry. I did not
10 understand that. You told me 1,000 megawatt hours were
11 coming out of each unit. Is that not the case?

12 **BY MR. SUNDBACK:**

13 Q 1,000 megawatt hours of energy every month.

14 A From each unit?

15 Q Uh-huh.

16 A And they're operated the same?

17 Q Uh-huh.

18 A Then their costs are going to be the same.

19 Q Okay. Would you agree that the number of
20 customers that are within a utility's service territory
21 is at least in part beyond the utility's control?

22 A Yes.

23 Q Okay. Now with regard to the ROE adder, we've
24 established earlier in the proceeding, I think, that it
25 on a revenue requirement basis is more or less

1 \$40 million. Is that a number you'd be comfortable
2 working with?

3 A Yes, sir.

4 Q All right. Now if FPL were awarded the
5 \$40 million and it received it in a year, a number of
6 different things could happen with that cash once it's
7 in FPL's hands; right?

8 A Yes.

9 Q So, for instance, you discussed retained
10 earnings earlier today with Mr. Moyle; right?

11 A Correct.

12 Q Alternatively, it could pay its employees'
13 bonuses with that money; right?

14 A Correct.

15 Q It could pay it as dividends up to the parent;
16 right?

17 A Correct.

18 Q And if it moves up the chain as dividends, it
19 could be used to offset losses from other businesses
20 operated by NextEra Energy; is that right?

21 A No.

22 Q So it's your opinion that once it gets to the
23 NextEra Energy, Inc., level, it couldn't be consolidated
24 with the results of other affiliates' and subsidiaries'
25 operations for the purposes of, for instance,

1 determining dividends to NextEra Energy, Inc.,
2 shareholders?

3 **A** No, that's not what I'm saying. You asked
4 could it offset losses. The losses, whatever this
5 hypothetical thing is, would be the same. The transfer
6 of cash doesn't change the accounting, the income
7 statement.

8 **Q** All right. But to the extent, for instance,
9 that we're determining the level of dividends that are
10 available to NextEra Energy, Inc.'s, shareholders, that
11 \$40 million may or may not be available to shareholders
12 because of the results of operations of, for instance,
13 NextEra Energy Resources; is that not correct?

14 **A** If I'm understanding your question
15 correctly -- well, maybe I can answer it this way. It
16 would go into the general cash pool. So from a cash
17 perspective, it would be, at this point, if it's been
18 dividended up to the parent, it's available for any
19 corporate purposes, which would certainly include the
20 potential to pay a dividend to NextEra Energy
21 shareholders. Is that what you're trying to establish?

22 **Q** Not entirely. No, sir.

23 Another use that might be -- another fate that
24 might befall the \$40 million, instead of being
25 dividended out to the shareholders of NextEra Energy,

1 Inc., might be that it was consumed in effect by losses
2 that were incurred at NextEra Energy Resources and
3 therefore not available to be paid as dividends to
4 investors in NextEra Energy, Inc.; correct?

5 A Yes, if Energy Resources were losing money,
6 but it's not.

7 Q Okay. Let's look at your direct testimony,
8 please, page 32, 9 through 11. There you assert that
9 FPL competes for capital with other enterprises; right?

10 A Yes, sir.

11 Q Investors would, among other things, compare
12 FPL's risk to other utilities. For instance, those in
13 and outside of Florida; right?

14 A Typically, yes.

15 Q Okay. Let's look at page 16 of your direct,
16 lines 17 through 20, if we could, please.

17 A Yes, sir.

18 Q There you're comparing FPL's reliance on
19 nuclear -- or making some observations about FPL's
20 reliance on nuclear generation; right?

21 A Yes, that's correct. Specifically relative to
22 others in the state.

23 Q You didn't, though, compare FPL's reliance on
24 nuclear to national utilities, aside from those located
25 in Florida; correct?

1 **A** No, that's not correct. That's not what this
2 specific sentence refers to. But in the broader
3 assessment of the risk profile, I certainly included
4 that.

5 **Q** And where, where in your direct testimony can
6 we find the proportions of nuclear generation that are
7 enjoyed by utilities outside of Florida?

8 **A** That specific, those specific numbers are not
9 in my direct testimony, if that's what you mean.

10 **Q** Okay. And in fact there are some utilities
11 now in the United States that are dependent on nuclear
12 generation for more than 50% of their generation; is
13 that not correct?

14 **A** I'm not sure if there's anyone over 50%.
15 There may be.

16 **Q** Okay. But you, you couldn't tell us sitting
17 here today whether that was the case.

18 **A** No. I would have to go and review my papers
19 back home.

20 **Q** Okay. Now, you, you wouldn't want to ask this
21 Commission to impose a double standard when evaluating a
22 utility's management decisions, would you?

23 **MR. LITCHFIELD:** Object. The question is
24 argumentative.

25 **MR. SUNDBACK:** I'm sorry, Mr. Chairman. Do we

1 understand the objection as asked and answered?

2 **MR. LITCHFIELD:** Argumentative.

3 **MR. SUNDBACK:** Oh, I'm sorry.

4 Could we rephrase, Mr. Chairman?

5 **CHAIRMAN BRISÉ:** Sure. You may rephrase the
6 question.

7 **BY MR. SUNDBACK:**

8 **Q** Mr. Dewhurst, you wouldn't want the Commission
9 to ignore, for instance, the negative aspects of a
10 management decision and only look at the positive
11 aspects of a management decision, would you?

12 **A** No. And on page 19 in my testimony I
13 specifically note that at the top of there with respect
14 to the nuclear risk that we're talking about.

15 **Q** Okay. And so you wouldn't want to, for
16 instance, give credit to management for a good result
17 but ignore the detrimental attributes of the decision
18 that contributed to the good result; right?

19 **A** Could you please explain what you mean by
20 giving as credit? Within what context?

21 **Q** The 25-basis-point adder, for instance.

22 **A** No, sir. I am proposing that you review the
23 totality of our performance, good and bad.

24 **Q** Okay. Thank you. Now, on page 17 you discuss
25 some more about nuclear power and nuclear generation of

1 FPL, right, down towards the bottom of the page, lines
2 14 through 23?

3 A Specific detail on why investors perceive
4 nuclear power as more risky than other types of
5 generation.

6 Q Right. You wouldn't want to not hold FPL
7 responsible, particularly its management, for added
8 risks associated with its choice to use nuclear
9 generation, would you?

10 A I'm sorry. Could you repeat that? I want to
11 make sure I'm precise in my answer.

12 Q We appreciate your care, interest in care and
13 precision.

14 You wouldn't not -- well, let's avoid the
15 double negative, if we can.

16 You would agree it's appropriate to hold FPL's
17 management responsible for added risks associated with,
18 for instance, its choice of nuclear generation; right?

19 A Yes and no. The yes part is I believe that
20 the assessment of whatever this hypothetical decision is
21 that we're making has to include the risk aspect, and
22 that may include increased risk.

23 But the no part is that doesn't automatically
24 mean it's bad.

25 Q Would you agree that there are some additional

1 costs and risks associated with nuclear generation?

2 A Yes. That's in my testimony.

3 Q Okay. Generally we understand your testimony
4 to be that of the company's witness describing risk
5 factors facing FPL; right?

6 A That's one of the subjects of my testimony.

7 Q That's fair enough. And you'd certainly want
8 the Commission to engage in a thorough and balanced
9 examination of FPL's risks and opportunities; right?

10 A Yes, sir.

11 Q You wouldn't advocate a decision based on a
12 truncated analysis, would you?

13 A No, sir. I'm looking to the whole record.

14 Q And the whole company; right?

15 A All of Florida Power & Light, yes.

16 Q Yes. Thank you for that.

17 In your summary last night, do you recall
18 stating that, quote, FPL is exposed to greater risk than
19 most other utilities, unquote?

20 A Yes, sir. And that refers, is a summarization
21 of that whole risk section, pages 12 through 31 in my
22 testimony.

23 Q And that includes not only national utilities
24 but Florida utilities; right?

25 A Yes, sir.

1 **Q** Okay. You didn't compare the financial
2 strength of FPL to that of other U.S. electric utilities
3 when preparing your direct testimony, did you?

4 **A** Can you explain to me what you're meaning by
5 financial risk? Again, I want to be precise in my
6 answer.

7 **MR. SUNDBACK:** Let's look at a response to
8 discovery, if we could, Mr. Chairman. I apologize. I
9 don't remember the exhibit number.

10 **CHAIRMAN BRISÉ:** We are at 557.

11 (Exhibit 557 marked for identification.)

12 **MR. SUNDBACK:** And, Mr. Chairman, this
13 consists of three discovery responses, the response to
14 OPC request 43 and 45 for the production of documents,
15 and the response to SFHHA's first set of
16 interrogatories, number 167.

17 **CHAIRMAN BRISÉ:** Okay.

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

19 **CHAIRMAN BRISÉ:** Thank you.

20 Any objections to these?

21 **MR. LITCHFIELD:** No, sir.

22 **CHAIRMAN BRISÉ:** Seeing no objections, you may
23 proceed.

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

25 **BY MR. SUNDBACK:**

1 **Q** Mr. Dewhurst, could you let us know once
2 you've had an opportunity to look at these?

3 **A** I will do that.

4 (Reviewing documents.)

5 Okay.

6 **Q** Thank you, sir. These were true and correct
7 responses when you made them; is that right?

8 **A** Yes, sir.

9 **Q** Thank you.

10 **MR. SUNDBACK:** Mr. Chairman, no further
11 questions.

12 Thank you, Mr. Dewhurst.

13 **CHAIRMAN BRISÉ:** Thank you.

14 Ms. -- FEA.

15 **CAPTAIN MILLER:** Just one brief question.

16 **CROSS EXAMINATION**

17 **BY CAPTAIN MILLER:**

18 **Q** Mr. Dewhurst, in responding to a question from
19 Mr. Sundback, you said that the rating agencies permit
20 you to fact-check the reports before they're issued?

21 **A** In general, yes.

22 **Q** Do they actually hand you the physical
23 reports?

24 **A** Yes and no. Sometimes they give us the draft
25 of what they're proposing to say. More commonly it

1 would be for us to be able to review the numbers to make
2 sure that the numbers are actually accurate, or reflect
3 the information that we've provided them.

4 **CAPTAIN MILLER:** Thank you.

5 **CHAIRMAN BRISÉ:** All right. Office of Public
6 Counsel.

7 **CROSS EXAMINATION**

8 **BY MR. McGLOTHLIN:**

9 **Q** Hello, Mr. Dewhurst.

10 **A** Good morning.

11 **Q** I'm Joe McGlothlin with the Office of Public
12 Counsel.

13 Mr. Dewhurst, near the end of the day
14 yesterday, were you in the room at the time when
15 Dr. Avera was on the stand?

16 **A** I believe I was here for all of Dr. Avera's
17 testimony.

18 **Q** During his testimony, Mr. Lavia asked him to
19 agree that NextEra Energy's stock price increased
20 between March 2010 and July 2010 by approximately \$10
21 per share, notwithstanding the initial reaction and
22 downgrades that occurred after the Commission's order
23 was issued. Do you recall that question and answer?

24 **A** Yes. That was comparing apples and oranges.

25 **Q** And in his answer Dr. Avera first suggested

1 that it could be explained by the fact that the
2 investment community was aware of settlement
3 negotiations going on between FPL and parties, and read
4 something into the possibility that could lead them to
5 have more confidence in the stock. Do you remember that
6 statement by Dr. Avera?

7 **A** I do remember that portion, yes, sir.

8 **Q** Now, at the time he said that was conjecture
9 on his part, but it appears to me that you might be the
10 person in a position to say whether there was any basis
11 for that explanation or not.

12 **A** Yes, sir. I don't believe there was any basis
13 in the external world at that point in time.

14 **Q** Certainly FPL did not tell the investment
15 community at large that it was involved in settlement
16 negotiations; correct?

17 **A** Yes and no. Yes, we would not talk to
18 specifics of negotiations, but, no, to the extent that
19 it, it is common, and I think we did at the time
20 indicate that we had hopes that we might be able to
21 resolve some of the outstanding negotiations through
22 settlement. There would be nothing specific about a
23 negotiation.

24 **Q** Then it's clear that in this instance the
25 NextEra Energy stock increased \$10 per share in that

1 time frame, notwithstanding the initial reaction of the
2 credit agencies?

3 **MR. LITCHFIELD:** I'm sorry. Could counsel
4 repeat the question? He trailed off and I lost
5 completely the last phrase.

6 **CHAIRMAN BRISÉ:** Yeah, if you could -- I lost
7 some of it too, so if you could repeat the question.

8 **BY MR. McGLOTHLIN:**

9 **Q** The question is simply this. It's true, is it
10 not, that this increase in the share, price of the share
11 between March 2010 and July 2010 occurred,
12 notwithstanding what has been described as the initial
13 reaction of the credit agencies?

14 **A** No.

15 **MR. LITCHFIELD:** I'm sorry. Could the witness
16 repeat the answer louder?

17 **THE WITNESS:** No. No.

18 **MR. LITCHFIELD:** Okay.

19 **BY MR. McGLOTHLIN:**

20 **Q** I wonder if we're talking past each other.

21 **A** We may be. I'm sorry.

22 **Q** Why do you say no?

23 **A** Because the share prices are inherently
24 forward-looking, so they're based on, you know,
25 expectations at the time. So the change in the time

1 period we're talking about has to include new
2 information of all kinds, including changes in how the
3 rating agencies were viewing things.

4 So I'm not sure. Again, I may not be
5 understanding the question precisely, but --

6 Q Well, let's get the sequence in terms of the
7 time frame understood.

8 March 2010, the Commission issues its order,
9 sometimes called the presettlement order. The credit
10 agencies react with criticism about the nature of the
11 decision, and then between that period of time and July,
12 the, the price of the stock increases by about \$10 per
13 share. Are we, are we on the same page with respect to
14 the downgrade?

15 A No, that's completely incorrect, because the
16 information, obviously information was available to the
17 market long before January, but the out, the negative
18 outlooks occurred in January, by which point the damage
19 was done. We lost 20% of our market cap. So, no, I
20 don't -- that's not the time frame.

21 Q Okay. Let's use January as a starting period
22 and July as the ending period.

23 A That would be the wrong starting period, but
24 I'll go with you.

25 Q But in that time frame, the shares, the stock

1 price increased to the level that was discussed
2 yesterday.

3 A Yes. We began to claw our way back during
4 that period.

5 Q So doesn't that suggest to you that the rating
6 agencies can issue their reports and the investors make
7 up their own minds as to what they think the stock is
8 worth?

9 A Certainly I agree with that. By the time the
10 reports came out they were stale information. Everybody
11 knew what was happening.

12 Q If you would turn to page 5 of your prefiled
13 testimony.

14 A Yes, sir.

15 Q And that's the introductory portion of your
16 testimony. At line 20 you inform the readers of the
17 recommendations you're going to make; correct?

18 A That's correct.

19 Q And the first thing that you recommend is that
20 the Commission maintain FPL's current capital structure;
21 correct?

22 A That's correct.

23 Q And by that you were referring to the 59.62%
24 equity ratio?

25 A Yes, sir.

1 Q And then on the next page -- excuse me. And
2 then in terms of the way you've organized your
3 testimony, relating back again to the capital structure
4 and equity ratio, you treat that subject in what is
5 called Roman numeral V portion of your testimony;
6 correct?

7 A Roman numeral V refers to the capital
8 structure, yes.

9 Q Your second recommendation is that the
10 Commission authorize the, quote, base return on equity
11 of 11.25%; correct?

12 A That's correct.

13 Q And you address that in Roman numeral VI --

14 A That's correct.

15 Q -- of your testimony.

16 A Specifically here I was trying to separate the
17 discussion of the performance adder, which conceptually
18 to me is a different thing.

19 Q Refer to page 12 of your testimony.

20 A Yes, sir.

21 Q And under Roman numeral III, which is
22 captioned risk profile, you discuss those risks that you
23 say are pertinent to the Commission's consideration?

24 A Well, I think the entire section of Roman
25 numeral III speaks to risk factors that I think are

1 pertinent. They're not necessarily the only ones, but
2 they are the principle ones that I'm thinking about.
3 And within that section, that broad section, there are
4 five subcategories, and subcategory three refers to
5 risks around climate, weather, et cetera, impacts on
6 daily operations.

7 **Q** And you define risk profile as the unique
8 collection of risks that it, being the company, faces
9 both in normal operations and in unusual circumstances;
10 correct?

11 **A** Yes. That's my kind of working definition,
12 how I think about the risk profile.

13 **Q** And then you divide those risks into five
14 categories, do you not?

15 **A** Yes, sir. That's correct.

16 **Q** The first is financial measures, and I
17 understand that by financial measures you are talking in
18 terms of increased costs or changes in revenues to the
19 company?

20 **A** Yes, generally speaking. Variability around
21 the typical financial metrics of the organization, so
22 whether revenues are up or down, costs are up or down,
23 Capex is higher or lower than expected, et cetera.

24 **Q** The second category is infrastructure, and the
25 examples you give there have to do with geographical

1 considerations and generating mix; correct?

2 **A** Yes, sir. Primarily the geographical impacts
3 and the generation mix.

4 **Q** And the third category is climate and weather?

5 **A** Yes, sir.

6 **Q** And by that you are referring to, for
7 instance, exposure to serious storms?

8 **A** Yes. Well, that's not the only thing that's
9 encompassed there, because obviously in Florida we have
10 winter events. I recall some discussion about the
11 winter peak in 2010, so that is another aspect of that.
12 But it's certainly the principal one for us is the
13 tropical storm risk.

14 **Q** The fourth and fifth categories are
15 environmental and political/regulatory; correct?

16 **A** Yes, sir.

17 **Q** And together those five categories comprise
18 the risk profile that you believe the Commission should
19 take into account when it sets the company's ROE?

20 **A** Yes and no. As I think I said earlier, this
21 is not the totality of all the risk factors that can
22 affect the business. I tried in my testimony to
23 highlight the really important ones, the important
24 categories, and give a, you know, a judgmental
25 assessment of where we are on those.

1 So there will be others, which I would expect
2 the Commission to take into account, but these to me are
3 the principal ones.

4 **Q** I want to ask you some questions about one of
5 them, on page 14.

6 **A** Yes, sir.

7 **Q** At line 6, this question is posed: How does
8 uncertainty in customer growth affect FPL?

9 Would you read lines 7 through 11, please.

10 **A** From an investor perspective, uncertainty in
11 customer growth is seen as increasing risk. On balance,
12 a rapid increase in customer growth, which in the
13 long-term is a good thing, places more stress on a
14 utility's short-term financial position and acts to
15 depress earned returns. From an investor perspective,
16 this is a risk for FPL.

17 **Q** Now, please read the rest of that answer,
18 beginning at 13, which discusses a decline in customer
19 growth.

20 **A** Conversely, a drop in customer growth, or even
21 a decline in the overall customer base, as FPL
22 experienced in 2009, has obvious negative impacts on
23 revenues and financial performance. While our base
24 expectations are for an increase in customer growth,
25 there is uncertainty around these expectations, which

1 increases the risk profile modestly from an investor
2 perspective.

3 So I'm trying to express that it's the
4 uncertainty around these measures that's important from
5 an investor risk assessment perspective.

6 **Q** But to summarize, based upon this answer, you
7 are telling the Commissioners that an increase in
8 customer growth is a risk and a decrease in growth is a
9 risk. It appears that you've pretty much blanketed all
10 possibilities except the scenario where things remain
11 the same. Is that a risk too?

12 **A** No. That's a mischaracterization of my
13 testimony. Inherent in the concept of risk is it's a
14 concept of deviation from an expected value, and it's a
15 deviation from either side. So being high or being low
16 is what creates the risk. People like certainty, and
17 they're willing to pay for a little more certainty.
18 They're willing to pay to narrow the band.

19 Just as it's a good thing to narrow fuel
20 volatility, if we can, people -- that's an attribute
21 that customers, individuals clearly value. From an
22 investor perspective, it's the, sort of the spread
23 around some central expectation that is the fundamental
24 concept of risk.

25 So I'm not saying that it's the high growth or

1 the low growth per se that is the risk. It's the
2 relative variability around customer growth and its
3 impact on the specific business, and it's my testimony
4 that we have more of that than most others.

5 Q So investors see risk in uncertainty,
6 including uncertainty with respect to customer growth;
7 correct?

8 A Yes. As a general characterization I would
9 agree. Risk and uncertainty are slightly different
10 concepts, at least in my mind, but that's fair.

11 Q Would that be true of other utilities as well?

12 A Yes, sir.

13 Q And other companies as well?

14 A Generally speaking, yes.

15 Q Going back to your definition, you say that
16 the risk profile is the unique collection of risks that
17 it faces, both in normal operations and in unusual
18 circumstances. When you use the terms "normal
19 operations," you are referring to what we would
20 categorize as business risks; correct?

21 A As what, sir?

22 Q Business risks.

23 A No. The point of this was just to say we
24 can't just consider risks in when everything is going as
25 normal within the typical band. We have to include in

1 our risk assessment the possibility of extreme events
2 that we might only see once every ten years, once every
3 50 years. That's the concept I was trying to get in
4 there.

5 Q Yes. But those extreme events would be cat --
6 would fall in that category of business risks, would
7 they not?

8 A Well, they represent risk to the business, if
9 that's what you're asking me. Yes.

10 Q Yes. And I think you said earlier that these
11 risks and this profile, as you've defined them, are the
12 risks that you think the Commission should weigh when
13 setting the company's return on equity; correct?

14 A Yes. They're also fundamental drivers of the
15 balance sheet strength that you need to maintain, and
16 hence they are also drivers of the capital structure
17 recommendation.

18 Q Yes, sir. But you did not include that in
19 your discussion of the risk profile, did you?

20 A I'm sorry?

21 Q Well, you have Roman numeral III, risk
22 profile; correct?

23 A Yes, sir.

24 Q And you discussed the risks that you believe
25 fall within your definition of the risk profile;

1 correct?

2 **A** Yes, sir.

3 **Q** And you treat capital structure under Roman
4 numeral V; correct?

5 **A** Well, no. If you read line 8, why is risk
6 profile important? It's important because it heavily
7 influences the degree of financial strength and
8 flexibility that the company requires, and is therefore
9 an important determinant of the appropriate capital
10 structure to employ and the level of ROE required to
11 provide adequate financial strength in favor of its
12 investors (phonetic). So it supports both pieces.

13 **Q** Would you agree with me that, for general
14 purposes, an investor distinguishes between business
15 risk and financial risk?

16 **A** No. I cannot agree with that as a categorical
17 statement. I will agree that that's a common
18 distinction used in some contexts, in particular
19 academic concepts, but I cannot agree with you as a
20 categorical statement that that's how investors think
21 about it. I think investors are much more sophisticated
22 than that.

23 **Q** Would you agree with me that -- well, let's
24 first talk about the definition of financial risk.
25 Would you agree with me that, or can we agree that

1 financial risk relates to the ability of a concern to
2 meet its debt obligations and avoid default?

3 A No, not entirely. I will agree that that's
4 one aspect of financial risk. But financial risk covers
5 a whole variety of factors affecting the financial
6 structure of the firm.

7 Q Would you agree with me that the investor
8 reviews the entire panoply of risks, including what we
9 identified as business risk and financial risk?

10 A We have identified -- I'm not sure what you
11 mean by "we have identified."

12 Q All right. Would you agree with me that the
13 investor assesses the entire risk profile of the
14 company?

15 A Yes. I believe most smart investors look at
16 the totality of the company's risk profile.

17 Q Including risk, financial risk as you would
18 define it?

19 A Including financial risk as I would define it,
20 yes.

21 Q And would you agree with me that in terms of
22 identifying the appropriate return on equity, the
23 Commission should take that entire panoply of risks into
24 account?

25 A Yes, that's my testimony.

1 **MR. McGLOTHLIN:** No further questions.

2 **CHAIRMAN BRISÉ:** Mr. Lavia.

3 **MR. LAVIA:** Thank you, Mr. Chairman.

4 **CROSS EXAMINATION**

5 **BY MR. LAVIA:**

6 **Q** Good morning, Mr. Dewhurst.

7 **A** Good morning.

8 **Q** My name is J. Lavia. I represent the Florida
9 Retail Federation.

10 **CHAIRMAN BRISÉ:** Actually, Mr. Lavia, before
11 we go on, we're right at that two-hour mark for the
12 court reporter. So before you get into your questions,
13 and I want to sort of stop you at the beginning, and
14 we'll take a five-minute break to give her a little bit
15 of a rest.

16 **MR. LAVIA:** That's fine. Thank you.

17 (Recess taken.)

18 **CHAIRMAN BRISÉ:** I want to give everybody
19 about 30 or 45 seconds to, to find their places so we
20 can get going again.

21 All right. We're going to reconvene at this
22 time.

23 Mr. Lavia.

24 **MR. LAVIA:** Thank you, Mr. Chairman.

25 **BY MR. LAVIA:**

1 Q Hello again.

2 A Good morning.

3 Q I believe you testified earlier today that you
4 were here, present for Mr. Silagy's testimony earlier
5 this week?

6 A Yes, sir, I was.

7 Q Is that correct? And then Mr. Silagy deferred
8 a few questions to you. Specifically when Mr. Wright
9 asked him about how FPL had performed on a cash basis
10 since the 2009 rate case, he deferred that question to
11 you. Do you recall that?

12 A I don't.

13 Q Okay. Would you be prepared to answer
14 questions about that?

15 A I will do my best.

16 Q Okay. What is FPL's ROE as reported on FPL's
17 earnings surveillance reports to the PSC for the past 12
18 months, say?

19 A It should be approximately 11%.

20 Q Okay. Thank you. And what is FPL's
21 corresponding cash basis ROE for the past 12 months,
22 same period, estimated? It doesn't have to be precise.

23 A It's probably 100, maybe 150 basis points
24 below. The big effect is this year, because we've got
25 500 of surplus depreciation in this year. So it's this

1 year that it starts sinking.

2 Q Okay. What would be your best number for
3 that, for that question?

4 A For this year?

5 Q Yes, sir.

6 A Probably about 8.

7 Q Okay. Do you have MFR Schedule A-1 available
8 to you?

9 A Yes, sir.

10 Q Are you one of the sponsors of this schedule?

11 A Yes, sir. On A-1 I actually sponsor a grand
12 total of two numbers.

13 Q Okay. Well, I'm going to ask you a question
14 about line 8 on MFR Schedule A-1. Is it correct that
15 the company's projected net operating income for 2013
16 with no rate increase would be \$1.156 billion?

17 A That's not one of the two numbers I sponsored,
18 but that is my belief.

19 Q You feel comfortable talking about that
20 number?

21 A Yes, sir.

22 **MR. LITCHFIELD:** Mr. Chairman, just a point of
23 order. I think Mr. Lavia -- I know it's inadvertent,
24 but he, he, he starts his question before the witness
25 finishes his answer. I think there may be, it may be a

1 bit of a challenge for the court reporter. So I'd just
2 ask Mr. Lavia to fully let Mr. Dewhurst finish his
3 answer before he begins his question.

4 **CHAIRMAN BRISÉ:** All right.

5 You may proceed, Mr. Lavia.

6 **MR. LAVIA:** Thank you.

7 **BY MR. LAVIA:**

8 **Q** And this net operating income figure of
9 \$1.156 billion, is that after FPL covers all costs,
10 including depreciation and amortization; is that
11 correct?

12 **A** No.

13 **Q** Okay. What does that number reflect then?

14 **A** It doesn't include the cost, the full cost of
15 capital. This number would lead to a deficiency
16 relative to the totality of the cost, and that
17 deficiency is worked through and that's the 516. So
18 when you take in the total cost, including cost of
19 capital, you get to the 516.

20 **Q** Okay. What ROE on a non-cash basis would this
21 net operating income correspond to for FPL, if you can
22 tell me?

23 **A** If it's -- line 8, the 2013 number would
24 correspond to about 775. After Canaveral would come in
25 it would be 675 without rate relief.

1 Q And what ROE on a cash basis would this net
2 operating income correspond to?

3 A Excuse me. About the same. I should, I
4 should have been more precise earlier when I was
5 responding to questions about cash ROE. I'm really
6 thinking of adjusting the book ROE for the principal
7 non -- big non-cash item, which is the surplus
8 depreciation. So there might be some other smaller
9 differences. But with that factored out, you then, in
10 2013 you have the 191 million left, so that's roughly
11 100 basis points. So the cash return would be, you
12 know, 100 basis points below that.

13 Q Okay. Thank you. Could you -- that's all I
14 have on that schedule. Thank you.

15 Please turn to page 19, line 7 of your
16 testimony.

17 A Yes. Yes, sir.

18 Q I'm sorry. This question asks about the risks
19 associated with FPL's fossil fuel supply; is that
20 correct?

21 A That's correct.

22 Q On lines 13 through 14 of page 19 you state
23 that FPL's the largest utility user of natural gas in
24 the country. Is that accurate?

25 A That's correct. That's my belief.

1 **Q** Approximately how much natural gas does FPL
2 use per year?

3 **A** In MMBtu?

4 **Q** Yeah.

5 **A** I don't know that off the top of my head.

6 **MR. LAVIA:** Mr. Chairman, I'd like to offer an
7 exhibit into evidence. I need a number.

8 **CHAIRMAN BRISÉ:** Sure. We are at 558.

9 (Exhibit 558 marked for identification.)

10 **MR. LAVIA:** Mr. Chairman, while it's being
11 passed out, heeding prior objections and in the spirit
12 of completeness, I have provided a complete copy of, of
13 what this is excerpted from to both the witness and to
14 Mr. Litchfield.

15 It is a, described as FPL's 2012 TYSP, which
16 stands for Ten-Year Site Plan, schedule 5, fuel
17 requirements.

18 **CHAIRMAN BRISÉ:** Okay. Any objections?

19 **MR. LITCHFIELD:** No, sir.

20 **CHAIRMAN BRISÉ:** Okay. Seeing none, you may
21 proceed.

22 **BY MR. LAVIA:**

23 **Q** Mr. Dewhurst, please look, turn to the last
24 page of that exhibit.

25 **A** I'm there.

1 Q And if you need it for any reason, the full
2 Ten-Year Site Plan is that large 250-page document to
3 your right.

4 A Thank you.

5 Q Do you see line 9?

6 A Yes, sir.

7 Q What is the figure in column, in the column
8 labeled 2012? I'm sorry for the small print.

9 A I'm sorry for my eyes. 565962 units of
10 thousand MCF or MMBtus, so that's about, yeah, 585 BCF,
11 yes. That's about, that seems about right.

12 Q That's what it looks like to me. Thank you.
13 Can we, can we agree that -- do you understand the
14 difference between MCF and MMBtu and how they basically
15 correlate?

16 A No.

17 Q You do not?

18 A I have to refresh myself on the details of
19 that.

20 Q Would it be fair for me to represent to you
21 that they're about a one-to-one correlation in terms of
22 how the industry deals with them?

23 A Yes, that's the way I think of them. That's
24 not technically accurate.

25 Q Okay. And can we --

1 **A** That's not technically accurate, but that's
2 the way I think of it.

3 **MR. LITCHFIELD:** Yeah. Mr. Lavia is speaking
4 over the top of the witness, and it's very difficult to
5 follow the conversation.

6 **CHAIRMAN BRISÉ:** Okay. Really, if we can get
7 both Mr. Lavia and Mr. Dewhurst to speak a little bit
8 louder, because I'm having trouble hearing you,
9 Mr. Dewhurst, if you could speak a little bit louder.

10 And, Mr. Lavia, if you could give some time
11 for the response before you move into the next question.

12 **BY MR. LAVIA:**

13 **Q** Is it, would it be fair to say that that
14 column, that number that you just recited is equivalent
15 to approximately 500 million MMBtu?

16 **A** Yes, sir. I believe that's about right.

17 **Q** Okay. Thank you.

18 In the context, context of potential risks to
19 FPL's customers, what would happen to FPL's rates, and I
20 would include fuel charges in rates, for a year if the
21 price of natural gas increased by \$3 per MMBtu?

22 **A** I can't answer that question. You'd have to
23 go through a lot of calculations. Obviously it would
24 depend upon what happened to the generation mix, what
25 other actions we took to offset that increase. So

1 without knowing that I can't answer that.

2 Q Well, let's assume hypothetically that they
3 used about the same amount of natural gas in the year,
4 in my hypothetical year as they did in, as FPL does in
5 2012.

6 A I think that's very unlikely.

7 Q But for my hypothetical, could we assume that?

8 A I don't know what your hypothetical is doing.
9 Your hypothetical was to, hypothetically the price of
10 natural gas goes up by 3 bucks, and you're asking me to
11 assume that we sit there and do nothing?

12 Q I, I'm assuming that you have the same power
13 plants that you have, I'm assuming that you use the same
14 amount of natural gas that you have used in the prior
15 year, and gas goes up by \$3 per MMBtu. Would it be fair
16 to assume that that would correspond to an increase in
17 fuel charges of about \$1.5 billion?

18 A No, I don't think that would be --

19 Q Why is that?

20 A For the reasons I stated earlier.

21 Q Could you restate them?

22 A That those other factors wouldn't stay the
23 same. Clearly the generation mix would change. We
24 would dispatch the fleet differently. It also depends
25 upon what's happened to other fuel prices. So I can't

1 say.

2 **MR. LAVIA:** Thank you. I have no further
3 questions.

4 **CHAIRMAN BRISÉ:** All right.

5 Mr. Saporito.

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

7 **CROSS EXAMINATION**

8 **BY MR. SAPORITO:**

9 **Q** Good afternoon, Mr. Dewhurst. My name is
10 Thomas Saporito. I'm here in a pro se capacity, just
11 representing myself, and I'll be very brief.

12 You were asked some questions by several
13 counsels here representing different parties with
14 respect to risk. Do you recall?

15 **A** Yes, sir.

16 **Q** Okay. And I'm sorry if -- this might be a
17 little bit duplicative, but just for clarification, it's
18 my understanding that Florida Power & Light is a
19 subsidiary of a parent, NextEra Energy, Inc.; is that
20 correct?

21 **A** That's correct.

22 **Q** And so if you wanted to become a shareholder
23 of FP&L, you would actually have to buy NextEra Energy
24 stock; is that true?

25 **A** If you wanted to become an indirect owner of

1 FPL, you would have to buy NextEra Energy stock, yes.
2 You can't actually, you couldn't actually buy FPL stock.
3 It's not traded.

4 Q So the only way you could own, be a part of
5 FPL, you have to be a NextEra Energy shareholder;
6 correct?

7 A No, that's not actually quite accurate from an
8 economic perspective. It is possible to come very close
9 to having an economic interest in FPL without having an
10 economic interest in the rest of the organization. You
11 would need to be a pretty sophisticated investor to do
12 it, because it requires shorting some other things that
13 have a risk profile that's comparable to the other sides
14 of the organization, so you end up net economically kind
15 of owning FPL. There are a few hedge funds who do that,
16 but that's pretty sophisticated stuff.

17 Q Mr. Dewhurst, I would 100% agree with you,
18 because I didn't understand any of that you just said.
19 But a person like myself who wants to invest in, in
20 Florida Power & Light, I would just go and look at the
21 price of NextEra Energy's stock price and that's what I
22 would consider buying; is that not true?

23 A Yes. That's typical for most utilities.
24 There'll be a utility holding company, which is what you
25 have to own.

1 Q And you talked at length about investors and
2 how they analyze risk, and I'm not going to go over all
3 those variables, but is it your understanding that an
4 investor tries to mitigate risk by having a diverse
5 portfolio of stocks? They would have a little bit of
6 NextEra Energy, maybe own some GE, maybe Alcoa, that
7 type of investment?

8 A Yes and no. Many investors do seek to
9 diversify. I think most individual investors seek to
10 diversify. But clearly there are institutional
11 investors that deliberately do not diversify, because
12 they believe they have some specific information about a
13 sector and they want to be concentrated in that sector.

14 So it varies. Obviously if we talk about
15 investors, we've got retail investors, we've got
16 institutional investors. There's a lot of varieties
17 there, so it's tough to generalize it.

18 Q Well, let's just talk about the retail
19 investor, someone like myself. Would it be -- would I
20 be able to have less, less risk with my assets if I
21 bought a little bit of FP&L, a little bit of GE, a
22 little bit of IBM, diversify in that manner?

23 A In general, yes.

24 Q Okay. And NextEra Energy, Inc., is a
25 diversified company, are they not? Don't they invest in

1 renewable energies like wind energy and solar energy and
2 nuclear energy, et cetera?

3 **A** Yes. Obviously diversified is a, it's sort of
4 a continuous variable, but we are diverse in some of our
5 activities, yes.

6 **Q** So because NextEra Energy has, has a
7 diversified energy portfolio, it makes them less risky
8 of an investment as far as the retail investor is
9 concerned; is that not true?

10 **A** Not necessarily. In general, I think having a
11 diverse generation portfolio is a good thing and reduces
12 risk. That's one of the reasons why we seek diversity
13 in the FPL generation fleet. So in general, yeah, but
14 not necessarily so.

15 **Q** Okay. And because Florida Power & Light
16 Company is a subsidiary of its parent, NextEra Energy,
17 an investor looks not primarily at FPL's risk assessment
18 in the overall risk of investing in FPL, but the
19 investor, the retail investor like myself would look at
20 the diversification of the entire portfolio of NextEra
21 Energy along with FP&L in assessing how much risk their
22 capital would be under; is that not true?

23 **A** Not necessarily. If you were a retail
24 investor in FPL's first mortgage bonds, you really
25 wouldn't care about the risk profile of other parts of

1 the enterprise. If you're an equity investor in NextEra
2 Energy, then, yes, clearly you would be concerned about
3 the totality of the risks.

4 **MR. SAPORITO:** Okay. I have no further
5 questions. Thank you.

6 **CHAIRMAN BRISÉ:** Thank you, Mr. Saporito.
7 Mr. Hendricks.

8 **MR. HENDRICKS:** No questions for this witness.

9 **CHAIRMAN BRISÉ:** Staff?

10 **MR. YOUNG:** Mr. Chairman, in lieu of staff's
11 questions, the parties have graciously agreed that staff
12 can enter Mr. Dewhurst's deposition transcript along
13 with his errata sheet and any attachments to it. And I
14 think we have one, one late-filed exhibit that was --
15 and it's just a one-pager. It's a clarification from, I
16 think, Mr. McGlothlin.

17 **MR. MOYLE:** What is it?

18 **MR. YOUNG:** It's just a one-pager late-filed
19 exhibit that was asked during the course of the
20 deposition.

21 **MR. MOYLE:** I'd just like to see it.

22 **MR. LITCHFIELD:** It was, it was served on all
23 parties Sunday, but it's being distributed.

24 **MR. YOUNG:** And this would all be, this would
25 all fall under what is marked in the Comprehensive

1 Exhibit List number 113.

2 **CHAIRMAN BRISÉ:** Okay. You all can take a
3 look at it, and when we will deal with exhibits, we'll
4 deal with entering and any objections at that time.

5 Commissioners? Commissioner Brown.

6 **COMMISSIONER BROWN:** Thank you.

7 And thank you, Mr. Dewhurst.

8 **THE WITNESS:** Good morning.

9 **COMMISSIONER BROWN:** You were here yesterday
10 and today. On page 13 of your direct, lines 11 through
11 12, you indicate that FPL's risk profile is greater than
12 other utilities, as was addressed by some of the
13 Intervenors here.

14 I just want to be clear, is it just because of
15 FPL's position in the southern point of Florida?

16 **THE WITNESS:** No. That's my overall
17 assessment of the totality of the risk factors. But
18 clearly where we are has a great deal to do with it.

19 **COMMISSIONER BROWN:** Can you expand a little
20 bit?

21 **THE WITNESS:** Yeah. Sure. I mean, we're at
22 the bottom, the extreme end of everything, both
23 electrically and from a fuel system perspective, so
24 there is less support for us. So, for example, our
25 neighbors to the north, Progress Energy, if they get

1 into trouble, they can draw both from Georgia and from
2 us, and they frequently do. We always, everybody helps
3 each other out.

4 We look behind us and all we've got is Cuba
5 and the Bahamas, and I'm very fond of the Bahamians, but
6 they can't support us either with fuel or electricity.
7 So there's that aspect.

8 And then at the same time, because the
9 exposure to tropical storm is such a big one and one
10 that we can't ensure in the commercial markets, in
11 contrast to ice storm damage, we are both on the front
12 line when you look at statistically at where and when
13 and with what frequency tropical storms hit, and at the
14 wrong end of the country for getting support.

15 So a very good example is what we've been
16 going through the last couple of days. All utilities,
17 when they see a storm coming, get on the phone and they
18 start making requests for resources. Well, not
19 unnaturally, people who are a little bit to the north of
20 us want to make sure that if it affects them, they've
21 got enough resources to deal with that. But we're down
22 on the bottom; statistically we're going to get hit
23 first. We've got to get our share of the resources and
24 they've also got to travel further.

25 So it's a whole combination of operational

1 things like that. So, yes, where we are in Florida has
2 a great deal to do with it. But it's not, to be fair,
3 the totality. And as my testimony says, there are some
4 things where my judgment is that we actually have a
5 lower risk profile than others. I've tried to take all
6 of that into account in thinking about what kind of
7 balance sheet we need to maintain and what I think a
8 fair and reasonable ROE is.

9 **COMMISSIONER BROWN:** Thank you for clarifying
10 that. Also on the same page, lines 17 through 19, you
11 provide that FPL is currently in the midst of the
12 largest capital expansion program in its history, and of
13 course that adds to its risk profile.

14 Under whose directive is FPL operating under?
15 Is it FPL, is it the federal regulations, PSC, NextEra?

16 **THE WITNESS:** I'm sorry. With respect to the
17 capital program? Fundamentally that's our initiative.
18 Depending upon what the capital is being deployed
19 against, it may well and, in fact, has required us to
20 come before this Commission to seek specific approval.

21 So the principal reason why the Capex is so
22 large at this stage is because of the big generation
23 projects, which have obviously been previously approved
24 based on a need determination here. What I think of as
25 the ongoing infrastructure capital is the annual set of,

1 you know, the annual planning process, annual set of
2 decisions that we make as to what's the appropriate
3 ongoing level that we need.

4 So I view those as fundamentally our
5 accountability to you is to come in periodically through
6 these proceedings, or any time you want to have us come
7 in, when you review the totality. But in between those
8 periods it's up to us to figure out what we should be
9 spending and how it's going to benefit customers.

10 **COMMISSIONER BROWN:** Okay. Thank you. And
11 with regard to the adder, the 25-basis-points adder, is
12 it just based on maintaining the lowest customer bill,
13 or is it also factors like reliability also factored
14 into that, your proposal?

15 **THE WITNESS:** Let me be very clear on this,
16 because I know there's been some confusion about it. My
17 testimony before you is that you should decide whether
18 to award an adder on your assessment of the totality of
19 our performance. So that -- seen through customers'
20 eyes; right? How well are we doing in delivering value
21 to our customers?

22 To me, that means the combination of bills,
23 because we know customers care about bills, reliability,
24 because we know they care about reliability, and
25 customer service. When they call us, they want whatever

1 their issue is taken care of efficiently and promptly.

2 I think there are a few other things that are
3 also important. I do think our emission profile is
4 important from a consumer perspective, but personally I
5 would weight that one a little bit lower.

6 But to be clear, my testimony is that you
7 should decide on that basis, and that you should include
8 warts and all, the good stuff along with the bad, and
9 then decide.

10 However, for the purposes of these
11 proceedings, and to try and give people some reassurance
12 and some conservatism, we have proposed that that adder
13 would only be maintained as long as we continue to have
14 that lowest bill. So to me that's just a win-win.

15 **COMMISSIONER BROWN:** That's good. Thank you
16 for explaining that a little bit more thoroughly. I got
17 a little confused with the testimonies.

18 Since the last rate case, and this may be a
19 little duplicative, but I just want, again, for
20 clarification purposes, while it's been acknowledged
21 that S&P and Moody's downgraded the credit ratings of
22 FPL, I mean, how did this actually, actually impact
23 FPL's ability to get access to credit?

24 **THE WITNESS:** That's a hard question to answer
25 because of the existence of the settlement agreement.

1 So if you go through in time, we have the, what I call
2 the presettlement order as the culmination of the last
3 rate case. That led to a downgrade in credit. We
4 weren't in the capital markets much at that time. Then
5 we entered into the settlement agreement. That provided
6 some reassurance to investors that there was going to be
7 time for us to get things back on track.

8 **COMMISSIONER BROWN:** Right. Like the Fitch.

9 **THE WITNESS:** So the net is I think today, to
10 this point in time, our true cost structure hasn't been
11 hurt that much through all of this. It's more a
12 question of what might have been and do, frankly, do we
13 want to risk going further down that path.

14 **COMMISSIONER BROWN:** Thank you. I appreciate
15 that. With -- and last question. With regard to the
16 storm cost recovery that FPL wants to continue from the
17 2010 rate case settlement, can you explain in more
18 detail from what you've provided in your direct
19 testimony the reasoning behind keeping the framework in
20 place? I understand it's on a temporary basis, and so I
21 want to know the reasoning behind that and whether, when
22 you plan on converting it back to the traditional
23 framework.

24 **THE WITNESS:** Let me take the last question
25 first, because it's the easiest one. I don't know.

1 Fundamentally there's a history here. Parties have
2 disagreed on what's the best way to recover prudently
3 incurred storm costs. Each time we disagree, there is a
4 significant debate that goes on, and that chews up
5 administrative resources.

6 While we -- I continue to believe that the
7 traditional method is fundamentally superior, we've been
8 satisfied with the current, current framework, which, to
9 be very clear, was just one part of a broader set of
10 negotiations for the settlement agreement, but we're
11 essentially saying if we want, if we can lift that out
12 and use that for the moment, that's a reasonable
13 compromise. That's really what it boils down to.

14 **COMMISSIONER BROWN:** Okay.

15 **THE WITNESS:** That may be not satisfactory, I
16 understand, but --

17 **COMMISSIONER BROWN:** I understand. Thank you.

18 **CHAIRMAN BRISÉ:** Commissioner Balbis.

19 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

20 I eliminated two of my questions because
21 Commissioner Brown already asked those. But I want to
22 focus a little bit with you, Mr. Dewhurst, on the
23 accelerated amortization of surplus depreciation. And I
24 asked Witness Barrett a few questions on that, and I
25 want to expand a little further, more about the

1 accounting treatment of that surplus depreciation. If
2 you're able to answer that, I'd appreciate it.

3 **THE WITNESS:** I'll try. Accounting is not my
4 forte.

5 **COMMISSIONER BALBIS:** Well, that makes two of
6 us.

7 But, in essence, the use of the surplus
8 depreciation, as far as impact on, on perceived revenues
9 or income, would it be correct to say that the use of
10 the surplus depreciation from a surveillance standpoint
11 made it look as if FPL was receiving additional income
12 than it was, or, or its expenses were less than they
13 were?

14 **THE WITNESS:** The latter is I think the more,
15 they're both the same functionally. Yes. And that's
16 really when we had this conversation about the
17 difference between regulatory return and the cash
18 return, that's really the difference.

19 So the, to be clear, what happened last time
20 was coming out of the depreciation study there was a
21 surplus. The traditional, what I would characterize as
22 the traditional method would have been to flow that back
23 over the remaining life of the asset. So in this case,
24 let's say hypothetically there was 800 million, and the
25 average asset life was, I'm going to do it 20 because I

1 need the math, that would have meant 40 million a year
2 of future credit to expenses. So lower rates, other
3 things equal, in all future years.

4 Instead what the Commission chose to do was
5 require the 800 to be amortized over four years. So
6 think of it as 200 a year on average. So that allowed
7 the rates to be kept lower in the short-term. But once
8 you've used up the accounting credit, you've got to go
9 back to the underlying cost structure. And, as I think
10 Witness Barrett testified, in the meantime your rate
11 base has grown to be a little bit bigger than it
12 otherwise would have been.

13 So it effectively accelerated rate relief at
14 the expense of creating a cliff later on, which is what
15 we're now dealing with.

16 **COMMISSIONER BALBIS:** Right. And I want to
17 expand on that and on the one point you made on, in
18 essence, a \$200 million credit. But that credit didn't
19 exist, it wasn't a surplus account that had cash that
20 FPL accessed in order to either increase the income or
21 decrease the expenses.

22 **THE WITNESS:** No, sir. No, sir. And that's
23 why Mr. Silagy made the comment at one point that he's
24 yet to be able to get suppliers to take surplus
25 depreciation in payment. It's an accounting treatment.

1 It's perfectly valid from an accounting perspective, but
2 it doesn't give us any cash.

3 **COMMISSIONER BALBIS:** So would it have been
4 better for this Commission in 2009 to have allowed FPL
5 to recover the revenues associated with its expenses
6 to -- and once you take the expenses out, be allowed to
7 actually earn that rate of return of 10%?

8 **THE WITNESS:** Commissioner, you're putting me
9 in a very awkward position.

10 **COMMISSIONER BALBIS:** Well, let me, let me try
11 to help you then, because I understand the position
12 you're in and I don't want to make it awkward. I'm just
13 trying to make sure I understand.

14 From a cash flow standpoint, it would have
15 been better for FPL to actually receive the revenues it
16 needed to offset the expenses and still earn the allowed
17 rate of return.

18 **THE WITNESS:** Correct. I agree with that.

19 **COMMISSIONER BALBIS:** Okay. I want to shift
20 gears a little bit on, on FPL's ability to manage the
21 ROE.

22 **THE WITNESS:** Okay.

23 **COMMISSIONER BALBIS:** And you indicated over
24 the past year that in the earnings surveillance reports
25 FPL has consistently earned 11%.

1 **THE WITNESS:** That's correct.

2 **COMMISSIONER BALBIS:** With the surplus
3 depreciation reserve amount being exhausted after
4 190 million that's left, what will FPL's ability be to
5 manage their ROE? Will you still be at the high end of
6 the range, or do you expect you'd be back towards the
7 fluctuation where you were before?

8 **THE WITNESS:** Based on everything that we see
9 today, if you were to hypothetically accept, you know,
10 our entire petition, then for the test year we would be
11 at the proposed midpoint, plus or minus whatever, we
12 would have no flexibility, it would be whatever the
13 business does, and then presumably in the subsequent
14 year, in '14, we would have a loss of the 190 --
15 remaining 191 million credit. So our starting point
16 would be 191 million pretax lower.

17 **COMMISSIONER BALBIS:** Okay. And that really
18 hits on my concern, is that you indicate in your
19 testimony that the appropriate ROE, and you referenced
20 other witnesses, was 11.25%. And if FPL has
21 consistently earned, albeit perhaps because of the
22 surplus depreciation, at the high end that 11.25, the
23 highest authorized rate of return would really be 12.25.
24 Is that correct? If we, if the Commission allows that
25 100 basis point spread.

1 **THE WITNESS:** Theoretically we would be able
2 to earn up to 12.25, but as a practical matter it would
3 be fundamentally different from the situation we're in
4 right now where the settlement agreement gives us the
5 flexibility so that we know -- it's not guaranteed by
6 any means, but, you know, with reasonable certainty that
7 we can get to a level that's closer to investor
8 expectations.

9 And that was part of what got investors
10 comfortable with the settlement agreement as an interim
11 step.

12 **COMMISSIONER BALBIS:** Okay. I mean, I hope
13 you understand the position we're in. At some point the
14 increase of the allowed ROE results in revenue
15 requirements that really are in excess of what the
16 company would need in order to access capital, so that's
17 really the decision point that we have.

18 And the last line of questioning is on, on
19 capital structure. You indicate that the ratio has been
20 in effect for several years and that it has served the
21 customers well.

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

23 **COMMISSIONER BALBIS:** My question, and really
24 the other point you made was that there was no good
25 reason to change it.

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

2 **COMMISSIONER BALBIS:** Would there be any
3 detrimental effects for the customer if you did change
4 it?

5 **THE WITNESS:** Oh, I think over time, if we
6 weaken the capital structure, yes, it will eventually
7 hinder our ability to continue delivering the kind of
8 customer value proposition we do. That absolutely is my
9 testimony.

10 **COMMISSIONER BALBIS:** Okay. Thank you.
11 That's all I had.

12 **CHAIRMAN BRISÉ:** Commissioner Graham.

13 **COMMISSIONER GRAHAM:** Thank, Mr. Chairman.
14 Mr. Dewhurst, how are you today?

15 **THE WITNESS:** Good morning, sir.

16 **COMMISSIONER GRAHAM:** Several of the
17 intervenors and some of the Commissioners have talked
18 about the, the downgrading in your, by the rating
19 agencies after the last rate increase. Was it one or
20 two or three of the major rating, rating agencies that
21 downgraded you?

22 **THE WITNESS:** In the end only two actually
23 downgraded us. The third, Fitch, started out with a
24 negative outlook. And then when the settlement
25 agreement came into force, they took the negative off.

1 **COMMISSIONER GRAHAM:** Did you meet with the
2 two rating agencies that downgraded you after the last
3 rate increase to get more details on why they downgraded
4 you?

5 **THE WITNESS:** Yes, sir, we did.

6 **COMMISSIONER GRAHAM:** And can you tell me what
7 some of those, some of the reasoning was on the, the
8 downgrade?

9 **THE WITNESS:** Well, I can do better than that.
10 I mean, we have the -- I don't have them here, but their
11 explicit reasoning is in the, in the credit report.

12 Specifically they were concerned about
13 increased regulatory risk in the State of Florida from
14 an investor perspective. There was a widely shared
15 perception that what had been one of the best, most
16 constructive is typically the term used, regulatory
17 environments had significantly changed. And that
18 obviously was a function of a number of different
19 things, but it included the 10% ROE award, which was,
20 you know, in the context at the time very low. It
21 included the order to accelerate the amortization of
22 surplus depreciation. But even more important, it was
23 investor perceptions of the overall climate within
24 Florida, not strictly limited to regulatory, but also
25 encompassing the political environment within which

1 regulators have to operate.

2 And to paraphrase my friend, Dr. Avera, that's
3 not me saying it. That's, you know, I'm not the one
4 that counts. It's investors.

5 **COMMISSIONER GRAHAM:** Now did they tell you,
6 did they place any of that blame -- and don't get me
7 wrong, I appreciate what you said about the changes in
8 the regulatory environment here in the State of Florida.
9 Of course I think that's why most of us are here now,
10 because of that. Did they say any of the things that
11 maybe Florida Power & Light was at fault on why the
12 rating went down?

13 **THE WITNESS:** I don't know if there's
14 specifically anything at fault. Obviously all the other
15 credit factors come in there. To the extent that we are
16 perceived by investors of having contributed to the
17 decline in the regulatory environment, I suppose, you
18 know, that's there. But I don't, I don't think so.

19 **COMMISSIONER GRAHAM:** Okay. That's all the
20 questions I have.

21 **CHAIRMAN BRISÉ:** Okay. I have a couple of
22 questions for you, Mr. Dewhurst.

23 On page 14 you talk about uncertainty in
24 customer growth as, as a risk. Are you aware of any
25 utility anywhere that doesn't have that risk?

1 **THE WITNESS:** No, sir. Everybody has that
2 risk. My testimony is that it's relatively greater for
3 us in Florida.

4 **CHAIRMAN BRISÉ:** Okay. We talked to you a
5 little bit about -- you have an exhibit, let me make
6 sure I have the right one -- MD-2, where you talk about,
7 where it sort of lays out a trend in ROE or an
8 historical view of ROE for electric companies and other
9 utilities here in the State of Florida.

10 And so in the '70s range was 12%, '80s, 16%,
11 and if I look at the trend lately, and even before the
12 area that, that the time period that might be considered
13 a questionable time frame, the trend is downward. What
14 would suggest to you that the trend now begins to move
15 upward?

16 **THE WITNESS:** Fundamentally the outlook for
17 interest rates. Obviously -- well, perhaps not
18 obviously, but the single biggest driver of this sort of
19 broad upward and then downward trend is the change in
20 underlying interest rates. So those have been coming
21 down. They are about as low in my judgment as they're
22 likely to get. The forward curve shows them going up.
23 The consensus clearly is they're going to go up. There
24 is a huge disagreement about when and how much. But
25 that's fundamentally looking forward the, the driver

1 that we have to consider.

2 **CHAIRMAN BRISÉ:** The other question that I
3 have is, what was the impact of Fukushima on, what was
4 the impact of Fukushima on FPL's or NextEra's ability
5 to, to go out to the markets? What type of concrete
6 impact did that have, if any?

7 **THE WITNESS:** I think very little,
8 surprisingly little actually. I was pleasantly
9 surprised by how well, if you like, the capital markets
10 reacted to that event. Obviously because we have
11 nuclear exposure we're concerned about what the reaction
12 might have been. Clearly there's going to be a cost
13 impact. Witness Stall testified to that.

14 But in terms of turmoil in the markets or, you
15 know, impact for companies like ours that have that,
16 that piece, the fact that it was outside of the U.S.
17 regulatory regime was reassuring to investors.

18 So the real, the risk impact, if you like, is
19 indirectly through the changes that then occur via the
20 NRC and affect the cost structure.

21 **CHAIRMAN BRISÉ:** All right. On page 39,
22 looking at lines 8 through 16, you talk about burden,
23 under -- the shareholder's burden under the settlement
24 agreement, and there is mention there of having to draw
25 a \$250 million line of credit to establish reasonable

1 assurance that FPL would be able to be liquid and so
2 forth. What was the cost borne by FPL shareholders?

3 **THE WITNESS:** I can't give you an exact number
4 on that.

5 **CHAIRMAN BRISÉ:** Was there any cost?

6 **THE WITNESS:** Oh, there was certainly a cost,
7 yes. There's an ongoing cost because of the change in
8 our commercial paper rating. The recent renewal that we
9 did of the credit facilities, there was probably a
10 \$3 million increase just on the cost of the credit
11 facilities. So all of these things are sort of
12 cumulative, but I can't give you a total number at this
13 point.

14 **CHAIRMAN BRISÉ:** Okay. What did shareholders
15 earn in 2010 versus 2011?

16 **THE WITNESS:** On a regulatory basis it
17 continued to be the 11%, consistent with the settlement
18 agreement.

19 **CHAIRMAN BRISÉ:** Okay. Now specific to
20 shareholders, what costs -- or was the cost to
21 shareholders that you mentioned outweighed by their
22 earnings during that period?

23 **THE WITNESS:** I would say not so much
24 outweighed as absorbed into the total calculation of
25 earnings. If you're, if you're trying to saying

1 magnitude --

2 **CHAIRMAN BRISÉ:** Right.

3 **THE WITNESS:** -- clearly the, the specific
4 pieces we're talking here are small relative to the
5 totality.

6 **CHAIRMAN BRISÉ:** Understood. So to summarize
7 that question, I guess I'll restate it in a different
8 way.

9 Did shareholders take a loss in essence?

10 **THE WITNESS:** No, sir. Incurred incremental
11 costs, but certainly didn't take a loss.

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

13 Commissioner Edgar.

14 **COMMISSIONER EDGAR:** Thank you. Thank you,
15 Mr. Chairman. Just, probably just one question, unless
16 that engenders a second.

17 But in response to Commissioner Brown's
18 question about the storm charge reserve and the, the
19 lack of current and requested annual addition to the
20 reserve, the mechanism that is laid out from the
21 settlement agreement, so in your response to her
22 questions along that line, I believe you said that in
23 the past that decisions as to mechanisms for post storm
24 potential recovery engendered a lot of discussion and a
25 lot of administrative resources. When you said that,

1 were you referring -- did you mean administrative
2 resources within FPL or broader than that?

3 **THE WITNESS:** I was referring broadly to
4 ourselves, Intervenors, staff, yourselves, and, you
5 know, many of the issues are ones that we've talked
6 about on multiple occasions, so we just felt like, given
7 the complexity of the core of the case, that was
8 something that we could pull off the table, if we have
9 in a sense the protection that we currently have that's
10 a consequence of one narrow item in the settlement
11 agreement.

12 I don't want to be unclear. We are clearly
13 lifting that as a pattern from something. It was agreed
14 to as part of a broader set of negotiations, but we
15 think it makes a reasonable template to use.

16 **COMMISSIONER EDGAR:** And when, and so just to
17 close out that line then, when I think of options for
18 possible recovery of direct storm, post storm impacts,
19 and immediately before a storm, I guess I would include
20 that, I think of a request for surcharge as is
21 prescribed by statute, the securitization option, or, I
22 guess, no end, I guess a third option would be no
23 request for recovery of direct costs. Is there another
24 option beyond what the reserve would provide?

25 **THE WITNESS:** Beyond what the reserve would

1 provide, we would have to come back to you in some form
2 or another for either a temporary surcharge on the
3 customer rate, or we'd be back in the securitization
4 process, which, as you recall, was a very lengthy
5 process.

6 **COMMISSIONER EDGAR:** I do recall that.

7 **THE WITNESS:** Which in the meantime ties up
8 our balance sheet. So that's, that was, that's part of
9 the core of that. But I don't know that there are any
10 other mechanisms that I could think of.

11 **COMMISSIONER EDGAR:** All right. Thank you.

12 **CHAIRMAN BRISÉ:** All right. Any further
13 questions by Commissioners?

14 Okay. I'm debating whether I have one more.

15 Actually I will, I do have one more, if you
16 refer to your testimony on page 40.

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

18 **CHAIRMAN BRISÉ:** Between lines 14, moving on
19 to page 41 up to line 3, where you say, I recommend that
20 the test year equity ratio of 59.6% based on investor
21 sources equivalent to 46% on all sources be approved.
22 This is consistent with the ratio approved by the
23 Commission in 2010 and deemed appropriate.

24 So you refer to the 59.6 equity ratio that was
25 approved in the settlement agreement, and therefore you

1 say that we should continue down that path this
2 go-round. Such a request is consistent with your
3 argument for consistency and predictability you made
4 earlier in your testimony, at least in your written
5 testimony.

6 My question is if the equity ratio of 59.6
7 should remain the same, why shouldn't the ROE midpoint
8 remain the same?

9 **THE WITNESS:** Okay. First, before I answer
10 your question, Mr. Chairman, I'm going to do something
11 which nobody should do, which is try and correct the
12 Chairman, but I have to.

13 **CHAIRMAN BRISÉ:** Look, this Chairman is
14 humble.

15 **MR. LITCHFIELD:** I tried to tell him.

16 (Laughter.)

17 **THE WITNESS:** The 59.6, effectively the
18 current capital structure was in the Commission's order,
19 so that was not a creation of the settlement agreement.
20 The settlement agreement then continued that.

21 **CHAIRMAN BRISÉ:** Sure.

22 **THE WITNESS:** Okay. So then to the core of
23 your question, my response is, we're now coming back
24 again. The settlement agreement was a temporary bridge
25 which got investors over the shock value that you heard

1 about. But fundamentally we need to come back to, I
2 would call it normal rate of return regulation. That's
3 what we're asking for.

4 My testimony is that 11.25% is a reasonable
5 number as a midpoint, given today's circumstances and
6 the totality of our conditions. Clearly Intervenors
7 have a different perspective on that, and we are
8 ultimately depending upon your judgment as to what the
9 right number should be.

10 **CHAIRMAN BRISÉ:** So, so your testimony is
11 that, what is it, 11.25 would be the appropriate amount.
12 But would you agree that anything within the range, as
13 Dr. Avera suggested, 10.25 to, he went all the way up to
14 12.25, would be appropriate?

15 **THE WITNESS:** Yes. It's a little hard for me
16 to get away from that because I do believe that's right.
17 I think the further away you are from 11.25, either
18 towards the 12.25 or the 10.25, I have more of a problem
19 with that. But clearly it's a judgment call. There's
20 no analytical technique on earth that can produce a
21 perfect number here. It is a judgment call.

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

23 Redirect.

24 **MR. LITCHFIELD:** Thank you, Mr. Chairman.

25 **REDIRECT EXAMINATION**

1 BY MR. LITCHFIELD:

2 Q And on that note, Mr. Dewhurst, let me ask you
3 this, if the Commission adopted the lowest end of
4 Dr. Avera's range of 10.25, isn't it true that typically
5 there's a band or a range of plus or minus 100 basis
6 points on either side of that midpoint?

7 A Yes. And when I was discussing that, I was in
8 my mind assuming the continuation of that standard
9 practice here in Florida.

10 Q But the southern end of that band in this
11 hypothetical would be outside or below Dr. Avera's
12 range, would it not?

13 A That's true.

14 Q Okay. Okay. I want to refer you back to
15 Mr. Lavia's questions for a moment. Do you recall
16 that -- I think he identified this as Exhibit 558. He
17 showed you an excerpt from FPL's Ten-Year Site Plan and
18 talked to you about gas consumption and the potential
19 rise in gas prices. Do you recall that discussion?

20 A I recall that.

21 Q What does FPL do to mitigate against natural
22 gas price increases?

23 A Well, we do several things that have been --
24 obviously we have the fuel hedging program in place,
25 which is a, at least a short-term mitigant. The

1 fundamental thing though that we do and have been doing
2 for a long time is work on making the efficiency of the
3 system better. If we can burn less fuel per kilowatt
4 hour generated, then when our gas prices are low or high
5 it's a benefit. But particularly if gas prices start to
6 rise, it becomes, you know, proportionately more of a
7 benefit.

8 Q And now you mentioned FPL's hedging program in
9 part of your answer. What is necessary for FPL to
10 engage in that hedging program?

11 A There are a variety of things. Obviously we
12 have to have the capability of entering into the
13 required transactions. But the most significant thing
14 we need is a balance sheet, because we can't support the
15 credit obligations and the liquidity obligations on that
16 hedging program without the credit strength and balance
17 sheet. And, you know, frankly, I would love to be able
18 to go out further and hedge further out, but we don't
19 have the, a big enough balance sheet to do that. So
20 we're thinking about some other things, but we need a
21 balance sheet.

22 Q Now remaining on Mr. Lavia's line of
23 questioning relative to the natural gas consumption by
24 Florida Power & Light Company and the potential for
25 natural gas price increases, have you looked at what

1 FPL's gas costs on a per kilowatt hour basis have done
2 over the last three to five years?

3 **A** Yes, I did. And I was pleased to see that we
4 are now not merely the lowest in the state on O&M per
5 kilowatt hour, but now our actual fuel cost per kilowatt
6 hour is the lowest. That's a combination of a number of
7 things; a combination obviously of the fact we have
8 nuclear efficient combined cycle units.

9 **Q** Thank you. Mr. Lavia also focused you on
10 Schedule A1 and asked you about FPL's earnings on a
11 non-cash basis. Do you recall those questions?

12 **A** Yes, I do.

13 **Q** Now is the difference between reporting on a
14 non-cash basis and a cash basis and the difference
15 between the figures that you discussed and others in
16 this case have discussed on a non-cash versus cash
17 basis, is essentially the difference between those two
18 figures the amount of reserve surplus depreciation that
19 is, that is booked?

20 **MR. SUNDBACK:** Mr. Chairman, we'll object.
21 This is another textbook example of leading the witness.

22 **MR. LITCHFIELD:** I can rephrase the question.
23 I apologize.

24 **MR. SUNDBACK:** And, excuse me, Mr. Chairman.
25 Given our experience with prior witnesses, we'd

1 appreciate FPL's counsel attempt to refrain from this
2 going forward. This has been a consistent theme, and we
3 don't want to interrupt the flow of redirect, but it has
4 been a consistent practice, it is troubling, and it's
5 contrary to established practice, especially redirecting
6 an articulate expert witness.

7 **MR. LITCHFIELD:** Well, counsel will also note
8 that a number of predicate type questions as leading are
9 permissible that don't go to the ultimate conclusion.
10 And in terms of efficiency, that's what I was attempting
11 to do. I am happy to restate that question though.

12 **CHAIRMAN BRISÉ:** Please do.

13 **BY MR. LITCHFIELD:**

14 **Q** Mr. Dewhurst, what is the essential difference
15 between the reported figures or the figures that have
16 been discussed in this proceeding by you and others as
17 between cash and non-cash?

18 **A** I think I actually referred to this earlier.
19 But when I'm talking about the cash return, I was
20 factoring out the impact of surplus depreciation. Other
21 effects would be minor.

22 **Q** Okay. Now Commissioner Balbis again asked you
23 about the, the amount of reserve surplus that was
24 available in the test year; correct? Do you recall that
25 question?

1 **A** Correct. 191.

2 **Q** Now we -- again, as a matter of predicate, I
3 think it's been established as a rough order of
4 magnitude that about \$160 million equates to 100 basis
5 points. Would you agree with that?

6 **A** Yes. That's the rule of thumb that we've used
7 repeatedly over the last few days.

8 **Q** Now can you explain for the Commission what,
9 all other things equal, what the impact on FPL's cash
10 earnings would be in the test year without the rate
11 relief requested, taking into account the \$191 million
12 you discussed with Commissioner Balbis?

13 **MR. MOYLE:** Mr. Chairman, to the extent that
14 the witness is referring to a document to get his
15 answer, I think it would be helpful that he just
16 identify the document so we have it for the record.

17 **THE WITNESS:** Sure. I was just refreshing my
18 memory on A-1, because I was confused between the test
19 year and 2014.

20 So for the test year it would be down to about
21 sort of around 7, maybe a little below 7.

22 **BY MR. LITCHFIELD:**

23 **Q** Okay. Thank you.

24 Now do you recall Mr. McGlothlin discussing
25 with you the change in share price over a period of time

1 that I believe in his example commenced with the initial
2 order of the last Commission? This would have been
3 prior to this order approving the settlement agreement.
4 Do you recall that discussion?

5 **A** Yes, I do.

6 **Q** What in your view would be the relevant time
7 period over which to consider the impact on FPL's share
8 price relative to the outcome of the last rate case?

9 **A** In my judgment, because, as I've indicated in
10 my earlier testimony, share prices are inherently
11 forward-looking, they incorporate expectations. The
12 appropriate time is to go back to essentially the
13 beginning of the rate case. And if you look at the, the
14 numbers there, as I think I indicated earlier, we lost
15 about 20% of our market capitalization in that period up
16 to the actual rate order. By the time the rate order
17 came out, it was obviously clear to investors where we
18 were. So the specifics of it were more confirmation of
19 expectations.

20 **Q** So did I understand your answer correctly to
21 be -- at the time that the rate case hearing started,
22 FPL's stock price, how did it compare to some of the
23 other major indicators such as the S&P 500 or any other,
24 any other index you'd like to discuss?

25 **MR. MOYLE:** I, I object to the extent that the

1 question, the original question asked specifically for
2 time frames, and the answer was not really specific with
3 respect to time frames. The question now is posed with
4 respect to a rate case. And it's just unclear as to, as
5 to the time frames, to me anyway, that are being
6 solicited or sought.

7 I think if it could be more precise and more
8 clear so that, that we understand. And I'm okay on the
9 answer, but I just, it's not precise with respect to the
10 question on, on time frames.

11 **MR. LITCHFIELD:** The witness was asked for a,
12 an impact, an impact in terms of change of stock price
13 during a specific time period that Mr. McGlothlin wanted
14 him to address. And I've just asked the witness what he
15 views as the relevant time period, and I would now
16 simply like to ask him what the impact in stock price
17 has been over what he views as the relevant period.

18 **MR. SUNDBACK:** Mr. Chairman, if we could, the
19 witness referenced a 20% decrease in stock price, if the
20 note taking here is correct, but there were no specific
21 dates associated with it and so we don't really have a
22 context. And I think the record would be benefited if
23 we understand sort of the start date from which the
24 snapshot was taken and the 20% decline is measured.
25 That would give us some notion of the period that

1 Mr. Dewhurst views as relevant for purposes of assessing
2 the impact of the prior rate order.

3 **MR. LITCHFIELD:** In the interest of
4 efficiency, I thought I could take the witness through
5 based on his understanding. But I have an exhibit that
6 I'm happy to distribute, if that will aid counsel and
7 the Commission, and then we'll all be looking at the
8 time periods that we're discussing here and seeing the
9 actual impact.

10 **MR. MOYLE:** I would object to that. I mean,
11 it's not a hard question. It's what is the relevant
12 time period that you believe? He can say September this
13 to November that.

14 **CHAIRMAN BRISÉ:** Thank you.

15 Mr. Litchfield, if you could re-pose your
16 question, please.

17 **MR. LITCHFIELD:** Thank you, Mr. Chairman.

18 **BY MR. LITCHFIELD:**

19 **Q** So, Mr. Dewhurst, the point of departure in
20 terms of, of your assessment as to what the relevant
21 time period would be for looking at the impact on FPL's
22 stock price from the last case, would you restate that
23 for the record, please?

24 **A** Yes. I think there are a number of
25 possibilities. They are fundamentally in the summer of

1 2009. The specific date, it doesn't really matter. I
2 don't think you want to focus too much on any date.

3 In my own mind I go back to roughly the August
4 time frame, because that was when there was a lot of
5 information generally available to investors that began
6 to get them very concerned. So in my mind it's the
7 August of 2009 time frame.

8 Q And with regard to that time frame then, can
9 you tell me, not in precise price terms but in relative
10 terms, how FPL's stock compared to other major market
11 indices at that time, and then tell us how that changed
12 or didn't change over your relevant time period?

13 MR. McGLOTHLIN: I object because it goes
14 beyond the scope of cross-examination. The, the
15 questions during cross-examination were geared toward
16 the claim by the company that the reaction of the credit
17 agencies at the time of the decision was one of
18 disappointment. And the limited questions on cross
19 related to what happened during the stock price, from
20 that point forward to July 2010.

21 And the question that is being put to the
22 witness at this point goes far beyond anything that was
23 mentioned either by the company in his direct statement
24 or by Intervenors on cross-examination.

25 MR. LITCHFIELD: Mr. Chair? They were

1 entitled to get the answer to their question relative to
2 their time period, and I'm simply asking now for the
3 answer to, from Mr. Dewhurst relative to his time
4 period.

5 **MR. McGLOTHLIN:** But that's wrong because --

6 **MR. LITCHFIELD:** And I understand why they
7 don't want the answer.

8 **MR. McGLOTHLIN:** No. Counsel is mistaken,
9 because the witness's first time frame and the company's
10 statements during this case all relate to the reaction
11 of the credit agencies to the decision. That is the
12 appropriate point in time.

13 Now during his answer, Mr. Dewhurst says,
14 well, you said March, but it actually was in January.
15 And I accepted that as, as a reasonable comment on my
16 question, and he answered accordingly.

17 But, but now counsel for FPL is trying to
18 change the parameters of, of the company's own direct
19 testimony, and that's why I'm objecting. It's beyond
20 the scope of, not only of cross but of their own
21 statements in the case.

22 **CHAIRMAN BRISÉ:** Mary Anne?

23 **MR. LITCHFIELD:** Mr. McGlothlin has opened the
24 door. He asked about stock prices in a time period, and
25 I'd like to ask the same question relative to the

1 witness's time period.

2 **MR. MCGLOTHLIN:** The door I opened had to do
3 with the decision.

4 **CHAIRMAN BRISÉ:** Gentlemen. Thank you. Thank
5 you.

6 Mary Anne?

7 **MS. HELTON:** Mr. Chairman, I don't know if
8 you've ever heard me read from *Florida Civil Practice* by
9 Judge Philip Padovano. He's a judge in the 1st District
10 Court of Appeal here in Tallahassee. If you don't mind,
11 I'd like to.

12 **CHAIRMAN BRISÉ:** Sure.

13 **MS. HELTON:** The purpose of the questioning on
14 redirect is to clarify, explain, or limit facts brought
15 out on cross-examination. The right to question a
16 witness on redirect examination cannot be used as an
17 opportunity to bring out facts that were not discussed
18 on cross-examination. To the contrary, the questions on
19 redirect must be within the scope of the
20 cross-examination.

21 **MR. LITCHFIELD:** And may I respond to that?

22 **MS. HELTON:** I'm not sure I'm finished,
23 Mr. Litchfield.

24 **MR. LITCHFIELD:** I apologize. I apologize,
25 Mary Anne.

1 **MS. HELTON:** I agree with Mr. McGlothlin. It
2 seems to me that Mr. Litchfield is going beyond the
3 scope of the cross-examination that Mr. McGlothlin had
4 asked and some of the other parties here had asked, and
5 it seems to me that Mr. Litchfield is trying to bring
6 out on redirect information that should have been put
7 before you on their direct case.

8 **CHAIRMAN BRISÉ:** Okay. So then I will sustain
9 the objection.

10 **MR. LITCHFIELD:** Thank you, Mr. Chairman.
11 I'll move on to my next question.

12 **BY MR. LITCHFIELD:**

13 **Q** Do you recall, Mr. Dewhurst, the hypothetical
14 that Mr. Sundback offered you in terms of utility A and
15 utility B, as I recall, one had 100 customers, one had
16 1,000 customers, but the same unit generating
17 electricity for those customers and the same output, as
18 I recall, of 1,000 megawatt hours? Do you recall that
19 hypothetical?

20 **A** I do recall struggling to understand what was
21 apparently a very simple example.

22 **Q** All right. So if the same output is being
23 generated by those two utilities, what does that suggest
24 with respect to the consumption of the utility's
25 customers, customer base of 100 and the utility's

1 customer base of 1,000 customers?

2 **A** Well, obviously the one with the 100 customers
3 must be having higher usage per customer.

4 **Q** Ten times the amount; correct?

5 **A** Correct.

6 **Q** Okay. Mr. Moyle asked you a question about
7 the, the potential of a downgrade as a result of the
8 Commission's decision. And I would like to ask you,
9 what would be the consequences of that downgrade to FPL
10 and its customers?

11 **MR. MOYLE:** I'm going to, I'm going to object
12 to that in that I think the conversation related to
13 downgrade was all retrospective as to what took place
14 after the Commission's, you know, last decision. And,
15 you know, now he's asking him, well, what would happen
16 if there might be a downgrade following the Commission's
17 decision in this case? I mean, I think that is beyond
18 what was asked on cross, and it also requires the
19 witness to speculate and assume a whole bunch of facts
20 as to what the decision of this Commission would be. I
21 think it's improper.

22 **MR. SUNDBACK:** Mr. Chairman, one further
23 point. FPL was asked in discovery for studies and
24 quantifications of the impact on its operations as a
25 result of a downgrade. And if memory serves, and we'll

1 try to locate it, if necessary, during the lunch break,
2 FPL said, we don't, we don't have anything like that.
3 So to now arrive in the 13th hour and attempt to lay
4 into the record in redirect some attempt at
5 quantification strikes us as somewhat problematic.

6 **CHAIRMAN BRISÉ:** Mr. Litchfield?

7 **MR. LITCHFIELD:** Mr. Chairman, I think it's a
8 fair question. I'm a little surprised at the
9 objections, but I can ask a slightly different question
10 that may not elicit the objection.

11 **CHAIRMAN BRISÉ:** Okay. That's fine.

12 **BY MR. LITCHFIELD:**

13 **Q** Mr. Dewhurst, do you, did you provide
14 testimony in this proceeding relative to the negative
15 implications, or the implications -- let me remove the
16 term negative -- the implications of an impairment to
17 the company's financial integrity?

18 **A** Generally, yes.

19 **Q** And what -- would you please summarize that?

20 **A** Generally speaking, a downgrade would limit
21 our financial flexibility. It would over time lead to
22 higher costs, and I believe eventually, I can't tell you
23 exact time frame, would undermine our ability to
24 continue investing, and ultimately lead to poorer
25 quality of service for our customers.

1 Q Thank you. Mr. Moyle asked you a few
2 questions on, on FPL's pension management. Do you
3 recall those questions?

4 A Generally, yes.

5 Q Do you recall him asking you about the
6 expected rate of return for that fund?

7 A Yes, I do.

8 Q Can you tell me what types of investments are
9 in that pension fund, in general terms?

10 A As I think I testified earlier, it's a wide
11 range of things. Because of a very well funded
12 situation, it's a very conservative low risk profile, so
13 it's heavily in low risk investments.

14 Q Low risk meaning fixed income securities?

15 A There's a lot of fixed income in there.

16 Q Are those --

17 A Other things, too.

18 Q Is it, again, as a matter of predicate, fixed
19 income, is that, is that similar to debt, or is it debt
20 in many cases, fixed income securities?

21 A Yes. When I speak of fixed income, these are
22 typically debt securities or debt-like securities.

23 Q And you gave the, the -- remind me again the
24 number that you gave Mr. Moyle as an expected --

25 A Expected return for accounting purposes today

1 is 7.75%.

2 Q Right. And FPL's capital structure has both
3 debt and equity in it, does it not?

4 A Yes, sir.

5 Q And what's its weighted average cost of
6 capital, as proposed in this case?

7 A Based on the filing it's 7.0%.

8 Q Okay. My last question, or two or three
9 questions perhaps, if it takes that much, Mr. Dewhurst,
10 relates to the two pages of exhibit, marked as
11 Exhibit 556 that Mr. Sundback walked you through. As I
12 recall these, other than the title page of the
13 presentation, these were two pages from a much larger
14 document. Do you recall that?

15 A Yes, sir.

16 Q Would you please turn to the back of that
17 document, you'll see about five pages there, beginning
18 at page 51?

19 A Yes, sir.

20 Q It's entitled cautionary statement and risk
21 factors that may affect future results?

22 A Yes, sir.

23 Q There are five pages of these risk factors and
24 cautionary statements; agreed?

25 A I believe there's more than that.

1 Q Oh, I apologize. You're right.

2 A They go up through page 60.

3 Q The back end of my copy had a page 55. I
4 think that was inadvertent. Somebody else may be
5 missing page 55 from their copy.

6 So ten pages then?

7 A By my count, yes.

8 Q Okay. Why does the company include these
9 materials in connection with presentations that are made
10 available to investors?

11 A As part of our effort to ensure that investors
12 have a full context for everything we're disclosing, and
13 these are obviously key risk factors which they need to
14 understand.

15 Q Now the two pages that Mr. Sundback focused
16 you on, I think he asked you, among other questions he
17 asked you whether those are typical of the types of
18 pages that are included in these types of presentations.
19 Do you remember that question?

20 A I don't exactly.

21 Q Okay. I'd like you to turn to page, pages 21
22 and 22.

23 A Yes, sir.

24 Q And what do these pages contain?

25 **MR. SUNDBACK:** Mr. Chairman, could we get a

1 point of clarification at this stage from FPL? Is FPL
2 intending to move into the record the entirety of the
3 document? If they are not, then we're, we have a
4 question as to what we're doing with this redirect.
5 We'd like to have clarification of what their intention
6 is with regard to the document.

7 **MR. LITCHFIELD:** Mr. Chairman, we don't intend
8 to move the entire document into the record. I don't
9 think it's necessary. As Mr. Sundback examined
10 Mr. Dewhurst on a couple of pages, I think it's within
11 our right to redirect on a couple of pages, but we don't
12 intend to move the whole document into the record.

13 **MR. SUNDBACK:** Mr. Chairman, we'd like to
14 understand at that point then whether FPL does not have
15 any objections to our movement of the pages on which we
16 conducted cross-examination. If that's the case, we
17 wouldn't have an objection coming out of the gate on
18 cross-examination of other pages.

19 However, if it's going to be, let's call it a
20 mismatch in the sense that they want to cross-examine
21 out of a couple of pages and object to the pages we
22 conducted cross-examination on, we would object to this
23 procedure. And that's really what we're trying to
24 understand is what, what's FPL contemplating with regard
25 to our pages and the document in general?

1 **CHAIRMAN BRISÉ:** Mr. Litchfield.

2 **MR. LITCHFIELD:** Thank you. I think, I think
3 I can clarify and will resolve Mr. Sundback's concern.

4 I have a couple of questions on a couple of
5 the pages. I don't even propose to move those into the
6 record. We will not object to the two pages that
7 Mr. Sundback will ask to have moved, with one exception,
8 and that is that we would include the last ten pages of
9 the cautionary statements along with it. But beyond
10 that, we're fine.

11 **CHAIRMAN BRISÉ:** Mr. Sundback?

12 **MR. SUNDBACK:** Mr. Chairman, we appreciate
13 your soliciting that clarification from FPL. For the
14 time being we have no objection just out of the gate to
15 the cross-examination. We'd like to reserve the
16 opportunity, once we've heard the questions and seen the
17 use, to assess those.

18 **CHAIRMAN BRISÉ:** Sure.

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

20 **CHAIRMAN BRISÉ:** Mr Litchfield.

21 **BY MR. LITCHFIELD:**

22 **Q** So, Mr. Dewhurst, on 21 and 22, these pages
23 contain what?

24 **A** Pages 21 and 22 show -- 21 shows some history,
25 but they're fundamentally our view as of the date of the

1 document, which is June 2nd, 2010, of what the projected
2 capital expenditures for FPL would be, and specifically
3 on 22, to give investors a sense for the major projects
4 that we were then pursuing.

5 Q But am I right that updated information
6 relative to these initiatives or current Capex
7 initiatives would be in the current case --

8 MR. MOYLE: Leading.

9 MR. LITCHFIELD: Well, I'm -- this is why,
10 counselor, I don't need to offer these into evidence. I
11 just need him to affirm that these, these materials or
12 this information is already in the record in this case.
13 Is that objectionable?

14 CHAIRMAN BRISÉ: Mr. Litchfield, ask your
15 question.

16 MR. LITCHFIELD: Okay. Thank you.

17 BY MR. LITCHFIELD:

18 Q I'm sorry. Did I get an answer?

19 A Could you repeat the question?

20 Q This, the information generally reflected on
21 slides 21 and 22 would be of the type of information
22 that is included in this case; correct?

23 A Yes and no. To the extent that the year, the
24 time period overlaps, we would have in the current
25 filing whatever our best estimate of the Capex for those

1 projects is. To the extent that the time periods don't
2 overlap, then obviously that would not be reflected in
3 the filing.

4 Q Okay. Now Mr. Sundback showed you page 14
5 from this deck, and I'd like you to just look at page,
6 pages 15 and page 16. Tell me first what these pages
7 relate to.

8 MR. SUNDBACK: Mr. Chairman, just as a point
9 of clarification, we didn't conduct any
10 cross-examination on page 14. Now I don't know whether
11 that's material as a foundation for Mr. Litchfield's
12 questions, but we didn't ask him about page, what's
13 numbered 14 on the lower left-hand corner. We asked him
14 about, questions about the pages numbered 4 and 18.

15 CHAIRMAN BRISÉ: 18.

16 MR. LITCHFIELD: I apologize if I got the page
17 number incorrect.

18 BY MR. LITCHFIELD:

19 Q Mr. Dewhurst, do you, do you have the question
20 pending?

21 A On pages 15 and 16, it has been a common
22 practice for a long time for us to share with our
23 investors our overall cost performance, reliability
24 performance. So page 15 speaks to our O&M per kilowatt
25 hour, our fossil heat rate history trend, and page 16

1 speaks to our relative bill comparison.

2 Q All right. Same concluding question on an
3 updated basis. Is this information reflective of
4 information that's been filed in this case?

5 A Yes. I believe all these have been included,
6 updated for this case.

7 MR. LITCHFIELD: That's all I have. Thank
8 you.

9 CHAIRMAN BRISÉ: Thank you very much. Now we
10 will deal with exhibits for Mr. Dewhurst.

11 FPL.

12 MR. LITCHFIELD: FPL would move 211 and 212.

13 CHAIRMAN BRISÉ: Okay. 211 and 212. Are
14 there any objections to 211, 212 being moved into the
15 record?

16 Okay. Seeing none, we'll move Exhibits 211,
17 212 into the record.

18 (Exhibits 211 and 212 admitted into the
19 record.)

20 CHAIRMAN BRISÉ: FIPUG.

21 MR. MOYLE: We'd move Exhibit 555.

22 CHAIRMAN BRISÉ: Okay. Exhibit 555. Are
23 there any objections to Exhibit 555 being moved into the
24 record?

25 MR. LITCHFIELD: Yes. Yes, there, there are.

1 I did my own score card on the sheet, and of everything
2 on this sheet, the only two items that have been
3 documented, and they were documented previously through
4 Witness Barrett, were the two mathematical conclusions
5 on the top right, 240 million and 2.4. Again, it's a
6 matter of arithmetic based on the assumptions that
7 Mr. Moyle provided during direct, during
8 cross-examination.

9 There's nothing else on this page that has
10 been authenticated, and in fact the balance of the
11 figures that would follow in fact would not follow,
12 because mathematically they are contingent upon the
13 adoption of the .44% figure, which is neither attributed
14 to Witness Avera nor confirmed by Mr. Dewhurst here this
15 morning. So we would object.

16 **CHAIRMAN BRISÉ:** Mr. Moyle?

17 **MR. MOYLE:** When I asked him about that he
18 explained it. I mean, I think to the extent that it
19 helps to have a clear record with respect to it, it
20 probably could come in and give it the weight that it's
21 accorded.

22 **CHAIRMAN BRISÉ:** I think I agree. We'll move
23 this into the record. It's traveling with three or four
24 witnesses already. So we will give it the appropriate
25 weight.

1 (Exhibit 555 admitted into the record.)

2 **MR. MOYLE:** Okay. And, Mr. Chairman, a lot of
3 paper in this case, and we've all had situations,
4 erratas and different things, and I neglected to provide
5 an exhibit to this witness, and we've already crossed
6 that bridge. All I would like to do was to have the
7 exhibit introduced into the record. It relates to the
8 FPL pension fund that, that he was asked some questions
9 about, and it just, you know, he was talking to a
10 document. The document is the best evidence, and they
11 have an interrogatory that shows how the pension fund's
12 assets are invested.

13 So what I would ask to do is to be able to
14 have this document marked and also moved in, but I'm not
15 going to ask any questions on it, but just have it as
16 part of the record.

17 **MR. LITCHFIELD:** FPL has no objection to
18 having it marked, but would like to see a copy of it and
19 perhaps over lunch hour we could come back and either
20 agree or, or agree to disagree with regard to its
21 introduction at that point, Mr. Chairman.

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

23 **CHAIRMAN BRISÉ:** Okay. So if the document
24 could be distributed and we will deal with that post
25 lunch.

1 **MR. MOYLE:** And the number to have it marked
2 would be?

3 **CHAIRMAN BRISÉ:** It would be 559.

4 (Exhibit 559 marked for identification.)

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

6 **CHAIRMAN BRISÉ:** Okay. Is that everything for
7 FIPUG in terms of exhibits for now?

8 **MR. MOYLE:** Yes.

9 **CHAIRMAN BRISÉ:** Okay. South Florida Hospital
10 Association?

11 **MR. SUNDBACK:** Thank you, Mr. Chairman. We'd
12 move at this time the admission into the record of SF --
13 oh, I'm sorry -- hearing exhibits number 556 and 557.

14 **CHAIRMAN BRISÉ:** 556 and 557?

15 **MR. SUNDBACK:** Yes, sir, please.

16 **CHAIRMAN BRISÉ:** Are there any objections?

17 **MR. LITCHFIELD:** Mr. Chairman, no objection
18 with regard to 556, subject to what I understood was our
19 offer and acceptance by counsel to include the ten pages
20 of disclaimers and, excuse me, risk factors and
21 cautionary statements that are appended to the back of
22 this.

23 **CHAIRMAN BRISÉ:** Okay.

24 Mr. Sundback?

25 **MR. SUNDBACK:** It's fabulous nighttime

1 reading, and so we have no objection.

2 **CHAIRMAN BRISÉ:** Okay. All right.

3 Any objections to 557?

4 **MR. MOYLE:** We had a discussion about, about
5 the document and we wanted the whole document. And the
6 whole document was in front of us. I'd like for the
7 whole document to come in. Optional completeness.

8 **MR. LITCHFIELD:** There were no questions asked
9 on any other portion of the document. I don't think
10 that it needs to be moved. We're not moving it and
11 Mr. Moyle didn't ask questions on it. I don't think
12 he's in a position to move it. And Mr. Sundback had the
13 opportunity to ask questions on the whole document and
14 elected to ask questions on two pages. So I think it
15 would be improper at this point.

16 **CHAIRMAN BRISÉ:** I would tend to agree. So we
17 just move in the, the, what was it, page 20 and 21 and
18 page 4 and 18?

19 **MR. LITCHFIELD:** No, sir. It is simply pages
20 51 through 60.

21 **CHAIRMAN BRISÉ:** 51 through 60, that's the --
22 51 through 60 and 4 and 18. Okay. So that will be
23 Exhibit number 557.

24 **MR. SUNDBACK:** Mr. Chairman, just out of a
25 surfeit of caution, we're also including the cover page

1 that shows the --

2 **CHAIRMAN BRISÉ:** Sure.

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

4 **MR. LITCHFIELD:** I'm sorry. 556, I believe.

5 **CHAIRMAN BRISÉ:** Is that 556? Yes, because
6 557 is an interrogatory. Okay.

7 **MR. LITCHFIELD:** No objection to 557.

8 **CHAIRMAN BRISÉ:** Okay. So we will move 556
9 and 557 into the record at this time.

10 (Exhibits 556 and 557 admitted into the
11 record.)

12 558.

13 **MR. LAVIA:** Thank you, Mr. Chairman. The
14 Florida Retail Federation would like to move into the
15 record Exhibit 558.

16 **CHAIRMAN BRISÉ:** Any objections?

17 **MR. LITCHFIELD:** No objection.

18 **CHAIRMAN BRISÉ:** All right. Seeing none, we
19 will move 558 into the record at this time.

20 (Exhibit 558 admitted into the record.)

21 **MR. YOUNG:** Mr. Chairman, at this time staff
22 would move what is identified as hearing, on the
23 Comprehensive Exhibit List, number 113, as amended to
24 include the errata sheet and the late-filed Exhibit
25 Number 2 to the deposition.

1 **CHAIRMAN BRISÉ:** Okay. So we will move
2 Exhibit 113 with the errata and the interrogatory.

3 **MR. YOUNG:** Late-filed Exhibit Number 2 to
4 Mr. Dewhurst's deposition.

5 **CHAIRMAN BRISÉ:** All right. Are there any
6 objections to that?

7 **MR. LITCHFIELD:** No.

8 **CHAIRMAN BRISÉ:** Okay. Seeing none, we will
9 move Exhibit 113 into the record.

10 (Exhibit 113 admitted into the record.)

11 Okay? I think we are pretty much done with
12 this witness, with the exception of the exhibit issue.
13 Can we handle the exhibit issue without the witness
14 being present?

15 **MR. LITCHFIELD:** I, well, from my standpoint,
16 I believe the answer is yes, because I don't think it's
17 going to be proper to put the witness back on the stand
18 to come back and be crossed on an exhibit that counsel
19 had a chance to use when it, when he was up to bat.

20 **MR. MOYLE:** Yeah. And I think we can work
21 through it. But if the objection is authentication and
22 we've let the witness go, you know, the only question
23 would be is this an authentic document. I'd hate to put
24 myself in that box.

25 **MR. LITCHFIELD:** Mr. Moyle put himself in that

1 box when he didn't use it during his turn at
2 cross-examination.

3 **MR. MOYLE:** That's fair. I admitted I didn't
4 use it, but, you know, we can, we can go the easy way or
5 go the hard way.

6 **CHAIRMAN BRISÉ:** Okay. All right.

7 **MR. YOUNG:** Also, too, Mr. Chairman, the
8 witness, the witness has rebuttal testimony. To the
9 extent that the deposition relates to the rebuttal
10 testimony, Mr. Moyle can possibly take it up then too.

11 **CHAIRMAN BRISÉ:** Perfect. So we will excuse
12 Mr. Dewhurst from his direct testimony at this time.

13 Thank you very much. And --

14 **MR. MOYLE:** Mr. Chairman, I had one
15 housekeeping matter, if I could. I know everybody is
16 wanting to get to lunch.

17 **CHAIRMAN BRISÉ:** Yes, sir.

18 **MR. MOYLE:** But last night during Mr. Avera's,
19 Avera's testimony, I had asked him some questions about
20 a document that related to some bond yields, and after
21 my cross I, I left the room. Mr. Saporito kindly said
22 during the further cross when I was not in the room that
23 the South Florida Hospital Association brought up some
24 facts and that he looked at it and affirmed it. And so
25 I was not aware of that. I didn't try to move it.

1 But given what had been represented in
2 conversations with counsel for South Florida, I would
3 like to, you know, move the Exhibit 545 that was used
4 with Mr. Avera last evening.

5 **MR. LITCHFIELD:** FPL objects and actually
6 would take the suggestion of Mr. Young, that if
7 Mr. Moyle wants to use that exhibit again with Mr. Avera
8 when he comes back on rebuttal, that that might be the
9 most efficient way to go here, than relying upon --
10 Mr. Moyle is relying upon Mr. Saporito's recollection of
11 what Dr. Avera said last night.

12 **MR. MOYLE:** But we have a record. I mean,
13 it's not, it's not like it's a mystery. You know, he
14 either did it or he didn't. And to the extent he
15 testified from it and confirmed some things, it ought to
16 come in.

17 **CHAIRMAN BRISÉ:** I'll tell you what, when we
18 return from lunch, we will deal with that issue.

19 Okay. It is 12:27, and we'll see you back
20 here at 1:30.

21 (Recess taken.)

22 (Transcript continues in sequence in Volume
23 16.)


1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4 I, LINDA BOLES, RPR, CRR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 29th day of August,
19 2012.

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LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734