BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 140001-EI

FUEL AND PURCHASED POWER COST RECOVERY CLAUSE WITH GENERATING PERFORMANCE INCENTIVE FACTOR.
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VOLUME 3

Pages 315 through 466

PROCEEDINGS: HEARING

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

DATE: Monday, December 1, 2014

TIME: Commenced at 4:00 p.m.
Concluded at 8:00 p.m.

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

REPORTED BY: ANDREA KOMARIDIS, Court Reporter

PREMIER REPORTING
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TALLAHASSEE, FLORIDA
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APPEARANCES: (As heretofore noted.)

I N D E X

WITNESSES

EXHIBITS

NUMBER:	RECEIVED
2-4, 6-10, 60, 63, 64	339
5	346

P R O C E E D I N G S

(Transcript follows in sequence from Volume 2.)

THE WITNESS: Again, it would get down to liability in terms of whether it was at PetroQuest's, you know, gross negligence, willful misconduct. Those items, if they've been exhausted, if that's not the issue, then, you know, it would get down to the insurance company either honoring the claim or paying the claim.

And if it's not enough to cover the entire claim, those costs would be passed on to customers, if they were -- again, if it was through prudent actions, that whatever -- whatever issue it is that we're trying to cover.

CHAIRMAN GRAHAM: But Florida Power and Light doesn't share any of that risk.

THE WITNESS: Not today, no.

CHAIRMAN GRAHAM: I think I have another question. The $750 million a year that you're talking about, what percentage of Woodford would that be? Would it be 5 percent of everything that they're doing? You said you would be that working interest. What -- how big a piece of the pie would that buy you?

THE WITNESS: Are you talking about the entire Woodford Arkoma, which is, like, 2600 square miles?

CHAIRMAN GRAHAM: Yes.

THE WITNESS: This is, if I'm not mistaken, somewhere in the neighborhood of about 19 -- 19 square miles over 2600. So, it's -- it's a fairly -- this is for $191 million on this particular investment of which we've got, you know, a percentage of. We don't have the entire -- the entire amount. So, it would -- it would require me to do a little bit of math. It might take me some time, but it's a pretty --

CHAIRMAN GRAHAM: How --

THE WITNESS: It's a pretty de minimus amount.

CHAIRMAN GRAHAM: Like a quarter of a percent? .01 percent?

THE WITNESS: This will all be subject to check.

CHAIRMAN GRAHAM: No, that's --

THE WITNESS: Working from the calculator here.

CHAIRMAN GRAHAM: I'm not going to hold your feet to the fire on this one.

THE WITNESS: Thank you.

CHAIRMAN GRAHAM: I just want to get a

ballpark idea of what we're talking about.

MR. MOYLE: And the question is --

CHAIRMAN GRAHAM: You had your turn.

(Laughter.)

THE WITNESS: So, just the Woodford Project, itself -- these sections, I believe, represents about seven-tenths of a percent of the overall --

CHAIRMAN GRAHAM: Okay.

THE WITNESS: Okay? And so, multiply the seven-tenths times the -- we've got 191 over that -- somewhere in the neighborhood of about 2 percent. Again, that's subject to check. That's quick math, but a $750 million investment would represent about 2 percent of the overall -- again, subject to check.

CHAIRMAN GRAHAM: And you said 750 million. If that was $750 million worth of natural gas, you said that was roughly about 2.7 percent of your daily?

THE WITNESS: So --

CHAIRMAN GRAHAM: Over the year. So, it would be 2.7 --

THE WITNESS: Yeah, you have to look at the revenue requirements. So, if, in this particular instance in the Woodford Project, it's a

$191 million investment, which if you go to SF-8, if you have the confidential version and not the blacked-out version --

CHAIRMAN GRAHAM: Yes.

THE WITNESS: You can see the revenue requirements on $191 million investment in year one. In -- we'll just call them "F" there, Line 1.

CHAIRMAN GRAHAM: Okay.

THE WITNESS: That will show you the revenue requirements in year one. In year two, when I talked about it being 2.7 percent, the revenue requirements would be the second line there. And that's, again, what's represented on the -- on the chart behind me right there. So, the -- those revenue requirements you see there on $191 million of investment is what creates that 2.7 percent.

Again, if you look at those revenue requirements, that's -- that's against an overall spend on natural gas in the 2.5-to-$3- billion range. So, relatively minor amounts considering the volume of gas that we're buying.

CHAIRMAN GRAHAM: All right. That's all I had.

Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you, Mr. Chairman.

A couple of questions. So, based upon the forecast that is laid out, ideally, customers are going to benefit or the ratepayer is going to benefit, shareholders are going to benefit. And so, that's supposed to make sense, right?

THE WITNESS: Yes.

COMMISSIONER BRISÉ: From your perspective.

THE WITNESS: Yes.

COMMISSIONER BRISÉ: Paint me a scenario where the shareholders don't benefit and the customers benefit. Paint me a scenario where the customers don't benefit and the shareholders benefit because I'm trying to understand where that risk factor is and --

THE WITNESS: Sure.

COMMISSIONER BRISÉ: -- where that line is.

THE WITNESS: So -- so, with -- with respect to the Woodford Project -- and we'll just use $107 million as kind of the base case and use that for example purposes.

So, in the event where an FPL shareholder doesn't benefit could be as a result of rising interest rates during a period of settlement. It could be as a result of an impact to return on equity at a subsequent rate case, rate proceeding, any deemed and prudently incurred costs that are not recoverable by FPL.

So, any of those things could certainly impact the investor opportunity. That doesn't necessarily mean that any of those things impacted negatively what's happening with the Woodford gas as far as customers are concerned.

And in fact, if the return on equity was lowered, it would actually lower the cost of -- the effective cost of gas. So, there -- there is a scenario where investor-impacted customer is not.

The other alternative is, again, utilizing the same sort of scenario with $107 million. If gas prices, as I suggested, you know, were to go to $3.90 on a real -- on a real basis and just stay there for the next 50 years, the savings projected here would not materialize.

The net present value of that would effectively be zero, right? So, they would not have seen any benefit from this. They wouldn't necessarily have been harmed by it. They would have been the beneficiary of hedging the benefit of having a flat -- a flat price of $3.90 for the next 50 years, but the $107 million would not have materialized.

I will suggest, though, that is a great day for customers if we are buying gas at $3.90 for the next 50 years -- that's a terrific story for a very, very long time.

So, it -- the benefits of lower gas prices, while they do impact the customer savings here -- again, we're not proposing to do the entire portfolio through these types of projects. We're proposing to do, you know, sort of a growth pattern into some level of this that would replace some of the -- some of the financial hedging program.

If gas prices go lower, that is a terrific day for customers; nothing but lower bills for the future, so that's -- that's...

COMMISSIONER BRISÉ: Okay. I'll leave it there for now.

THE WITNESS: All right.

CHAIRMAN GRAHAM: Okay. Redirect.

REDIRECT EXAMINATION

BY MR. GUYTON:

Q Mr. Taylor, Counsel for the Office of Public Counsel asked you about some of the underlying predicates for your 9-box scenario. Do you recall that line?

A I -- I do. I'll go by -- I'll go by

Mr. Forrest for the time being, though.

Q I'm sorry. What did I say?

A Dr. Taylor.

Q Mr. Taylor. Oh, my goodness, gracious. Got ahead of myself. Didn't --

A We just met early this morning. So, that's fine.

Q Now -- now everybody knows we met this morning.

(Laughter.)

Mr. Forrest, let me try again.

A Sure.

Q You recall the questions about the predicates underlying -- the factual predicate underlying your 9-box scenario?

A Yes, sir.

Q And one of the predicates that you were asked about was whether the -- whether or not each well would produce within 10 percent of its projected reserve estimate.

A Correct.

Q You recall that?

A Yeah.

Q Was that the predicate or was the predicate that all the wells collectively would produce within

10 percent?

A Yeah. If I misspoke, I apologize. There is certainly a band of plus or minus 10-percent that Dr. Taylor projects will be in effect in the aggregate. He actually believes it will be better than that in the aggregate when you look at the full 38 wells sort of being within a tight band of plus or minus 10 percent. But there certainly is some potential that an individual well could be outside that 10-percent band.

Q Office of the Public Counsel's Counsel also asked about the delay in the schedule of some of the initial wells in the Woodford Project. Do you recall that line of questioning?

A Yes.

Q What does that delay mean for FPL's customers? If anything.

A Very little, in reality. Again, the reason for the delay is -- is PetroQuest trying to find a second rig that -- that works for them, that meets their standards. So, rather than just running out and finding a new well that may lead to cost overruns or delays in schedules down the road, they'd try to find one that works to their benefit and the benefit of the project.

It is not imperative that the schedule stay on a day-for-day. Again, we believe that with the schedule that's laid out, the vast majority of the customer benefits that are projected for year one will still be incurred in year one.

So, a small delay in the front end doesn't necessarily mean that the entire project is delayed for, you know, some extended period of time. There is certainly a potential to catch up once -- once the second rig is in place.

So, you know, it may be a slight delay in benefits, but it is not -- it is not a significant -- again, this gas is not -- it's not going anywhere. It's going to be there for us, to be drilled when the -- when the project is ready.

Q You were also asked about the list of leases that was an exhibit that was an attachment to the drilling and development agreement. Do you recall that line of questioning?

A Yes, I do.

Q Has -- and you were asked whether or not there is the full body of the leases anywhere in the filing. Do you recall that?

A Yes, I do.

Q Has the Office of Public Counsel or any other party to this proceeding requested the leases that were shown in Exhibit B of the drilling and development

agreement?

A Not to my knowledge, no.

Q And if they had, would they have been provided those?

A Yes, they would have. That information is publicly available.

Q You -- you also were asked about your analysis and whether in the economic analysis, the volume of gas assumed -- whether that was net or gross of all royalties, correct?

A That is correct, yes.

Q And I believe your answer was it was net of all royalties?

A That is correct.

Q And you were asked if that was disclosed in your testimony. And if I recall, you said no.

A I said no. It is, in fact, disclosed in Dr. Taylor's testimony as TT-8. It shows in Column B the gas gross amount, which is the amount at the well head. And then it shows a net amount in Column C, which is the amount after royalties and other working interest owners.

So, that is -- that is the amount that is effectively available to Florida Power and Light.

Q Now, you were asked by Counsel for FIPUG a

question about whether you would enter into any hedging deals with a company that was below investment grade. Do you recall that?

A I do, yes.

Q And I believe you answered that no. Would you explain to the Commission what you understood that term "hedging deals" to mean when answering that question?

A Yes. So, with respect to hedging on a financial basis or on a physical basis with a counter-party that has substandard credit or credit that's below investment grade, it creates a substantial burden on the parties to manage the collateral requirements of such a transaction, such that, if somebody sold us a fixed-price contract as a less-than-investment-grade counter-party and gas prices were to rise, we would expect them to post on a dollar-for-dollar basis collateral to support that transaction. And that could be, you know, a substantial amount of money that would just be cost-prohibitive to somebody of that stature.

So, it's just -- it's something that we just wouldn't consider doing just because of the collateral requirements associated with that type of transaction.

Q So, you were speaking to fixed costs?

A I was talking about a fixed-price contract, yes.

Q While we're talking about hedging, is it, in your -- to your way of thinking, is it necessary for there to be a fixed price for there to be a hedge?

A No. No, not at all. I think that it's a pretty narrow definition of hedging, in all honesty. I think that, you know, the 2008 hedging guidelines that were approved by the Commission certainly lay out fixed price as a certainly one of those -- one of those instruments that's available.

It also talks about physical hedging and doesn't really provide any descriptors to that. Within the hedging guidelines themselves, there certainly is the flexibility of the Commission to make the decisions that are in the best interest of the customers and the utilities if something is outside the guidelines. And that's the creativity that we're -- that we're looking for here; sort of a recognition that there is a better way to hedge the longer term beyond what's available in the marketplace. Financial hedges just don't exist that would allow us to go out that far and provide the protections needed to hedge off some of the risks that our customers wear.

So, I think it's -- I think it's important to sort of see the flexibility that's required in this type of transaction.

Q You were asked by Counsel for FIPUG if the Woodford proposal put FPL and its customers into the oil and gas business in Oklahoma or anywhere else. Does the Woodford proposal put FPL and its customers into the oil business in Oklahoma or anywhere else?

A No, it does not. There is no oil or natural-gas liquids associated with this project. It's all -- it's all 100 percent gas.

Q Now, you were also asked by FIPUG's Counsel about different parties bearing market-price risks. Do you recall those -- that line of questioning?

A Yes.

Q And under the current practice at FPL's following, who bears the market-price risk associated with FPL buying natural gas?

A Our customers entirely, 100 percent. There is little -- right now, there is no protection beyond 2015. So, again, as I said earlier, the full brunt of whatever happens to market prices is felt by our customers through the Fuel-Clause mechanism.

Q And what impact, if any, does the Woodford Project or other gas-reserve projects have on that market-price risk that are faced by customers?

A Again, it's a direct hedge. Our customers have 100 percent exposure to market risk. This is an --

this is the opposite of that. It's an absolute hedge in terms of decoupling from the market the factors that impact pricing.

So, in this particular instance, again, as Dr. Taylor will go through in detail, the costs in production coming from this project are very well known. It is a very stable price that will provide long-term protection for an extended period of time.

It is completely decoupled from the -- from every single factor that impacts what happens with marketplaces; L and G, exports, you know, 111(d) impacts -- all of those above will not be impacted by what happens here in the Woodford Project. This is a stable price that we will enjoy for a very, very long time.

Q You were also asked if FPL can assure or say with certainty that the savings that it projects will actually accrue. Do you recall that --

A Yes, sir.

Q -- question?

What's the probability that the savings associated with the Woodford Project will actually accrue?

A There is an 85-percent chance. And there was a discussion this morning, I think during OPC's opening statement, that he actually mentioned gambling when we determined that. Monte Carlo simulation is not gambling. It is a financial-analysis tool that assesses a number of different scenarios. It's a tool that allows you to run multiple scenarios, giving multiple inputs to try to determine the probabilities of certain things occurring.

So, we utilize our 9-box analysis and run through 10,000 scenarios with each of those variables being changed as you went. And there was an 85-percent probability that the Woodford Project would produce positive results.

So, it certainly was not a gambling exercise, I assure you.

Q You were also asked by one of the Commissioners if -- what some of the measures were for the mitigation of risk associated with liabilities.

A Yes.

Q Do you recall that?

What, if any, benefit, in terms of risk mitigation is there associated with there being a separate FPL subsidiary?

A Well, the primary benefit -- there are some tax benefits potentially from being in a subsidiary. And again, Witness Ousdahl can go through that. But with respect to the mitigating factors, by having this project sit within a subsidiary, in the event one of the liabilities that's been discussed impacts directly the Woodford Project to the extent that it's beyond what the economic value of the transaction -- by having it in an entity that's remote from the parent company, it protects us from, you know, anything piercing the corporate veil. So, there are benefits from that perspective as well.

MR. GUYTON: That's all I have.

We would move Exhibits 2 through 9.

CHAIRMAN GRAHAM: Which exhibits?

MR. GUYTON: Two through nine.

CHAIRMAN GRAHAM: Two through nine.

That wasn't one of the ones, Mr. Moyle, that you had an objection to?

MR. MOYLE: I believe it was, if it's their intent to move the version that was filed as an errata.

Are you moving that now?

MR. GUYTON: Yes, I am. And I apologize. I'm going to correct myself. We're moving two through ten. I don't want to leave the guidelines out.

CHAIRMAN GRAHAM: Two through ten?

MR. GUYTON: Yes.

MR. MOYLE: So, FIPUG would object to what was previously identified as Exhibit SF-4, (errata), Page 79 of 130. I think it's a 51-page exhibit that was not produced or not attached to the testimony per the pre-hearing order.

It came about very late after -- after the deposition of Mr. Woodford. And I guess -- in addition to the -- I'm sorry. Mr. Woodford. My bad. Mr. Forrest.

THE WITNESS: A bit of a complex I'm developing all of a sudden.

(Laughter.)

CHAIRMAN GRAHAM: Mr. Moyle, so, that one exhibit is the only one you're objecting to? You're fine with the rest?

MR. MOYLE: Yeah. The one I'm objecting to is the model form, operating agreement. And I also would object on the basis that it's not executed. It's not signed. I'm not sure it's particularly relevant to anything here, in that it's testimony. It's not -- it's not signed.

MR. TRUITT: Mr. Chairman --

CHAIRMAN GRAHAM: Hold on. Hold on. Hold on.

What about Exhibits 11 and 12?

MR. GUYTON: I think those are rebuttal

exhibits, which is why I didn't move them.

CHAIRMAN GRAHAM: Okay. I'll take your word for it.

Now --

MR. TRUITT: Sorry, Mr. Chairman. OPC would join FIPUG's objection to the errata section of SF-4.

CHAIRMAN GRAHAM: Okay.

MR. LAVIA: As will Retail Federation.

CHAIRMAN GRAHAM: Okay. Well, let's deal with that.

Well, first of all, let's do the rest of these exhibits.

OPC, did you have exhibits for this witness?

MR. TRUITT: Yes. OPC had Exhibits 60 -- 61 we withdrew -- 62, 63, and 64.

CHAIRMAN GRAHAM: All right. 60. We're not doing 61. 62 is one of our orders, correct?

MR. TRUITT: Correct.

CHAIRMAN GRAHAM: We don't need to do that.

63 and 64; is that correct?

MR. TRUITT: Correct.

CHAIRMAN GRAHAM: Okay.

MR. MOYLE: FIPUG has an issue on 64.

CHAIRMAN GRAHAM: Okay.

MR. MOYLE: This is -- and with all due respect to OPC, my friends at OPC, this is a late-filed exhibit that was asked for at the deposition. And we're good to go with what was asked for, which, for the record, is the third page, the fourth page, and the fifth page, and the sixth page of the exhibit.

We're not good to go with the second page of the exhibit, which is a commentary that has been provided that -- it's unclear who provided it. My suspicion is FPL's Counsel, but the witness surely didn't say, yeah, this is all my stuff.

It's kind of a -- you know, here is what we're giving you and here is why you shouldn't really consider this as being particularly meaningful. That's my characterization of it. I mean, it speaks for itself. But again, it's inappropriate. It shouldn't come in. We would object.

CHAIRMAN GRAHAM: OPC?

MR. TRUITT: We had no problem with the whole exhibit coming in.

CHAIRMAN GRAHAM: Okay. Florida Power and Light?

MR. GUYTON: It is sponsored by -- that page is sponsored by Mr. Forrest, just as the other analyses were sponsored by Mr. Forrest. It is part of the exhibit that was prepared in response to OPC.

CHAIRMAN GRAHAM: All right. We'll put 64 in.

(Whereupon, Exhibit Nos. 2-4, 6-10, 60, 63, and 64 were received in evidence.)

CHAIRMAN GRAHAM: Let's go back and address Exhibit 5, which is SF-4.

Let's hear that one more time, Mr. Moyle.

MR. MOYLE: You want me to go again? The -- I'll kind of start from the beginning. I mean, the way these proceedings are conducted is you file your prefiled testimony with your exhibits. That was done in this case.

There -- there -- at the deposition, there was -- a model form agreement was not there. I asked the witness about the model form agreement. It was kind of an oops moment. It wasn't there.

And consistent with the order establishing procedure, it shouldn't come in now for a couple of reasons; one, it was produced in a -- in a way that -- we're all getting ready for trial. It was prejudicial to take a break and go through a -- you know, a lengthy exhibit.

But also, the basis is that it is irrelevant to this proceeding in that it's an unexecuted copy of an agreement. I mean, there is nobody here from either party. I asked him how he heard about the agreement being signed which he put in. He said, oh, somebody from USG, you know, told me about it.

And it shouldn't -- shouldn't come in. You know, on that basis, it's hearsay. It's irrelevant. And it wasn't timely produced in accord with the order establishing procedure. And it's not a two-page document. It's a 51-page pretty complex contractual document.

You know, my expert, obviously, has filed testimony in this case. And you know, very late in the day that this was brought up, no opportunity to really look at it and prepare properly and rebut it.

CHAIRMAN GRAHAM: My understanding -- did I hear this was produced -- was it November 14th or November 17th?

MS. BARRERA: It was produced November 14th.

CHAIRMAN GRAHAM: November 14th. Florida Power and Light, what's your response to their objection?

MR. GUYTON: Several things. First, we apologize. We intended to include -- it's very clear that we intended to include this as part of the exhibit. It is an exhibit to the exhibit.

Perhaps, I should start by saying it's not all of SF-4. It's just the latter pages of it. But it's clear that we intended to do it. It was an oversight. And we apologize to the parties when it was brought up to us at the day of the deposition on the 14th. And we immediately began to search for the document so that the parties could have it on November 14th. And indeed, the parties to the deposition did have it on October -- or November 14th.

On Monday, we filed another copy of -- we filed an errata with that exhibit as well as two other one- or two-page exhibits that were also left out of the initial filing. We were, quite frankly, unaware of the omission. We thought they had been filed until the day of Mr. Forest's deposition.

There are three grounds that have been argued; one is this pre-hearing order envisions that it would be filed. Actually, we filed our testimony well before the order on procedure was ever issued. It was an intent and it was an oversight, which is why we're correcting it through an errata.

It's hard for me to respond to the suggestion that it's not relevant. Counsel for FIPUG went to some length to ask Mr. Forrest if it was an important document. And the testimony is -- was it is an important document. It has now been provided.

He has had the benefit of two weeks of preparation, but also an opportunity of us offering Mr. Forrest up for a supplemental deposition on those three documents that we provided in the errata sheet; not one, but two different days. No -- no deposition notice was filed. And no attempt was made to inquire further subsequent to the deposition.

We hardly see how this is prejudicial to FIPUG or the other parties. Indeed, if you look at provisions of the Administrative Procedures Act, they have been afforded a full panoply of rights that they are awarded or entitled to under the APA. We see no prejudice at all. And it's certainly relevant. And under the circumstances, we -- we've done all that we can to cure the original oversight.

CHAIRMAN GRAHAM: Mary Anne.

MR. REHWINKLE: Mr. Chairman --

CHAIRMAN GRAHAM: Yes, sir.

MR. REHWINKLE: May I be heard briefly?

CHAIRMAN GRAHAM: Uh-huh.

MR. REHWINKLE: The Public Counsel appreciates Mr. Guyton's candor. Our objection is based on process and procedure beyond this case. I believe -- I could be corrected on this -- that the discovery cutoff was November 14th, that last day that we took a deposition.

And Mr. Guyton is correct that they offered a supplemental opportunity to take a deposition, but there is a reason for the discovery cutoff so parties can start preparing for the hearing. And that's what we were doing.

We were offered this opportunity in a crunch time where we just didn't have time or resources budgeted to be able to do that. So, I just wanted to address the deposition opportunity.

We had no reason to believe that there was a document. If you look at the SF-9, it's 78 through 78 is the last page. And then the new pages go 79 through 130. So, it wasn't like it was obvious that there was an oversight there.

So, I just wanted to make that statement for the record; that there is a reason for the discovery cutoff. And we abide by it. Thank you.

CHAIRMAN GRAHAM: Mary Anne.

MS. HELTON: Can I ask one question, Mr. Chairman?

CHAIRMAN GRAHAM: Sure. Sure.

MS. HELTON: Was there reference to the Exhibit G in the testimony of Mr. Forrest? I mean, if one were to read the testimony of Mr. Forrest, would it have been made clear to the reader that, if they went to go look at the exhibits, that that was missing?

MR. GUYTON: There was a reference on the last page of what was filed, the title page of SF-9, that the document -- or SF-4 was that the operating agreement was attached.

MR. MOYLE: But -- my recollection --

CHAIRMAN GRAHAM: Hold on. Hold on. You'll get a chance.

MS. HELTON: What page is that on, Mr. Guyton? I'm sorry. I'm -- this was my --

MR. GUYTON: It's on Page 78 of SF-4.

MS. HELTON: Okay. I see. Uh-huh. It says at the last page, Page 78 of 78, Exhibit G --

MR. GUYTON: See attached.

MS. HELTON: See attached.

MR. MOYLE: To the question, if I could,

Mr. Chairman. I think the answer -- I mean, obviously, the testimony speaks for itself. But I think the answer with respect to was it in his testimony is no.

I think what Mr. Guyton pointed you to is 78 of 78. And it looks like complete because it's 78 of 78 pages. And it says, you know, "see attached."

You know, we -- during the deposition, I guess that's maybe a little better than today, you know, discovering it. But anyway, I want to just be clear on that. I don't think it was referenced in the testimony like we were on notice that it was an error.

MS. HELTON: Mr. Chairman, this is a tough one. Our -- as Florida Power and Light knows and as the rest of the parties know, our procedure is that if you have a prefiled exhibit and you're sponsoring a prefiled exhibit, it should go with the prefiled testimony when it's filed.

That being said, I'm certainly human, and I think everybody in this room is human. And mistakes do -- do happen. I think Mr. Guyton has been very candid and said that it was a mistake. It was a mistake that was rectified, as I understand it, on November 14th when everyone did realize that this part of the exhibit was not attached.

Florida Power and Light provided it as quickly as possible thereafter. The parties have had it for two weeks. And as I understand it, and as this is important to the case, and I think it probably should be part of the record.

So, my recommendation to you is to include it.

MR. GUYTON: To respond to staff's inquiry, at Page 23 of Mr. Forrest's testimony, there is a statement included as an exhibit to the DDA as the form of operating agreement that will govern the operation of the wells both during drilling and once they are completed and operational. So, yes, it was mentioned in his direct testimony.

CHAIRMAN GRAHAM: Any of the Commissioners object to including this?

We're going to include it.

(Whereupon, Exhibit No. 5 was received in evidence.)

All right. Mr. Forrest, thank you very much.

THE WITNESS: Thank you.

MR. TRUITT: I just want to -- housekeeping, Mr. Chairman. 60 and 63, you didn't specifically say whether they were in or not. I assume they were. They weren't objected to, but I just want to make sure.

CHAIRMAN GRAHAM: I'm sorry?

MR. TRUITT: 60 and 63 -- they weren't objected to. So, you didn't specifically -- or I didn't catch it, I'm sorry, if they were in.

CHAIRMAN GRAHAM: 60 is in. 62 is one of our orders. So, it doesn't need to have --

MR. TRUITT: Right.

CHAIRMAN GRAHAM: -- an exhibit number. It doesn't need to be entered. It's just one of our orders.

MR. TRUITT: And then 63. I'm sorry.

CHAIRMAN GRAHAM: 63 is in.

MR. TRUITT: Okay. Thank you, Mr. Chairman. I apologize.

CHAIRMAN GRAHAM: You said 61, you weren't putting in.

MR. TRUITT: Correct.

CHAIRMAN GRAHAM: And I said, 62, we didn't need to have in. It was one of our orders.

MR. TRUITT: Correct. I was just clearing that up. Thank you.

CHAIRMAN GRAHAM: Not a problem.

All right. I think we're due --

MS. BARRERA: Mr. Chairman, excuse me. I'm sorry. I just -- if I may, I've just been asked for clarification regarding Exhibits 55, 56, 57, 58, which are the deposition transcripts.

Deposition transcripts do include the late-filed exhibits, the errata sheets, and the signature pages, which are part of the deposition -- of a deposition transcript. I just wanted to clarify that.

CHAIRMAN GRAHAM: So, I should just go ahead and throw the other one out so Mr. Moyle feels good because it's already in?

(Laughter.)

MS. BARRERA: You know, I try.

CHAIRMAN GRAHAM: All right. Let's take -- that clock back there -- let's take a ten-minute break. So, we'll come back at ten 'til five.

(Brief recess from 4:37 p.m. to 4:52 p.m.)

MR. BUTLER: Our next witness is Kim Ousdahl, who was sworn this morning with the other witnesses.

DIRECT EXAMINATION

BY MR. BUTLER:

Q Ms. Ousdahl, would you please state your name

and business address for the record?

A I'm Kim Ousdahl. My address is 700 Universal Boulevard, Juno Beach, Florida.

Q And by whom are you employed and in what capacity?

A I'm the vice president, controller, and chief accounting officer of Florida Power and Light Company.

Q Have you prepared and caused to be filed 27 pages of prefiled direct testimony on June 25, 2014?

A Yes, I have.

Q Do you have any changes or revisions to your prefiled direct testimony?

A No, I do not.

Q If I asked you the same questions contained in your direct testimony today, would your answers be the same?

A They would.

MR. BUTLER: Mr. Chairman, I would ask that Ms. Ousdahl's prefiled direct testimony be inserted into the record as though read.

CHAIRMAN GRAHAM: We will insert this witness' prefiled direct testimony into the record as though read.

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Kim Ousdahl, and my business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company ("FPL" or the "Company") as Vice President, Controller and Chief Accounting Officer.

Q. Please describe your duties and responsibilities in that position.

A. I am responsible for financial accounting, as well as internal and external financial reporting for FPL. In these roles, I am responsible for ensuring that the Company's financial reporting complies with requirements of Generally Accepted Accounting Principles ("GAAP") and multi-jurisdictional regulatory accounting requirements.

Q. Please describe your educational background and professional experience.

A. I graduated from Kansas State University in 1979 with a Bachelor of Science Degree in Business Administration, majoring in Accounting. I am a Certified Public Accountant ("CPA") licensed in the State of Texas and a member of the American Institute of CPAs, the Texas Society of CPAs and the Florida Institute of CPAs.

Q. Are you sponsoring any exhibits in this case?

A. Yes. I am sponsoring the following exhibits:

- KO-1-- Memorandum of Understanding ("MOU")
- KO-2 -- Estimated Transfer Price Calculation
- KO-3 -- Purchase Accounting Entry (Estimated)
- KO-4 -- Example Joint Interest Billing Statement ("JIB")
- KO-5 -- Year One Proforma Financial Statements
- KO-6 -- Sample of Supplemental Schedule Fuel Projection Filing
- KO-7 -- Condensed Chart of Accounts

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to address the appropriate accounting and regulatory treatment associated with FPL's proposed investment in the gas reserves and production of natural gas in the Woodford Shale region to meet a portion of FPL's natural gas requirements (the "Woodford Project" or "the Project"). This accounting and ratemaking treatment is not only appropriate for this specific investment, but also would be used for future gas reserve investments made consistent with this strategy. Specifically, my testimony addresses the following:

1. Overview of the Woodford Project;
2. Accounting for the transfer of interests to FPL from USG Properties Woodford I, LLC ("USG"), an affiliate that initially will invest in the

Project in order to accommodate the time required for Florida Public Service Commission ("FPSC" or "Commission") approval;

3. Description of the specialized accounting that will apply to the Project and any subsequent gas reserve investments, and the internal controls that will be in place to ensure appropriate financial reporting and ratemaking; and lastly,
4. Regulatory reporting, ratemaking and recovery of investment through the Fuel and Purchased Power Cost Recovery Clause ("Fuel Clause").

Q. Please summarize your testimony.

A. As described by FPL witness Forrest, investment in the Woodford Project will provide significant benefits for FPL's customers. Given FPL's projected natural gas prices, this investment will lower the delivered price and decrease the price volatility for natural gas that customers pay through the Fuel Clause. As such, recovery through the Fuel Clause of costs for the Project (and for other gas reserve projects that deliver similar benefits) is appropriate and consistent with Commission precedent.

Upon Commission approval of Fuel Clause recovery, USG will transfer the Woodford Project to a wholly-owned subsidiary of FPL (as yet unnamed but referred to herein as "GRCO") at net book value. USG will not gain from this transfer, and FPL will be put essentially in the position of initial purchaser. Use of a subsidiary will provide benefits to FPL's customers, including flexibility to minimize state income tax obligations. The use of a subsidiary will not increase costs to FPL customers; in fact, it could lower customer costs to the extent that it minimizes state income taxes. To simplify the references in my testimony, I will refer just to FPL as the acquiring party except where specific, separate reference to GRCO is required.

Accounting for the costs of gas reserve projects is specialized, but standardized across the industry. Initially, FPL intends to use one of the several well-established third party providers of accounting and recordkeeping services in order to maintain oversight and control over the accounting for the Woodford Project and any other gas reserve projects consistent with FPL's role as a non-operator. As it gains experience with the accounting over time, FPL will evaluate if it can cost-effectively staff the function in-house.

II. OVERVIEW OF THE WOODFORD PROJECT

Q. Please describe the assets that FPL is proposing to acquire.

A. As described in greater detail by FPL witness Forrest, USG has entered into a series of agreements with PetroQuest Energy, Inc. ("PetroQuest") under which USG will pay a share of the costs for developing and operating natural gas production wells in the Woodford Project and will receive a portion of PetroQuest's working interest in those wells. For convenience, I will refer to these agreements collectively as the PetroQuest Agreement. USG is the initial transacting counterparty with PetroQuest but, upon a Commission determination that FPL's investment in the Woodford Project is prudent and may be recovered through the Fuel Clause, USG will assign all of its rights and obligations under the PetroQuest Agreement to FPL. Upon assignment, USG would convey its interests and obligations to FPL, including the obligation to pay specified percentages of drilling costs for new wells and production costs for the producing wells as described in FPL witness Forrest's Confidential Exhibit SF-6.

PetroQuest, USG and other third parties have working interests in proved, developed producing ("PDP"), proved undeveloped ("PUD") and probable wells located within the Area of Mutual Interest ("AMI") in the Woodford Shale region. As a part of the new PetroQuest Agreement, additional capital investment will be required to support the drilling and development plan contemplated by that agreement. That plan calls for the drilling of additional wells before the end of 2014. Depending upon the timing of FPSC approval and the ultimate drilling program results, a portion of those new wells will have already been drilled and producing while USG holds the interests. USG would pay its share of the drilling costs specified in the PetroQuest Agreement and those costs would be included in the amount FPL pays USG at time of transfer. FPL and USG currently estimate that USG's net book value for drilling performed from the effective date of the PetroQuest Agreement until the time of the transfer will be approximately $58.2 million, assuming a transfer date January 1, 2015. After transfer to FPL, and assuming that (i) FPL consents to all remaining wells that PetroQuest plans to drill with (ii) the remaining interest-holders in the AMI not consenting, the payments to PetroQuest for drilling costs are estimated to be approximately $122.4 million for the additional wells. This represents FPL's maximum estimated participation in the drilling program, which is presented in order to provide a conservative view of FPL's potential financial commitments under the PetroQuest Agreement.

Q. What other costs will FPL incur to step into USG's ownership interest in the Woodford Project when it is transferred?

A. As described by FPL witness Forrest, USG has been a joint venture ("JV") partner with PetroQuest since 2010 for acreage in the Woodford Shale ("Original JV"). A portion of the acreage contained in the Woodford Project was subject to the Original JV between USG and PetroQuest (the "Woodford Project Acreage"). As part of the new Drilling and Development Agreement ("DDA"), USG and PetroQuest assigned portions of the Woodford Project Acreage from the Original JV to the new Woodford Project. Because of USG's existing interests in the Woodford Project Acreage under the original JV, there was no need for USG to pay PetroQuest for its interest in that acreage as part of the Woodford Project. Under the Original JV, however, USG paid PetroQuest a carry in order to earn its interest in the Woodford Project Acreage. It is therefore necessary for FPL – which has no existing interest in the Woodford Project Acreage – to compensate USG for the carry that was incurred in order to earn acreage. The cost of earned acreage of approximately $10.2 million will be incurred by FPL at the date of transfer from USG to FPL.

Q. Does FPL intend to hold its interest in the Woodford Project directly or through a subsidiary?

A. FPL intends to establish a wholly-owned direct subsidiary, which I refer to as GRCO, to hold FPL's interest in the Woodford Project.

Q. Why is FPL proposing to establish a subsidiary?

A. There are a number of benefits associated with the proposed legal structure. This structure will:

1. Allow maximum flexibility to minimize state tax obligations;
2. Allow for the separation of Federal Energy Regulatory Commission ("FERC") electric chart of accounts for regulatory reporting purposes (FERC Form 1 requires the subsidiaries to be deconsolidated); and
3. Provide clearer definition and transparency for the investment and activities associated with gas reserve projects.

Because costs associated with gas production will be recovered through the Fuel Clause, the separate legal entity facilitates segregation for ratemaking and earnings surveillance related to base rates much as we do today for our trust fund investments associated with the storm and decommissioning funds.

Q. Has FPL previously used separate legal entities for regulated operations?

A. Yes. Currently, FPL has two primary wholly-owned subsidiaries which are included in its regulated operations for ratemaking purposes. The first is KPB which was initially formed to minimize certain state tax obligations and holds FPL's storm and decommissioning trust fund investments. The second is FPL Recovery Funding, LLC ("FREC") which serves as the securitization entity established to finance FPL's storm losses in 2007. These entities are fully regulated by the Commission.

Q. Will the use of a subsidiary result in higher costs for FPL's customers?

A. No. FPL will be charged only the actual costs and regulated return on the gas reserve assets that the subsidiary holds. These costs are what FPL proposes to recover through the Fuel Clause. If anything, the use of a subsidiary may reduce the amount paid by FPL customers because of the greater flexibility it will provide to minimize state income tax obligations.

III. ACCOUNTING FOR PROJECT TRANSFER

Q. Why is it necessary for USG to initially enter into the PetroQuest Agreement for the Woodford Project and then subsequently transfer that interest to FPL?

A. As discussed in the testimony of FPL witness Forrest, USG is providing a no-cost "bridge" that allows for the PetroQuest transaction to proceed while FPL seeks Commission approval.

Please note that as I explained above, FPL intends to hold the Woodford Project in GRCO and any future gas reserve projects in other wholly-owned subsidiaries rather than directly in FPL. Accordingly, FPL intends that the transfer from USG would be to GRCO rather than FPL.

Q. Please describe the terms on which the Woodford Project will be transferred from USG to GRCO upon Commission approval.

A. The assignment of USG's rights and obligations for ownership of the Woodford working interest and the relevant terms of that assignment are documented in a MOU between USG and FPL. A copy of this MOU is attached as Exhibit KO-1. The MOU calls for the transfer of the investment from USG to GRCO to be executed at net book value, which is the approach generally used for transfers between affiliates under GAAP.[1] The net book

[1] Accounting Standards Codification 805 ("ASC 805") – Business Combinations

value will be comprised of two parts. First, the amounts associated with the capital investment that USG has made since the effective date of the PetroQuest Agreement, less the depletion (if any); which is the cost associated with the percentage of gas extracted from the wells while it held the investment. The net book value for those interests at the time of purchase between USG and GRCO is estimated to be approximately $58.2 million assuming regulatory approval and transfer by January 1, 2015, and based on current assumptions as to the timing of the drilling program and resulting gas production as described by FPL witness Taylor.

Second, the net book value associated with the earned acreage previously incurred by USG under the Original JV must be calculated. Determining the appropriate price for the transfer of the Woodford Project earned acreage to FPL necessitates an allocation of net book value because USG will not be transferring all of its interests in the Woodford Project Acreage. There are currently producing wells drilled subject to the Original JV on the Woodford Project Acreage that USG will be retaining. A portion of the carry that USG has paid to PetroQuest is attributable to earning USG’s interest in those wells, while the remainder of the carry is attributable to earning its interest in undeveloped acreage to be drilled in the Woodford Project Acreage which is to be assigned to FPL.

USG and FPL have agreed on the terms of an allocation of the carry paid by USG between the existing producing wells and the remaining, as-yet-undeveloped interests in the Woodford Project Acreage. Essentially, the carry is allocated among three categories of properties in the Woodford Project Acreage: the existing PDP wells, future wells that are presently categorized as PUD wells, and probable wells. The carry is allocated among those three categories based on the number of wells of each type, existing and planned, for each section of the Woodford Project Acreage. The carry allocated to the first two categories is reduced by the depletion that USG has recorded for the proved portions of the Woodford Project Acreage prior to the transfer from the Original JV to the Woodford Project. FPL would pay the share of the carry borne to earn acreage for the latter two categories, totaling $10.2 million, representing the Woodford Project Acreage that will be assigned to FPL. In contrast, FPL would not be responsible for paying the carry allocated to the PDP wells, because those wells are not being assigned to FPL.

Q. Is this calculation of earned acreage to be paid USG reasonable?

A. Yes. The cost of USG's interests in the Woodford Project Acreage is directly related to the actual and anticipated future gas production. The gas production is, in turn, directly related to the number of wells that are and will be drilled in the Woodford Project Acreage. Finally, the allocation of the carry is directly related to how many existing and future wells each party will have in the Woodford Project Acreage. Thus, there is a direct correlation between each party's interests and the portion of the carry for which it is responsible. In order to ensure that the cost paid by FPL to USG is equal to that carry directly incurred for earned acreage in the assigned properties, FPL will engage an independent accounting firm to perform agreed upon procedures in order to agree the amounts contained in the calculation for carry paid and depletion recorded to the contractual obligations and the USG books and records through the effective date of the new PetroQuest Agreement. Any differences noted in the final report including the roll forward of depletion through effective date, will be adjusted in the true-up process for costs recovered in the Fuel Clause. Exhibit KO-2 shows the estimated combined transfer price.

Q. Please explain why the transfer price is appropriate.

A. Ordinarily, Florida Administrative Code Rule 25-6.1351 (the "Affiliate Rule") governs affiliate transactions. However, subsection (1) of that rule provides that it is not applicable to affiliate transactions for the purchase of fuel and related transportation services that are subject to Commission review and approval in cost recovery proceedings. The Project is directly related to the supply of fuel, and FPL is seeking approval to recover Project costs in the Fuel Clause. Therefore, the Affiliate Rule does not apply to the Project.

Transfer "at cost" puts FPL in the same position it would have been if it could have transacted for this investment on its own with PetroQuest, an independent third-party seller. In essence, FPL will be paying the market price for this transaction, as measured at the time of USG's initial purchase.

Transfer on these terms is actually quite generous to FPL and its customers. USG will not be compensated for any gain that might occur as a result of market increases between the time of the initial purchase and the transfer to FPL, and it will not be compensated for providing FPL a "free option" to take the transfer or not depending on the outcome of this proceeding. Finally, I should note that transfer of the Project to GRCO at net book value is consistent with GAAP, which requires transfers between entities under common control to be conducted at cost.

Q. What are the acquisition accounting entries that you expect to record for acquisition of the Woodford Project?

A. Exhibit KO-3 provides the acquisition accounting entry to be recorded by GRCO that will be required upon the purchase of these assets from USG, assuming the current drilling plan and projected capital expenditures with that plan, and a January 1, 2015 transfer date.

IV. POST-TRANSFER ACCOUNTING AND INTERNAL CONTROLS

Q. What is the source(s) of accounting guidance that will be followed by FPL once the Project is transferred?

A. Upon transfer, FPL will be subject to ASC 932 Accounting for Oil and Gas Exploration and ASC 980 (formerly known as FAS 71) Accounting for the Effects of Certain Types of Regulation. Accounting for oil and gas production is a highly specialized and unique form of energy accounting. Neither the FERC Electric nor Natural Gas chart(s) of accounts is consistent with the standard accounting utilized in the oil and gas production industry. As a Securities and Exchange Commission ("SEC") registrant, it will be important for FPL and its subsidiary to account for these activities consistent with SEC requirements.

Q. Please describe the accounting method that FPL will follow to record activities related to these investments.

A. FPL will use successful efforts accounting, the method preferred by the SEC.

Q. Please describe the types of costs that will be incurred and how they are recorded under the successful efforts method.

A. There are generally four different types of costs that are recorded under the successful efforts method:

1. <u>Acquisition Costs</u> – Costs incurred to acquire rights to explore, produce, and develop natural gas, and expenses relating to the right to

extract natural gas from a property not owned by the company, which are capitalized when incurred;

2. Exploration Costs – Includes various types of activities:

   a. Costs relating to the collection and analysis of geophysical and seismic data involved in the initial review of a specific site and used at a future date to determine whether or not to drill at that location, which are expensed in the period in which incurred;

   b. Costs to ready a site prior to the installation of drilling equipment, which are expensed in the period in which incurred; and

   c. Costs to install and operate drilling equipment, which are capitalized if the reserve is proven to produce hydrocarbons and typically expensed in the period incurred if the effort is unsuccessful. These costs are further segregated into tangible and intangible drilling costs; with tangible costs including the equipment itself and the intangibles primarily associated with the labor cost incurred to conduct the drilling.

3. Development Costs – Costs to prepare a site with proven reserves for production, which are capitalized when incurred; and

4. Production Costs – Costs incurred to extract natural gas from the reserves, which are expensed in the period in which incurred.

The operator will provide FPL a joint interest billing statement ("JIB") each month reflecting the gross costs incurred and net costs to be remitted detailed by transaction type and activity cost incurred. This is the principal source document commonly used in this industry to provide to non-operators each month details concerning the activities performed and the costs incurred by well and by cost type. A sample JIB is attached as Exhibit KO-4.

Q. What form of depreciation is used for capital investments under the successful efforts method?

A. As with any utility plant investment, the Company and its regulated subsidiaries record depreciation representing the "return of" the investment as it is consumed over its economic life. In the case of gas and oil production accounting, depreciation is recorded in the form of "depletion," which is measured on a unit-of-production basis rather than on a remaining life or whole life basis. Depletion for a gas reserve investment plays the same role as depreciation would for an electric plant asset providing for recognition of the use of the asset in the financial statements and in rates. As permitted under ASC 932, for depletion purposes FPL plans to aggregate its investments at a reservoir or field level because they share common geological structural features. This will help simplify the depletion accounting.

Q. Do reserve estimates have to be updated periodically for the purpose of the depletion calculation?

A. Yes. Reserve estimates must be updated on an annual basis for financial reporting purposes. The reserve estimate reports that the Company will be relying on will be provided by third party reserve engineers. These reports will be used to determine the subsequent year's depletion expense.

Q. Please describe the internal controls that will be in place to ensure FPL's financial reporting and ratemaking will be compliant with all requirements.

A. A non-operator such as FPL that invests in gas reserve projects is reliant on the operator for both commercial operation and the resulting financial effects. Standard industry practice includes measures that substantially protect the non-operator interests. FPL will actively control its participation in the drilling program as managed by PetroQuest, will receive detailed transactional monthly invoices for all costs (JIBs) and will retain audit rights over the resulting costs of production as codified in the PetroQuest Agreement.

There will be other measures of internal control that will ensure proper billing and sharing of the expenditures. First, an authorization for expenditure ("AFE") provides consent to drill and memorializes that consent and the planned costs associated with that drilling activity. This document is signed and authorized by the non-operator, typically before drilling commences to signify its participation and supports any prepayments required consistent with the PetroQuest Agreement. Second, on a monthly basis PetroQuest will send FPL a JIB. As outlined in the PetroQuest Agreement, FPL (through GRCO) would have the right to audit PetroQuest JIBs and will be reimbursed for any inaccurate or inappropriate billings. Sarbanes-Oxley ("SOX") processes will be developed to the extent appropriate to memorialize the processes and related key controls designed to ensure compliance with financial reporting requirements. Lastly, FPL's external auditors will conduct substantive controls testing around these transactions to the extent necessary as a part of its overall external audit.

Q. How does FPL envision implementing the accounting, reporting and ratemaking functions associated with investments in gas reserves?

A. Although this accounting is very specialized, utilizing a unique chart of accounts and specialized financial systems, it is highly standardized. There are numerous mid-sized entities that invest in oil and gas production for which it is cost effective to rely on third parties to perform the specialized accounting and reporting. These third party providers have the proper systems and experience to deliver the full scope of back-office services necessary to effectively participate as a non-operator in oil and gas production. At the outset, FPL intends to contract with an experienced firm specializing in oil and gas back-office outsourcing. The use of outsourcing will provide for scalability as FPL continues to pursue investments. The activities we expect to outsource initially could include:

* JIB accounting
* Maintenance of general ledger and production of financial statements
* Production allocation and reporting
* Joint Venture compliance reviews/audits
* Support for external financial audits
* Electronic filings with state, federal or other regulatory tax agencies
* Payments to royalty owners
* Escheat reporting

As it gains experience with the accounting, reporting and ratemaking functions over time, FPL will evaluate which of those functions it can cost-effectively staff in-house.

V. COST RECOVERY AND REGULATORY REPORTING

Q. How does FPL propose to recover the costs of the Woodford Project and any future gas reserve projects?

A. FPL seeks to recover all costs associated with gas reserve projects through the Fuel Clause.

Q. Why is Fuel Clause recovery appropriate?

A. Item 10 of FPSC Docket No. 850001-EI-B, Order No. 14546 provides that Fuel Clause recovery is appropriate for projects that are intended to lower the delivered price of fuel when those costs were “not recognized or anticipated in the cost levels used to determine current base rates.” The Commission recently reiterated its support for recovering through the Fuel Clause costs associated with projects that reduce the delivered price of fuel in Order No. PSC-11-0080-PAA-EI: “We find that the appropriate interpretation of this section of Order No. 14546 is that capital projects eligible for cost recovery through the Fuel Clause should produce fuel savings based on lowering the delivered price of fossil fuel, or otherwise result in burning lower price fuel at the plant.” The Commission confirmed that such costs would be recoverable and further explained that “the appropriate policy going forward is to restrict capital project cost recovery through the Fuel Clause to projects that are ‘fossil fuel-related’ and that lower the delivered price, or input price, of fossil fuel”. The Commission has permitted FPL to recover costs for capital projects through the Fuel Clause on several occasions previously, including costs for a gas pipeline lateral to the Martin Plant (Order No. PSC-93-1331-FOF-EI), rail cars to deliver coal to the Scherer Plant (Order No. PSC-95-1089-FOF-EI), and power plant equipment modifications to allow a cheaper, low-gravity fuel to be burned (Order No. PSC-97-0359-FOF-EI).

The Woodford Project clearly and directly meets the test for Fuel Clause recovery set forth in Order No. 14546. The Project is intended to lower the delivered price of natural gas that FPL burns in its generating units. As discussed in FPL witness Forrest's testimony, the Project is estimated to result in savings to customers compared to FPL's current projection of natural gas prices. Moreover, there was neither recognition nor anticipation of gas reserve project costs in the 2013 test year that formed the basis for FPL's current base rates.

FPL's proposed investment in the Woodford Project is even more directly related to lowering fuel prices than the projects mentioned above that have been previously approved for Fuel Clause recovery. This investment is solely intended to secure natural gas for the operation of FPL's generating plants. It is therefore, no different in substance than the natural gas costs paid to third parties to buy gas at market prices, all of which are currently recovered in the Fuel Clause.

Finally, because there will be a measure of variation and uncertainty in the overall level of incurred costs that can be expected for gas reserve projects over time, cost recovery is more appropriate in the Fuel Clause, where the changes can be reflected in annual Fuel Clause factors. For example, as FPL witness Forrest discusses in his testimony, a substantial portion of the ultimate output from a well is expected to occur in the early years of production, after which time production will decline due to depletion. Thus, the absolute dollar amount of the revenue requirements for the well (which is what would be built into a base rate test year) would decline substantially over time.

Q. Please describe the types of costs that FPL proposes to recover through the Fuel Clause for the Woodford Project and any future gas reserve projects.

A. All of the investment and operating costs of GRCO would be included for recovery in the Fuel Clause by FPL. The recoverable costs would include the following types: exploration expense, depletion expense, operating expenses, G&A, taxes, transportation costs and a return on the unrecovered investment, including working capital. These costs would be projected for each year based on the drilling plan and quantities of gas to be produced and then adjusted to reflect actual costs subsequently through the existing Fuel Clause true-up process. This approach is consistent with the recovery of capital investment in environmental compliance projects through the Environmental Cost Recovery Clause.

Q. How would the monthly transactions to reflect the sale of gas from GRCO to FPL be recorded?

A. The revenue requirement from the costs incurred by GRCO to acquire, drill, produce and transport the natural gas from the well to FPL's generating plants would be calculated each month. That amount would be recorded in an intercompany billing by GRCO to FPL. On FPL's books, the charge would be recorded as fuel expense for that month.

Q. How are these costs going to be reflected in the Fuel Clause?

A. Exhibit KO-5 to this testimony reflects proposed proforma financial statements that would form the basis for the revenue requirements calculation to be used in the clause filing for the first year of operations. Exhibit KO-6 reflects a sample Fuel Projection Filing with all the components that FPL is seeking to recover through the Fuel Clause. All of the costs will be retail jurisdictionalized along with all other fuel costs recoverable through the Fuel Clause, based on the percentage of retail kWh sales to total kWh sales.

Q. What will be the first period in which these costs will be reflected in the Fuel Clause?

A. The first year in which costs associated with the gas reserves project will be introduced is expected to be in the filing of 2015 projected fuel costs, which will be made in August 2014. FPL has developed a projection of costs to be incurred for the Woodford Project in 2015 using its best estimate of the costs associated with the transfer from USG and the expected drilling and production activities for which GRCO will be responsible during the remainder of that year. These 2015 estimates will be updated in the actual/estimated true-up filing (August 2015) and ultimately replaced with actual costs in the final true-up filing (March 2016).

Q. Will the Commission have the opportunity to audit the gas reserve costs that FPL recovers through the Fuel Clause?

A. Yes. The FPSC auditors, upon request, will be provided all information necessary to review charges associated with these recoveries annually in the fuel audit. They will have full access to FPL's and GRCO's books and records containing all transactions recorded from the JIBs.

Q. How will FPL calculate the return associated with gas reserve investments?

A. As with any utility capital investment recovered through the adjustment clauses, FPL will calculate the return associated with it in accordance with FPSC Order No. PSC-12-0425-PAA-EU. FPL updates annually its capital structure components (i.e. debt and equity rates) used to calculate the return on clause investments, based on the May Earnings Surveillance Reports ("ESR") results. The same methodology should be followed for the purpose of this investment.

Q. Will gas reserve investments be reflected in FPL's Earnings Surveillance Report filings?

A. No. Consistent with FPL's practice for all investments earning their own return through an adjustment clause, the investment in the gas reserves, net of depletion, will be removed from FPL's rate base in the ESR and all revenues and expenses will be eliminated from net operating income.

Q. What FERC accounts will FPL utilize to record natural gas activities and costs associated with the Project?

A. FPL intends to use the industry standard chart of accounts to record all costs associated with the investment at the subsidiary level. This condensed chart of accounts is included as Exhibit KO-7 with the subsidiary accounts reflected on the left hand side. It is important to be consistent with the industry practice to facilitate ease of electronic mapping of the JIBs and to facilitate use of third party support. Any audit of the transactions will be done at the transactional level using the industry chart of accounts contained herein. On the right hand side of that exhibit, we have provided a view of the high level mapping to the FERC natural gas chart of accounts that we intend to use for summary level financial statement reporting for consolidated FPL.

Q. Does this conclude your direct testimony?

A. Yes.

BY MR. BUTLER:

Q Ms. Ousdahl, did you also sponsor Exhibits KO-1 through KO-8 attached to your prefiled direct testimony?

A No, through KO-7 to my prefiled direct.

Q I'm sorry. Through KO-7.

Did you file errata to Exhibits KO-5 and KO-6 on November 5, 2014?

A I did.

Q Okay. And as corrected by the errata, are the exhibits attached to your testimony true and correct to the best of your knowledge and belief?

A Yes, it is.

MR. BUTLER: Okay. Mr. Chairman, I would note that Exhibits KO-1 through KO-7 have been identified as Exhibits 13 through 19.

BY MR. BUTLER:

Q Have you prepared an oral summary of your direct testimony, Ms. Ousdahl?

A I have.

Q Would you please provide that at this time?

A Yes. Good afternoon. I'm Kim Ousdahl, vice president, controller, and chief accounting officer of FPL.

My direct testimony will outline the

appropriate accounting and regulatory treatment for the investment in gas reserves and production of natural gas for the specific project in the Woodford Shale and for future natural gas projects. Specifically, I address the accounting for the transfer of interest from our affiliate, U.S. Gas, after approval is granted by this Commission.

I describe the accounting that is used for the exploration, development, and production activities that will occur on an ongoing basis for gas reserve projects.

I identify the internal controls relied on to ensure continued proper financial reporting and ratemaking along with the appropriate regulatory treatment and Fuel Clause recovery for these costs incurred on behalf of customers.

Finally, I explain why the company is proposing the use of the subsidiary to capture, account for, and report the costs associated with these projects and our plan to secure experienced third-party accounting support to perform the transactional accounting and maintain the books and records of that subsidiary.

At present, PetroQuest, U.S. Gas, and other third parties have working interests in the project, which consists of properties including producing wells in the area of mutual interest.

Upon Commission approval, U.S. Gas will assign its rights and obligations with PetroQuest in these interests to FPL. The transfer of properties from U.S. Gas to FPL will be at the net book value of time of transfer, which is intended to put FPL in the position of initial purchaser.

For purposes of the transactional accounting and reporting for its gas reserve activities, FPL is proposing to create a wholly-owned subsidiary. This structure would allow flexibility to minimize state income tax obligations, simplify the FERC Form 1 reporting, and provide clearer definition and transparency through reporting of separate results.

We plan to engage a third-party provider with the appropriate systems and experience to deliver a full scope of back-office services necessary to effectively participate as a non-operator in gas development and production.

In addition to this being an efficient way to address the accounting needs for the project, the use of outsourcing will provide for scalability as FPL hopes to continue to pursue additional gas reserve investments. As the company gains experience with the accounting reporting, we will evaluate which of the functions we can cost-effectively staff in-house.

We propose to recover the incremental costs associated with reserves through the Fuel Clause, which is consistent with Commission order and precedent. The project clearly meets the test for Fuel Clause recovery.

It's intended to lower the delivered price of natural gas that we burn in our generating units and is estimated to result in savings to customers. There was neither recognition or anticipation of the gas reserves projects in the 2014 test year that formed the basis of our current rates.

FPL will include in its Fuel Clause filings the operating cost and a return on investment and the related working capital for the share of gas reserve projects that are owned by the subsidiary.

Consistent with capital investments currently recovered in fuel, environmental, and other clauses today, the return would be at FPL's weighted average cost of capital reflecting rates for debt and equity in accordance with the May earnings surveillance report as specified by this Commission.

As part of annual Fuel Clause audit, the Commission will have the opportunity to audit the charges associated with gas reserves activities. And they will have full access to the subsidiary books and records and all of the transactional details.

In conclusion, I've provided the Commission with a roadmap to the accounting, reporting, and controls that we will utilize in the natural gas production development and activities. This roadmap is consistent with the Commission clause recovery precedent, enables use of both industry and utility accounting practices, and provides for robust controls over financial reporting and ratemaking.

This concludes my summary.

MR. BUTLER: Thank you, Ms. Ousdahl.

I tender the witness for cross examination.

MR. REHWINKLE: Thank you, Mr. Chairman.

Before we get underway with the essence of the cross, I spoke with Counsel and the witness on a break. Because the depositions are going in the record, I would like to just take the witness through about five or six points where I think the errata -- which I've got to tell you, in 30 years of practicing, I've never seen a more thorough job of an errata as the witness has done. So, my going through this is not a criticism, but really an admiration.

But I would like to go through a couple of places and see if she agrees with some additional corrections.

CHAIRMAN GRAHAM: Sure.

CROSS EXAMINATION

BY MR. REHWINKLE:

Q Do you have your deposition with you?

A Yes, I do.

Q The first page I would like to take you to is Page 49, Line 14 and 15. And you corrected the word "share" to "Scherer," the plant in Georgia, right?

A That's correct.

Q Shouldn't that be an apostrophe and strike the "it's" on Line 15?

A Yes. Yes, I agree.

Q Okay. If I could get you to turn next to Page 58, Line 9. And I think the phrase should be "plant in-service" and instead of "plant and service"?

A That's correct.

Q Okay. And then on Page 59, Line 7 -- well, let's just skip that one. I think -- let's go to Page 68, Line 16. Would you agree with me that the way that answer was given is -- the period after "million" should be stricken. The large -- the uppercase "A" should be a lowercase "a," and there should be a period after the word "well"?

A Agreed.

Q And then the word "it's" should be capitalized.

A Correct.

Q And then finally, on Page 77, the -- on Line 15, the question there, instead of the word "reviewed," was -- the word was "used." Would you agree with that?

A Yes.

MR. REHWINKLE: Okay. Thank you very much. Those are all.

CHAIRMAN GRAHAM: Okay.

BY MR. REHWINKLE:

Q Okay. Ms. -- is it --

A Oz-doll.

Q Oz-doll. Okay. You are not a licensed professional engineer in any state, are you?

A No, I'm not.

Q And you haven't ever performed an evaluation of acquiring interest in oil and/or gas reserves and/or production facilities, have you?

A I have not.

Q You haven't ever served in a position where you have been responsible for natural gas hedging, natural gas storage, power origination, or short-term energy or fuel trading, have you?

A Not responsible for the hedging. I'm responsible for the accounting for our financial hedge program.

Q Okay. You have never negotiated or attempted to negotiate a natural gas purchase agreement, have you?

A Yes. Early in my career, I was involved with the commercial folks in negotiating natural gas power agreements, yes.

Q Okay. Have you ever negotiated a natural gas hedging agreement?

A No, I have not.

Q You have never negotiated a natural gas transportation agreement?

A I have been involved in negotiation of natural gas transportation.

Q What about a natural gas storage agreement?

A Not that I recall.

Q Okay. You have never been hired or paid to project natural gas prices or supply, have you?

A No, I have not.

Q And you have never been responsible -- I'm sorry. Strike that.

You have never held a position with an oil and natural gas company, have you?

A No, not an E and P, exploration and production company. No.

Q You have never taught any courses regarding petroleum and geophysics engineering, oil and gas reserve determination, oil and gas economics, or petrophysics at a college or university, have you?

A No, I have not.

Q Page 4, Line 11 of your testimony, if I could get you to turn there -- of your direct. You state the overall purpose of your testimony is to address the appropriate accounting and regulatory treatment of the Woodford Project; is that right?

A That's correct.

Q Would you agree with me that FPL was in a big hurry to get this petition before the Commission?

A I would agree that we moved expeditiously for all the reasons we've discussed both in direct testimony, in discovery, and in deposition.

Q You would agree with me also that FPL was on the verge of filing a petition based on a venture with another developer in a different state hundreds of miles away in May of 2014, wouldn't you?

A I would agree we looked at another transaction. We weren't on the verge of filing a petition because we didn't have a transaction executed. And I think we've talked about that also. But we had spent quite a bit of time in negotiation with that counter-party.

Q Okay. So, wouldn't it be true that FPL rushed to get this second-choice project before the Commission in time for it to be considered in the 2014 Fuel Clause?

MR. BUTLER: I'll object to the characterization of the rush in the second-choice project.

CHAIRMAN GRAHAM: Mr. Rehwinkle.

MR. REHWINKLE: I'm asking her if she agrees with that.

MR. BUTLER: If that's the question -- it seemed like it was just assumed characterizations in the question.

MR. REHWINKLE: Well, I think it, apparently, was a second choice because they were going forward with another one. And as the testimony was -- of Mr. Forrest and Ms. Ousdahl have revealed, this was not the one they were going to bring forward.

CHAIRMAN GRAHAM: Let's see if you can't rephrase the question. I think the objection is in the way that you phrased it as it being second choice.

BY MR. REHWINKLE:

Q Well, let me ask you this way: The Woodford

Project was not FPL's first choice to bring to the Commission for the 2014 Fuel Clause hearing cycle, was it?

A Well, I'm struggling with the word "choice." It was the second project we reviewed because the first project, we could not execute.

Q Okay.

A This is a perfect project to be bringing before the Commission.

Q You didn't expect the original developer to back out at the last minute, did you?

A I -- I -- you would have to ask the commercial team.

Q Okay.

A I think we were disappointed.

Q All right. So, the filing that the company made with the Commission wasn't even complete at the time it was made, was it?

A The instant filing?

Q Yes.

A Well, yes, I think the filing is complete.

Q Okay. It wasn't at the time it was made, was it?

A I'm not sure what you're referring to.

Q Were you in the room when we had the

discussion about Exhibit G?

A Well, we inadvertently omitted an exhibit. It was not that it was not complete. We erred in the compilation of the filing, from what I understand.

Q PetroQuest really doesn't want the dry gas, do they, that's part of the Woodford Project?

A I do not know.

Q Wasn't PetroQuest originally supposed to begin drilling in September of 2014?

A I believe the drilling plan -- yes, September sounds right. I mean, I could look it up, but that sounds reasonable.

Q All right. So, I think we've heard today and you would agree that PetroQuest is way behind schedule with the drillings that are supposed to occur in 2014, right?

A Well, way behind -- there were to be four completed wells -- is that confidential? I don't even know.

MR. BUTLER: It's not now.

(Laughter.)

That's fine.

MR. REHWINKLE: I think this has already been disclosed in her deposition.

MR. BUTLER: Yeah.

MR. REHWINKLE: It's in the record, so --
THE WITNESS: Okay.
BY MR. REHWINKLE:
Q Yeah.
A And as Witness Forrest testified this morning -- and yes, I think I did talk about it in the deposition. There are -- there is one well that is being completed.
Q Do you know whether that well is actually being drilled?
A Yes. My understanding is -- it's not in production. It's not completed.
Q Okay.
A But it is being --
Q Now, is it --
A It's in process.
Q Okay. Now, isn't it also true that the cost that you have estimated for inclusion in the clause for 2015, assuming the Commission approves it, assumed the plan will go as exact -- exactly as you have projected with the wells produced in 2014 and 2015 being completed as scheduled?
A Yes. You have to make an estimate. And that is what we did. We thought we would be complete with drilling by the end of '15.

Q Now, you personally have never participated in a gas reserve project until this project, have you?

A That's correct.

Q And FPL has never participated in a gas reserve project before, correct?

A That's correct.

Q In fact, no electric utility has participated in a gas reserve project for their electric companies either in the State of Florida or elsewhere in this country, correct?

A Not to my knowledge. There are combination companies, as we've discussed, that do participate in gas production.

Q But not on behalf of their electric customers, right?

A I -- yes, I think that's been established. Yes.

Q Okay. No gas utility has done this for their gas customers in the State of Florida before, correct?

A That's correct.

Q In May, when you were talking to your original proposed partner, or June or now, FPL does not have the in-house accounting expertise to provide the very specialized oil and gas accounting and back-office work that is needed for this type of non-regulated venture,

do you?

A Right. We decided early on that because we did not have a staff of experienced E and P accountants, that it made sense to go lever the capabilities that are out in the marketplace. So, we had been considering that approach since the time at which the company first began talking about engaging in gas reserve development.

Q What timeframe are you talking about first began?

A Well, I think the company commercially began discussing this before the accountants were, you know, involved. But certainly, the early part of 2014 when I was aware that transactions were being looked at in some detail, we began to formulate a plan.

Q And you still don't have one of these third-party contractors selected, right?

A We do not. As we've discussed, we're trying to bridge that gap between wanting to make commitments that we may not be able to fulfill depending on the outcome of the case with also being ready to engage in managing and accounting for the assets if the Commission does approve this transaction.

Q The cost that you will book if this transaction is approved by the Commission is still uncertain given the delay in the starting of the

drilling, correct?

A Yes. We would estimate it would be less than the $58 or the 68 million in total that we estimated in the filing.

Q FPL always envisioned the Woodford Project as being only a Fuel Clause recovery proposal, right?

A Yes, I think it -- we've established that it neatly fits into those requirements, yes.

Q But if -- I think in the MOU that you executed with -- is it USG?

A Uh-huh.

Q -- that's attached to your testimony in KO-1, the -- is it -- the MOU specifically says that it has to be approved as a Fuel Clause recovery project, correct?

A Would you refer to me -- or refer me to the place where it says that?

Q Yeah. If you look on Paragraph D, can you --

A Yes. Thank you. It does.

Q So, it won't be acquired if the Commission doesn't allow it through the Fuel Clause. Is that a proper reading of that?

A That's what we've codified in our agreement with our affiliate, yes.

Q Page 4 of your testimony, you state that you're here to tell the Commission how you're going to

account for the gas reserve transaction if approved, right?

A Yes. I'm trying to lay out the approach that we would propose to use for accounting, reporting, and ratemaking.

Q Isn't it true that you're not asking the Commission for approval to use the proposed accounting treatment?

A Well, yes, I think everything about our proposal is subject to the Commission approval. And I'm laying out in my best estimation of how we should proceed for accounting, and reporting, and ratemaking. The Commission could certainly feel otherwise.

Q FPL is an electric utility, correct?

A Yes, that's correct.

Q You're not authorized by the Florida Public Service Commission to sell natural gas to end users in Florida, right?

A We do not sell natural gas to end users in Florida, that's correct.

Q Are you authorized to?

A No, we are not.

Q And you're not authorized, likewise, by the your franchise agreements to sell natural gas within those jurisdictions, are you?

A No, we are not.

Q And you're not a natural gas utility defined by Florida law, right?

A Defined by Florida law?

Q Yes.

A I -- I don't know, honestly.

Q You're not a natural gas utility defined by the Federal Energy Regulatory Commission, correct?

A That's correct.

Q Doesn't the Florida Public Service Commission have a rule that requires electric utilities under its jurisdiction to use the FERC uniform system of accounts for electric companies?

A Yes, it does.

Q You're not proposing to follow that rule for the purposes of this transaction, are you?

A No, I'm not.

Q Isn't it also true that no natural gas utility uses depletion accounting that -- no natural gas utility that's regulated by the Florida Public Service Commission uses depletion accounting?

A Not to my knowledge.

Q On Page 14, Lines 11 through 18 of your direct testimony, you claim that the Woodford Project will be exempt from Commission Rule 25-6.1351, right?

A That the transfer would be, yes.

Q Isn't it your testimony that all the transactions with the -- with the subsidiary that would be created would also be exempt from that rule?

A That's correct, any transactions like the Woodford Project. I mean, all other future transactions, presumably, would not involve a transfer from our affiliate. So, I only think this is pertinent to the transfer we're talking about here with the Woodford Project.

Q Okay. What about the purchase of gas from the affiliate? Are you saying that wouldn't be covered by the affiliate transfer?

A Oh, I'm sorry. The ongoing purchase from our subsidiary.

Q Yes.

A Yes. I don't think of that as applicable to the affiliate rule because it's not an unregulated affiliate. It would be our fully regulated subsidiary that would be acting on behalf of our customers.

Q Isn't the only way that you can avoid subjecting the transfer to the affiliate rule is by putting it in the Fuel Clause?

A No. The affiliate rule provides provisions to substantiate and demonstrate to the Commission that the higher or lower requirements do not apply under certain circumstances. So, I think we could make that case.

Q Okay. Did FPL undertake to determine whether any of the leaseholds or other interests, mineral interests that are the subject of the AMI -- whether they are owned by anyone at FPL or NextEra or any affiliate of NextEra or FPL?

A I don't know.

Q Is there a corporate governance policy in place that would forbid FPL employees or entities set up to contain interests of FPL or NextEra employees, or NextEra or FPL-related parties or affiliate from owning such mineral interests in future projects?

A Could you repeat the question, please?

Q Yeah. Is there a corporate governance policy in place that would forbid FPL employees or entities set up to contain interests of FPL or NextEra employees, or NextEra or FPL-related parties or affiliates from owning such interests?

MR. BUTLER: I'm going to object to that question as it's unbelievably convoluted and compound.

MR. REHWINKLE: Is that -- I can rephrase it.

CHAIRMAN GRAHAM: Let's see if you can't cut it up a little bit for her.

MR. REHWINKLE: Sure.

BY MR. REHWINKLE:

Q Is there a corporate governance policy that would forbid FPL employees from owning mineral or other leasehold interests in a drilling region that you would have -- propose a gas reserved project?

A Maybe I could answer it this way: We do have very clear, specific policies on ethics and conflict of interest. And as employees, we are instructed quite clearly that we are not to put ourselves in a position of having those conflicts. And if any do arise or if there is any concern that any would arise, we are to report those.

Q So, but you cannot say whether this project was evaluated for compliance with such policy?

A I do not know.

Q Because of your position in the company, would you have responsibility for knowing or implementing such a corporate governance policy?

A Not -- not on the first instance. We have a compliance organization that's responsible for ensuring that those policies are adhered to and monitor those. I would certainly be notified if there was potential conflict that affected any of the transactions due to my responsibilities under the affiliate rule.

Q Okay. And you would have also have Sarbanes-Oxley tied responsibilities in that?

A I'm responsible for the Sarbanes-Oxley compliance for FPL.

Q Okay. So, violations, hypothetically, of such a sort would be something that would be reportable under Sarbanes-Oxley; is that right?

A You know, honestly, I don't know. I mean, my role as far as Sarbanes-Oxley is concerned is ensuring that we have adequately designed internal control processes and that those operate effectively.

Whether or not there is another compliance -- reporting responsibilities under Sarbanes-Oxley for conflicts of interest, I don't -- I don't know.

Q Fair enough.

Hasn't the market -- well, on Page 15, Lines 1 through 2, is the market that you're referring to there the market for gas reserves?

A Yes. The market for these interests, yes.

Q Okay. Hasn't the market value of the Woodford Project gas reserves that FPL seeks cost recovery for here today declined since -- from June 25th, 2014, to December 1st, 2014?

A I know that gas prices have declined. We've discussed that. I don't -- I would imagine there is a correlation between gas prices and the value of the interest that we've purchased.

But this is talking about paying market at the time of the initial purchase. So, because we're talking about a transfer of net book value, it essentially puts us in that place as initial purchaser.

Q What is the date of initial purchase for that determination?

A I believe it was June -- I can't recall the exact date, but June of 2014.

Q Okay. So, there is no provision in any of the agreements you have with USG for a downward adjustment in the purchase price if the market value of the Woodford declines, is there?

A No, there's not.

Q Isn't that quite generous to FPL shareholders?

A I think it could have gone either direction. And that was quite precisely the point is we weren't going to try to gain the transaction. We had the benefit for customers of utilizing our affiliate to support this transaction. And we simply agreed, and that's codified in the MOU, to transfer at net book value so that we weren't trying to anticipate whether there would be winners or losers.

Q If I could get you to turn to Page 23,

Lines 12 through 16 of your testimony.

A I'm there.

Q Okay. Isn't it true that the Woodford investment may not produce any gas, and that, if any is produced, certainly, or it could not be at the cost that is lower than the available market price of natural gas available to FPL on the market?

A Well, it is possible and highly improbable that our Woodford investment will produce no gas. And then I got lost at the rest of that question.

Q Okay.

A If you would, repeat the back end.

Q I was only asking you if it's possible that gas wouldn't be produced, and that, if it is produced, that it may not be at a cost than is lower than the market that you buy --

A That's right. We have no guaranties around the movement of market prices. We do feel pretty confident, I think, based on the information that we do have about the cost of production.

Q Isn't it also true, though, that the gas that FPL buys from third parties on the market today is guaranteed at the price and quantities that FPL contracts for?

A Is guaranteed -- you mean that -- when we engage in a buy-sell transaction with a supplier, that we are assured of being able to buy at that agreed price?

Q Yeah.

A Yes, that's true.

Q And take deliveries in the quantities that you order, correct?

A Yes, that's generally the expectation. And that's what occurs.

Q So, wouldn't that be a substantive difference between your proposal here and what happens in the market today?

A Yes. This transaction is substantively different. We've talked most of the day about the strategy that we're trying to deploy, which would enable customers, instead of being on the wild ride of market prices, to lock in the production costs associated with the Woodford Shale investment that we're attempting to make on behalf of customers.

Q Okay. Page 23, Lines 18 through 22, isn't it true that, as contained in your testimony, the first sentence in the paragraph that starts on Line 18 is the sole justification that FPL offers for the proposed cost being included in the Fuel Clause as opposed to base rates?

A No, that's not the sole justification, if you're reading just the Lines 18 through 22. That's a justification, if I heard your question correctly.

Q Okay. Isn't this same sentence what's also included on Page 22, Paragraph 46 of the petition that was filed in this case?

A I -- I don't know.

Q Do you have the petition with you?

A No, I do not. But that page contains a number of -- the entire page discusses the various reasons why it is appropriate to recover these costs in the Fuel Clause. It goes through a number of reasons.

Q Would you be surprised if the identical sentence is included on -- or a substantially-same sentence is included on Page 22, Paragraph 46 of the petition?

A No, I would not.

Q Isn't it your testimony that the Woodford Project is sufficiently volatile to be more suitable for inclusion in the fuel costs than in base rates?

A My discussion here goes more to the volatility of the investments. So, a couple of things happen with these investments. They deplete very rapidly, as Witness Forrest has demonstrated. So, that would not be advantageous for customers to have revenue requirements declining quite rapidly if you put the cost in base rates.

And secondarily, we can't project with any certainty the availability of projects that will be appropriate under, you know, our proposed guidelines or whatever direction the Commission might give us. So, there is volatility in the investments.

Q Is it your testimony that the Woodford investment that you're seeking recovery for in this case is of the type or category that has been traditionally, historically, and ordinarily recovered in base rates?

A Could you repeat question one more time?

Q Is it your testimony in this case that the Woodford investment that you're seeking recovery for in this case is of the type or category that has been traditionally, historically, and ordinarily recovered through base rates?

A Not here in the Florida Commission, no.

Q So, you're saying it would not meet that definition?

A Right. I think we've gone on to explain that the rule that you're referring that's been discussed a lot today has a more comprehensive meaning than the written words which describe it as not traditionally recovered under base rates.

Q So, you're saying that the Woodford -- the investment in the Woodford are not of the type that are traditionally or historically recovered through base rates?

A It never has been. An investment in gas reserves has never been requested or recovered in the base rates in the Florida Commission.

Q Okay. Now, you cite Order No. 14546 in your testimony, right?

A Could you direct me where you're reading?

Q Well, it's on Page 23. It looks like Line 2.

A Thank you.

Q Do you have a copy of that order with you?

A Not the entire order. I believe I have an excerpt.

MR. REHWINKLE: Mr. Chairman, I would like to pass out an exhibit. It's a Commission order. So, I don't know that it needs an exhibit number.

CHAIRMAN GRAHAM: I don't think we do.

MR. REHWINKLE: If you want to give it one, you can.

CHAIRMAN GRAHAM: No, I think Mary Anne would be mad at me if I did.

MR. REHWINKLE: Okay. We don't want to make Mary Anne mad.

THE WITNESS: Is that it? I'm sorry.

MR. REHWINKLE: That's okay. There you go.

THE WITNESS: I believe I do have the entire order, actually. Thank you.

MR. MOYLE: I think just for the good of the order, at least, I have had difficulty finding this order on the PSC's website. So, it may -- so that the record is complete, it may be a good idea to mark it and enter it. I couldn't find it looking on the website.

MR. REHWINKLE: I will say, I agree with Mr. Moyle. It was very hard to find. We have the old Commission Reporters. We luckily had a copy of it. It's very difficult.

CHAIRMAN GRAHAM: Well, gentlemen, that's by design.

(Laughter.)

MS. HELTON: We didn't start putting our orders online until, I think, the early nineties. So, that's probably why.

But it was not Lexus either?

MR. REHWINKLE: It is.

MS. HELTON: Okay.

MR. REHWINKLE: This is just the original Commission order. And it's been in our office for

30 years. So, it's a little bit marked up. And I apologize for that, but that's the only copy that we have.

BY MR. REHWINKLE:

Q Anyway, you're familiar with this order, Ms. Ousdahl?

A I am.

Q Before we get into that order, let me ask you this: You have referenced on Page 22 three orders on the bottom on Lines 18, 19, and 20 -- or 21. Do you see that?

A Yes.

Q This is the Martin Pipe lateral, the railcar -- the Scherer railcars and the --

A Plant modifications.

Q The fuel conversion. Would you agree with me that those projects were relatively small in capital outlay compared to the Woodford Project?

A I believe they were. I cannot recall the investment amounts, but I believe they were smaller than the $200 million we're talking about here.

Q Okay. And they were one-time transactions, correct?

A Well, I actually think we purchased railcars twice, as I understand it, but --

Q Okay. But the railcars --
A -- two --
Q The railcars that were subject of this Scherer order on Line 19 and 20 was a total investment of about $24 million. Would you agree with that?
A I -- I don't know. I'm -- I'll accept it.
Q The order will speak for itself, right?
A Yes.
Q All right. But two times for the Scherer railcars -- one time for the lateral -- for Martin plant; and one time for the fuel conversion?
A Correct.
Q Going back to Order 14546, you would agree that this order applies to the recovery of the proposed investment in the Woodford reserve; is that right?
A Yes, we think it's applicable.
Q Okay. Now, you cite in your testimony on Lines 3 through 5 -- or you characterized the order with some language and a citation, correct?
A I'm sorry?
Q You characterized the order or the holding of the order with some language plus a quotation; is that right?
MR. BUTLER: Where are you reading from?
MR. REHWINKLE: On Page 22. I'm sorry.

Page 22.

MR. BUTLER: Okay.

BY MR. REHWINKLE:

Q If I could get you to just read into the record -- well, you can read the Q and A, but just stop at the end of the sentence on Line 5, please.

A Starting with, "Why is fuel cost" --

Q Yes.

A -- recovery appropriate"?

"Item 10 of FPC's Docket No. 850001 EIB, Order No. 14546 provides the Fuel Clause recovery is appropriate for projects that are intended to lower the delivered price of fuel when those costs were not recognized or anticipated in the cost levels used to determine base rates."

Q Okay. It says current base rates, right?

A I'm sorry. Current base rates, yes.

Q Okay. And the part that you just read starting with, "Not recognized through base rates" is in quotes, correct?

A Correct.

Q Okay. So, you took that from Order 14546, right?

A Correct.

Q And if I could get you to turn to Page 5 of

Order 14546, Item 10 there is where you got the language that you quote, correct?

A That's correct.

Q All right. Now, in quoting this -- in portraying the language that's from this order, you kind of change the language of the order, didn't you?

A I don't think I changed it. I think I've interpreted it.

Q Okay. Now, you omitted -- well, just -- you omitted the first clause of that order, correct?

A If you're referring --

Q Of that Item 10. In your testimony -- it's nowhere discussed in your direct testimony, is it?

A I don't believe so, yeah. I agree with you.

Q Okay. So, you omitted the -- in quoting this section of the order, you omitted the phrase, "Fossil fuel-related costs normally recovered through base rates, but which were" -- correct?

A I think that's right. Not recognized or anticipated -- yes.

Q Okay. Why did you do that?

A You know, it's not a secret to anybody here today that the rules, the orders, this Commission, the parties didn't contemplate Florida Power and Light Company finding a way in which it could invest in gas reserves on behalf of its customers. So, we're trying to take the rules that are in front of us, understand them, apply them appropriately.

This order very clearly sets out policy. And we don't think our proposal is at all in conflict with the order. But no one would foresee that we would be bringing such a unique investment to the Commission for consideration.

Q Well, isn't it true that you find that language inconvenient, and so, you're asking the Commission to ignore it?

A I think the Commission is more thoughtful than that. The policy is quite clear in this order.

Q So, is it your testimony that this just doesn't apply to you?

A No, that's not my testimony. I think my testimony is very clear. The policy laid out in the order clearly contemplated investments such as these that are not contemplated at the time base rates are set that represent potential savings to customers to be brought before the Commission for consideration.

In fact, the order goes on to say on a case-by-case basis, which is what we're here doing, putting this out in front of the Commission and asking for approval.

Q So, if I could get you to look on Page 2 of Order 14546, please, do you see -- would you agree with me that starting in kind of the bottom half of the page, there is a sentence that says, "In the specific application of this policy, the parties recommend the following treatment of fossil fuel-related charges"? Do you see that?

A I do.

Q And there are invoiced fuel charges. And if you could kind of keep your finger on that Page 2 and flip over to Page 4, this is where the start of the listing of the items that end with Item 10 that we just talked about is summarized by the order. Would you agree with that?

A Yes, they --

Q Okay. So, the description in Paragraph -- in the Paragraph 1, invoiced fuel charges -- you would agree with me that that corresponds with, on Paragraph -- on Page 2, that corresponds with Items 1, 2, and 3 on Page 4 relating to invoice price of fuel.

A Yes.

Q Okay. And then the next item, transportation charges on Page 2 corresponds to Item 4 --

A Yes.

Q -- on Page 4.

And then taxes on Page 2 corresponds to taxes on Page 5 -- I mean, on Page 4. Too many numbers here.

A No. 5, yeah.

Q No. 4 -- I mean, No. 5 on Page 4. And we go down, four charges on Page 2 equals No. 6 on Page 4.

So, we go all the way down to -- we follow this -- same applies all the way until you get to inventory adjustments on -- Page 3 corresponds to No. 9, right?

A Yeah. There is a bunch of stuff in the middle that gets dropped, but anyway, that -- yes, it's generally -- I don't see O & M expenses, plants, additives, fuel procurement --

Q Well, additives -- let's --

A Oh, I'm sorry.

Q Yeah.

A Additives is No. 8.

Q Yeah.

A Yeah.

Q And inspection -- I mean, I just -- I think you would agree there is a one-to-one correlation between these --

A No. No, I would not. I would agree that -- you know, it looks very intentional, but it's not perfect. O & M expenses is left out.

Q Okay. Well, let's -- well, then I'll skip --

A Fuel procurement administrative charges is left out. But anyway, I'm not disagreeing that the order appeared to describe these things and then prepare a list.

Q All right. So, then, on the bottom of Page 3, there is a paragraph that reads, "In addition to stipulating to the foregoing applications of policy, the parties also recommend to the Commission that the policy it adopts be flexible enough to allow for recovery through fuel adjustment clauses of expenses normally recovered through base rates when utilities are in a position to take advantage of a cost-effective transaction, the costs of which were not recognized or anticipated in a level of cost used to establish the utilities base rates." Did I read that accurately?

A Yes.

Q Then it says, "One example raised was the cost of" -- well, strike that.

Let's just go back to what I just read, that long sentence. That is essentially describing Item 10, right, that's on Page 5?

A Yes.

Q And then continuing back on Page 3 at the bottom there, the one example raised was, "The cost of

an unanticipated short-term lease of a terminal to allow a utility to receive a shipment of low-cost oil.

"The parties suggest that this flexibility is appropriate to encourage utilities to take advantage of short-term opportunities not reasonably anticipated or projected for base-rate recovery." Did I read that right?

A Yes.

Q Okay. So, this paragraph at the bottom of Page 3 is describing or explaining what is summarized in Item 10. Would you agree?

A Yes. It's adding color to Item 10.

Q Okay. Now, you stated in your quotation or your characterization of Order 14546 -- and just so I'm clear on this, when you're characterizing on Page 22, you specifically reference Item 10 of that order, right?

A I did.

Q And that's the only basis from Order 14546 that FPL points to for justification for the Woodford clause being in fuel --

A No.

Q -- costs.

Is there another part of Order 14546?

A Part -- Page 23 goes on to describe the other ways in which it is applicable, lowering the delivered price of natural gas. And we talk about how, in this instance, it's directly related to fuel. I mean, so, we've -- we've laid out the basis.

Q Okay. I'm just referring -- talking about with respect to Order 14546.

A As am I, the top of Page 23.

Q So, there is something other than Item 10 that you're pointing to in Order 14546?

A Yes.

Q Can you show me where in the order?

A The top of Page 23, beginning with Line 1. I -- I point to the order again and say, "The project is intended to lower the delivered price of natural gas that we burn in our generating units."

Q Okay. But Item 10 specifically covers capital costs, right?

MR. BUTLER: Do you mean is it limited to capital costs?

A It doesn't say that.

Q Well, this is where capital costs refers to authorized for recovery and fuel, right?

A I'm sorry?

Q This is where capital costs were authorized for recovery in fuel.

A But Item 10 doesn't reference only capital costs.

Q Okay.

A That was your question.

Q All right.

A It just says fossil fuel-related costs.

Q So, is it your testimony that if -- well, let's strike that.

There is a portion -- the only portion of Item 10 that you quote is the "or not" -- "... Or not recognized or anticipated in the cost levels used to determine current base rates," correct?

A That's the only part I've got in quotation marks.

Q Okay.

A Yes, correct.

Q And in your testimony at Line 23, you seek to meet that task of Item 10 by your testimony there on Lines 3 through 8, right?

A I think I'm going on to describe its applicability to the broader policy in 14546.

Q Okay. Why --

A Which is that you have to demonstrate that there is an estimated or proposed reduction in the cost to customers, savings to customers.

Q Okay. My question was solely as to that

phrase that you quote on Page 22. And the language on Page -- on Lines 3 through 8, is your testimony designed to demonstrate that you meet that portion of Item 10's test for clause eligibility?

A I think my testimony is broader than that. Look, I referenced Item 10 --

MR. REHWINKLE: Mr. Chairman, I think I'm entitled to a yes or no.

THE WITNESS: I'm trying. I'm really struggling with -- I'm struggling to answer your question with a yes or no.

MR. REHWINKLE: All right.

CHAIRMAN GRAHAM: I'll allow her to restate your question, if she -- the way she understands it. You can say, no, that's not the question I'm asking.

BY MR. REHWINKLE:

Q Okay. Let's go back to Page 22, Line 2 -- well, you say, Item 10, et cetera, et cetera, of Order -- "... of Order 14546 provides that Fuel Clause recovery is appropriate for projects that are intended to lower the delivered price of fuel when those costs were 'not recognized or anticipated in the cost levels used to determine current base rates'"?

A Right.

Q That's your testimony, right?

A Correct.

Q As I read this, when you say is appropriate, you're saying that it meets the test that is set out in that order and that specific part of the order; is that correct?

A Yes. It more than meets the test because --

Q All right.

A Yes.

Q Okay.

A It more than meets the test because Item 10 was intended to allow parties to bring things in front of the Commission, proposals in front of the Commission that would never have been considered in fuel cost recovery before. This more than meets the test because it's a perfect fit for fuel --

Q Where does it say that --

A I think that's the context of this whole comprehensive order that -- you know, come to us, Item 10 says. We will look at this on a case-by-case basis. If you have proposals that, hey, would never go to Fuel Clause recovery in the past, but that have merit -- it's an invitation to bring, you know, those proposals to the Commission. It's the way I read and interpret that.

Q But you just omit the phrase "normally recovered through base rates."

A It --

Q Right?

A That -- omitting that --

MR. BUTLER: I'll object. That's asked and answered.

CHAIRMAN GRAHAM: I'm not sure I ever -- I ever heard her answer the question.

THE WITNESS: Commissioners, to me that omission -- well, it was inadvertent. Again, it's not a surprise to anyone that this has not been considered before in base-rate setting. We've said that on the record a number of times.

The Commission intent of Item 10 was to bring projects that potentially would never have been considered in fuel clause recovery to your -- your body of Commissioners to opine on.

In this case, it more than meets the requirements. It's not something that has ever been looked at in base rates before. It's a perfect fit for Fuel Clause recovery. So, I don't find that language to be determinative of a decision by the Commission.

///

BY MR. REHWINKLE:

Q You used the phrase "intended" on Line 3 of Page 22. And I think you use it again on Line -- Page 2 of 20 -- Line 2 of Page 23, right?

A Yes.

Q But with -- back on Page 22, with respect to that Item 10, the word "intended" is not included in Item 10 on Page 5 of Order 14546, is it?

A I don't have it in quotes. (Examining document) no.

Q Okay. In fact, it says, "... and which, if expended, will result in fuel savings to the customers." Isn't that what Item 10 says?

A That's correct.

Q That's the correlate, if you will, of the paraphrasing of "are intended to lower the delivered price of fuel," right?

A I think it's consistent with, yes.

Q Okay. So, you've recharacterized the word "will" to "intended"?

A I -- again, I don't have my discussion on Page 23 in quotes.

Q Okay.

A I think it's been clear in precedent that the Commission has accepted companies's proposals that project a savings to customers to be allowed recovery through Fuel Clause.

Q Okay. So, just so I understand, though, back on Page 22, Line 2, you say that that Item 10 provides. And then you go on to say the word "intended." So, you're recharacterizing the word "will" --

A I'm sorry. Okay. Okay. I'm sorry.

Item 10 provides -- (examining document). I'm not recharacterizing. It's my interpretation based on the order and the facts that have been brought to the Commission and the decisions made subsequent to that order.

Q So, you reference decisions made subsequent to Order 14546. Can you cite me to any order that ignores the first clause that we've discussed at length here today about fuel -- fossil fuel-related costs normally recovered through base rates? Are there any that ignore that as a requirement or test that you must meet for eligibility for clause recovery under Item 10?

A I think the three examples that I've provided are examples that would typically be base-rate recoverable items, yes.

Q Okay. So, those met the tests that's in the first clause of Item 10, right?

A Yes.

Q Okay. All right. Let's move away from that to Page 23, the -- I guess, what I'll call the second part of the Item 10 test, which is that it wasn't recognized or anticipated in the 2013 test year. Did you see that?

A Yes.

Q Is that a fair characterization of what you're saying here?

A Yes.

Q So, isn't it true that you cannot state that the 2013 test here formed the basis for FPL's current base rates that were set in the 2 -- 1200015 docket?

A The 2013 test year was the basis, both filed, litigated, and decided for our current rates.

MR. REHWINKLE: Okay. Mr. Chairman, I would like to pass out an exhibit. And maybe we can -- this line of questioning will take us up to about 6:00.

CHAIRMAN GRAHAM: All right.

MR. REHWINKLE: And this, again, is a Commission order. It's -- I'll call it an excerpt from Order 130023, which is the 2012 case. I didn't include all the tariffs and that. So, it's an excerpt in that -- to that degree.

THE WITNESS: I didn't get an exhibit number on it.

MR. REHWINKLE: He didn't give one --

THE WITNESS: No? Okay.

MR. REHWINKLE: He's not going to give us -- we can't make Mary Anne mad. So, we can't get exhibit numbers for orders.

THE WITNESS: I was trying to do my job here.

CHAIRMAN GRAHAM: My dad taught me a long time ago, in if mama ain't happy, nobody's happy.

MR. REHWINKLE: I think I made Mary Anne mad one time a few years back. And I decided never to do it again.

(Laughter.)

BY MR. REHWINKLE:

Q Okay. Do you -- do you have this -- and ignore the pages at the bottom. Let's just use the order -- the Commission order pages that are at the top, if that's okay with you.

A Okay.

Q I took this from the appendix that we filed with the Supreme Court, which, by the way, you'll agree that this order was taken up on appeal and recently affirmed by the Supreme Court in 2014, right?

A Yes.

Q Wouldn't you agree that the Commission

accepted a stipulation between certain parties and FPL, and after sending the parties off to negotiate further at the agenda where they considered the stipulation and the stipulated revenue requirement was reduced further by about $18 million, that the Commission, then, approved a revenue requirement through this stipulation?

A I'll accept that. I know some changes were made. Modest changes were made, yes.

Q And so, that is recounted on Page 2 in the second full paragraph at the very bottom, "Upon completion of our discussion" -- do you see that sentence? Near the bottom of that paragraph.

A The second full paragraph?

Q Well, yeah --

A The first -- I'm on Page 2.

Q Of the order, you're looking up at the top.

A Yes, I am.

Q On the left. So, "on August 27" is the first full paragraph. And "on October 3rd" is the second full paragraph. And then about three-quarters of the way down --

A Yes. Okay. I'm with you.

Q Okay. So, it --

A Yes.

Q Okay. Now, Page 3 of this order, third bullet

point says, "FPL would be authorized to implement a revenue increase of $378 million effective January 1, 2013."

And then it says, "The increase would be based upon" -- "based on the projected 2013 test year billing determinates contained in FPL's filed minimum filing requirements." Do you see that?

A Yes.

Q That means that they will take the dollars and they'll divide them up the way the billing determinates were presented in the MFRs, correct?

A Yes.

Q For setting -- for setting the individual customer's billings.

If you will, turn to Page 5 -- actually, skip that. Let's go to Page 6. And if you want to go back to Page 5, the fourth bullet point there talks about the gee-braz -- or GBRAs, right? That's the Commission's characterization of those provisions of the settlement.

A Yes.

Q And then you flip over to paragraph -- to the top of Page 6. It's the first full sentence says, "For the Canaveral modernization project, the revenue requirement will be based on FPL's current rate petition in MFR." Do you see that?

A Yes.

Q All right. And then again, if you go to Page 8, there is a sentence -- the first full sentence at the top of that page says, "All stipulated issues that were approved in this docket on August 31, 2012, are superceded by our approval of the revised stipulation settlement," right?

A Yes.

Q Now, you testified in both phases of this -- of that docket, right; in the regular case and then on the hearing on the stipulation, right?

A No, I was not a settlement witness.

Q You were just on the first part, right? But you're very familiar with this order, right?

A (Nodding head affirmatively.) Uh-huh.

Q Can you point to me anywhere in the stipulation of the order where it says that this was based on the MFRs -- the revenue requirement was based on the MFRs?

A Well, I could sit and reread it. I'll accept that -- the words are not there. I do know that, you know, we filed a case. Gas reserves were nowhere in that case. Nobody thought about gas reserves. There was no estimate for the gas reserves. We settled the case. And the Commission approved that settlement. So, we know it was not a part of that.

Q Well, ow, what we don't know is the basis for the settlement, do we? Wasn't it what's called a black-box settlement?

A Well, I -- I don't know what was ultimately decided on the part of the Supreme Court. But there had to be a basis for settlement. And it began with our MFRs.

Q But the order and the stipulation don't reference MFRs. The MFRs are referenced for billing-determinate reasons and for Cape Canaveral modernization; isn't that right? We just established that, right?

A The sections we read, that's correct.

Q Yeah. Wouldn't you agree that this is what's known as a black-box settlement, which means that the basis for the revenue requirement is not disclosed and there is just an agreed-upon bottom-line number for the purposes of the revenue requirement?

A I think there is a lot more than a black-box settlement.

Q So, you would disagree that that's what this was?

A Yes. I would not describe this as a black-box settlement.

Q Would you accept, subject to check or should I hand out testimony, that the South Florida Hospital witness, Lane Collin, characterized it as a black-box settlement?

A I would accept that. That's his characterization. I know there were no gas reserve estimates in our filing. And I also know that there is nothing in the settlement record that talks about gas reserves. And that's the instant issue here. It's not whether or not this was called a black-box settlement or not.

Q The issue is whether the cost related to the gas reserves could have been included in the settlement, right?

A That's correct. All the Commission was trying to do in the order was ensure that there was not a double-dip occurring, which clearly, in this case there is not.

Q Okay. But that part of Item 10, you think the Commission should follow, but they should ignore the first part.

A The Commission has always followed a clear intent to ensure that rates are set based on reasonable costs. And that would include ensuring that we do not collect the same cost more than once.

MR. REHWINKLE: Okay. Mr. Chairman, I think I have asked the last question I have for this witness on this order. I'm going to move to another topic. I can do that or --

CHAIRMAN GRAHAM: Go ahead and start.

MR. REHWINKLE: Keep going?

CHAIRMAN GRAHAM: Yeah.

MR. REHWINKLE: Okay.

BY MR. REHWINKLE:

Q The subsidiary that you've mentioned in your testimony, GRCO -- if I say gree-co, that's what we mean, right? I won't call it --

A I'll understand that you mean Gas Reserves, Co.

Q Okay. That company -- if this is approved, that will probably get a new name, but it will be the subsidiary that's referenced in your testimony that will house the assets, right?

A That's our proposal, correct.

Q Now, you call it a regulated subsidiary. And I think earlier in response to a question from me or maybe in your summary you called it a fully regulated subsidiary; is that right?

A Yes.

Q What is your definition of fully regulated?

A That the rates associated with that activity are established by this Commission.

Q Okay. What about the activities of the -- of that subsidiary?

A Well, I think to the extent this Commission deliberates on our proposed commercial interest in the Woodford Project, they are approving that investment. They will certainly not be regulating the operations that go on. But then they would have responsibility for regulating the rate-setting that would result from those activities to produce natural gas from those investments.

Q Okay. You would agree, would you not, that even though FPL is characterizing itself, assuming you take USG's interest and this is approved by the Commission -- you're not characterizing yourself as an operating partner. You will have operational activities in working with the joint-venture partner in this project, right?

A Right. We will manage our interest. We will participate in the development of the reserves as a non-operator, correct.

Q Okay. And for purposes of this project and any future projects that you would undertake under the guidelines, you would not propose to be an operating

partner in any of them, right?

A Yes, that's my understanding. I'm not the witness testifying to the guidelines.

Q Okay. But you're here to talk about the regulatory treatment of the subsidiary, right?

A Yes.

Q Okay. Since FPL and its subsidiary will not be the operators of the gas reserves properties, the Florida Public Service Commission will not have any regulatory authority over the actual natural gas reserve operations and activities including management decisions of either FPL or its joint-venture partner in the Woodford, right?

A I'll take that in two pieces, if it's okay.

Q Sure.

A The first instance -- the first part of the question talked about whether or not the Commission would be able to regulate the operations of our joint-venture partner. And that would be the case. There are many other layers of regulation that are actively, you know, overseeing the activities of gas reserves development, but this Commission would not.

However, the second part of that question went to their review of our role as manager in that -- in our interest. And they would clearly be in the driver's seat, as they are today, in reviewing the actions that we take on behalf of our customers in determining whether those actions and the resulting costs were prudent and should result in recovery of those costs.

Q When you say those actions, tell me what type of actions would typically be subject to the Commission's oversight and review?

A I think we've talked about that with Witness Forrest today; that there will be decisions that we'll make as a non-operating participant in the investment to consent or non-consent. There will be active monitoring of what goes on at the well site during development, certainly, and the drilling of the initial well.

So, the Commission will be looking at the decisions we make as a non-operator-owner in those interests and deliberating on whether those decisions and actions were prudent.

Q So, just to be sure, you're talking about a joint venture. So, there will be decisions that you will be making together with PetroQuest, right?

A That's my understanding.

Q So, to the extent that you're in a room, making decisions about consenting or non-consenting to wells, the Commission will be able to see all of that?

A Well, the Commission reviews all of our actions -- activities associated with clause recovery, both on a projected basis -- so, we lay out for the Commission what we intend to do from a clause-recovery perspective, actions we intend to make.

And we have joint-venture arrangements, as you're well aware, that flow through the various clauses today, environmental capacity and fuel. And we are not completely passive, though we don't operate those interests. The Commission reviews those costs both before and after. This would be a similar construct.

Q So, if there is a decision made about whether or not to consent to a well, the Commission will have all the information that you have with respect to whether to consent to that well?

A Well, if they so desire.

Q Okay. That's the intent and that's the scope of regulatory oversight that you're agreeing to?

A Well, the Commission at any point has access to any information that the company utilizes to manage its business. So, to the extent we have information available to us that informs our decision and the Commission, you know, wants to see that information, I would imagine we would be providing that. I don't know what they will ask for in the future. I'm sure that remains to be seen.

Q Okay. So, even if this involves communications and conversations that you have with PetroQuest, the Commission will be able to see those? They would be able to review the full extent of those business dealings?

A I think I was thinking about documentation, right?

Q Okay.

A We don't typically do a transcript of every conference call we might have with our Georgia Power operators of Scherer, but we do have documentation of decisions that are made. And those are available for the Commission and parties to review.

Q I'm glad you mentioned Scherer. That's owned by Georgia Power Company, right?

A They are the operator. There are multiple owners.

Q Okay. You have an undivided --

A We do.

Q -- interest as joint tenants in common, right?

A We do have an undivided interest. We proportionately consolidate that --

Q Okay.

A -- interest.

Q Now, the Georgia Public Service Commission

fully regulates Georgia Power, as far as you know, right?

A Yes.

Q So, between the Florida Commission and Georgia Commission, all of those activities are fully regulated and fully overseen by one or both Public Service Commissions, right?

A That's correct.

Q All right. Now, PetroQuest, on the other hand, doesn't have a Public Service Commission that's overseeing their activities, right?

A They are not a regulated utility enterprise. There is, again, much regulation, as I understand it, on the exploration and production activities associated with gas reserves. They are not out there doing whatever they would like.

Q But the Public Service Commission could only see your side of the story with respect to any transactions that you were to need to explain to them with respect to the prudence of any activities in the Woodford Project, right?

A I'm not sure if I understand what you mean by our side of the story. As we would have an undivided interest, all transactions are relevant, right? We would incur our proportional costs associated with all of the activities. All documentation in support of those transactions is relevant. The information that we would rely on in our management of our investment would be available to the Commission.

Q But you're not making all the decisions that are the result of the joint venture in the Woodford, right? It's --

A Just as we are not at Scherer, as Scherer PP, there is an operator. There needs to be an orderly management of the activities.

Q Okay. So, is it your testimony here -- I'm just trying to understand the scope of what you say the Commission's authority is. Will the Commission be able to review PetroQuest's reasons for not proposing to you to drill certain wells?

A We have a drilling plan already laid out with PetroQuest. So, is your question if a well is not drilled, would the Commission be able to understand why? I'm just uncertain of your question because there is a clear plan. It supports the costs that we've estimated.

Q But you agree that the plan could change, right?

A Yes, it has. We've talked about that.

Q All right. So, if PetroQuest didn't propose a well that you thought they should propose, would the

Commission be able to understand PetroQuest's reasons for not proposing to drill a well and departing from the drilling plan as it exists today?

A Yes. If there is a delay, we understand the nature of the delay, the Commission can certainly ask us for information in support of that delay. There is no cost associated with that delay because we have not prepaid for that drilling. But yes, the information the company has would be available to the Commission.

Q So, my question to you was will the Commission be able to review PetroQuest's reasons for not proposing to drill wells?

A To the extent information is available to us, it's available to the Commission.

Q So, there will be kind of -- you'll be their surrogate as far as understanding that, right? "They" being the Commission.

A We're the incurring party for any costs. Anything the Commission wants to look at, we're the party engaging in -- in the activity, itself, in making the decisions about the incurrence of costs, in negotiating contracts around the cost. And yes, the Commission has that information available.

Q Okay. The Commission will not be able to determine whether PetroQuest has prudently or reasonably

evaluated whether the cost to drill or the market price for gas were sufficient reasons for not proposing to drill, will they?

A We have a drilling plan. And we have consent and non-consent rights. I think your hypothetical assumes that PetroQuest just decides not to drill on their own because of some adverse change in market prices. Am I understanding your question correctly?

Q I'm asking you, if that's the reason they state, will the Commission be able to understand that and make a determination whether it's prudent on their part. "They" meaning PetroQuest.

A Yes, I think any -- any change in the plan is going to be subject to deliberation, first by the company. And certainly that information would be available to the Commission.

Q Okay. I'm probably going to need to start insisting on yes or nos --

A Okay. I apologize --

Q I'm not really understanding your answers.

A I'm trying.

Q So, let me reask this question and see if I can get a yes or no. Isn't it true that the Commission will not be able to determine whether PetroQuest has prudently or reasonably evaluated whether the cost to

drill or the market price for gas were sufficient reasons for not proposing to drill a well, if that's what they decided?

A No, I do not believe so. I think any reason for deciding to deviate from the plan would be apparent, understood, and made available to the Commission.

Q So, would the Commission be able to make a prudent determination about PetroQuest's actions in that regard?

A No. I think the Commission would be determining, hopefully today, now, whether our contractual arrangement and our commercial arrangement with PetroQuest will afford us the best opportunity to be able to drill all those wells, which we have testified we fully intend to do.

Q Okay. So, would the Commission be able to determine whether PetroQuest has sufficiently evaluated whether the cost to drill or the market price for gas were sufficient reasons for shutting in a well?

A The struggle I'm having is that PetroQuest's determination of action based on market price is not consistent with the agreements, as I understand them.

Q All right. Well, let's take the market price -- let me ask it this way: Would the Commission be able to determine whether PetroQuest has given

sufficient reasons for shutting in a well?

A Yes. A shut-in, as I understand it, occurs typically because there has been an event that, in many cases, would be unforeseen. I think all of these reasons for activity changes would be apparent to our company and to the Commission.

Q So, the Commission would be able to make a determination about whether PetroQuest had acted prudently in shutting in a well?

A Yes. They -- they can review information and make a determination about what, yes, their judgment would be in that circumstance.

Q Do you know what delay rentals are?

A I'm sorry?

Q Do you know what delay rentals are?

A No.

Q You've --

A I've heard the term. I've heard the term, but I can't recall.

Q Would you agree that there are payments that are -- that allow an operator or driller to -- to make in lieu of drilling in order to preserve the lease during the primary term of the lease?

A Yes. Thank you for that prompt. I --

Q Okay.

A I do agree that's my understanding, yes.

Q Now, would the Commission be able to make a determination about whether PetroQuest had prudently managed its obligations, if it had any, with respect to the payment of delay rentals?

A Yes, that information would be available. Recall, this is a very short drilling schedule. Hopefully, we will be able to execute as such. And delay rentals should not be an issue if we complete drilling by 2015.

Q Okay. So, it's your testimony there won't be any delay rentals paid?

A It's my testimony that it is a very short drilling schedule. Delay rentals, as I understand, usually come into play when you have an elongated schedule and a risk of losing the opportunity to drill under existing leases.

Q Okay. You're proposing in this case to use something called successful effort accounting, which is a part of ASC 932; is that right?

A That's correct.

Q And you don't consider yourself to be an expert on ASC 932, do you?

A Not today.

Q Sounds ominous.

(Laughter.)

A No, I look forward to being an expert some day.

Q You do not consider yourself to be an expert on this successful efforts method of accounting provided for in ASC 932, do you?

A No, I do not.

Q No one who is employed by FPL today is an expert in any of these two areas of accounting, are they?

A No one employed by FPL, that's correct.

Q And likewise and understandably, you are not aware of anyone at the Commission who is an expert or has expertise or experience in these two areas of the accounting, are you?

A I don't know. But I'm not aware, no, of anyone.

Q It wouldn't be surprising to you, would it?

A I --

Q I mean, we established earlier that no utility uses -- has been involved in a gas reserves project --

A I assume.

Q -- under your jurisdiction, right?

A Okay.

Q I mean --

A People come and go. Yeah, I mean, maybe it would be surprising. Yes.

Q All right. FPL's affiliates that engage in natural gas exploration, drilling, and production activities currently use the successful efforts method of accounting, right?

A That's correct.

Q And you would agree that you are not required to use the successful efforts method of accounting for GRCO, are you?

A No. I think we've laid out testimony that demonstrates that would be what we were required to do; that it is the method preferred by the SEC. So, when you elect a method, you are, without seeking a preferability letter from your auditor, you are directed to use successful efforts.

In addition, we will have to consolidate results with our subsidiary -- with our affiliate. A common method is a requirement.

Q Okay. So, that's a -- that's a decision more driven by what your affiliates are already using, right?

A No, it's a decision driven by both of these reasons; the SEC preference and the affiliate.

Q Can we turn to Exhibit KO-3, please?

CHAIRMAN GRAHAM: Mr. Rehwinkle?

MR. REHWINKLE: Yes.

CHAIRMAN GRAHAM: Probably about a good time to take that break.

MR. REHWINKLE: Okay.

CHAIRMAN GRAHAM: It's -- I've got about quarter after six or so. Let's take about an hour. Let's reconvene at 20 after seven.

MR. REHWINKLE: All right.

(Brief recess from to 6:15 p.m. to 7:20 p.m.)

CHAIRMAN GRAHAM: Mr. Rehwinkle, you have the floor.

MR. REHWINKLE: Thank you.

BY MR. REHWINKLE:

Q Hello, again.

A Hi.

Q I think we were going to turn to KO-3. Your Exhibit KO-3. And it's true, isn't it, that this is an estimate of the purchase accounting entry that would be made by GRCO at the time it obtains the Woodford property ownership interest from USG?

A Yes.

Q And this shows that, as of the date of the gas reserve acquisition from USG, the amount GRCO would record in Account 211, unproved property acquisition cost, would be $23 million, right?

A Correct.

Q And for natural gas, USOA Account 105, gas plant held for future use would be mapped from Account 211 by FPL in preparing its consolidated financial statements, right?

A That's what we proposed.

Q Okay. And these dollars would be included in the investment upon which a return would be applied in the fuel cost recovery clause calculations, correct?

A That's correct.

Q You don't know with any certainty by what date FPL will know if all of the amounts included in the $23 million for unproved property acquisitions costs will be determined to be proved, do you?

A No. They'll be re-categorized as the wells are drilled. They'll move from an unproved to a proved category as wells are drilled and reserves are affirmed.

Q Okay. So, that would be determined not only by adherence to the drilling plan, but success under the drilling plan, right?

A That's correct.

Q It's true, though, that a portion of the $23 million could remain in unproved property acquisition costs for a year or more, right?

A Well, the drilling plan, as we've discussed, is quite compressed; a year, hopefully. And so, they would not remain there for long under the current plan.

Q But it is possible.

A Certainly.

Q As you sit here today, you do not have a firm estimate of how long that investment might show a positive balance, do you? Or that account, 211, might show a positive balance for the Woodford Project, do you?

A I do not have an updated drilling plan.

Q During the time that any investment remains in unproved property acquisitions costs, FPL would not be receiving any natural gas from such unproved properties, will they?

A That's correct.

Q And accordingly, customers would pay a return on the cost that would be included in the fuel cost adjustment clause even though no gas would actually be extracted and provided to FPL, correct?

A That's correct. It's analogous to a situation where we have planned for future use that's in rate base earning and return.

Q And under successful efforts method of accounting, if a well that had not been previously proved is determined not to have recoverable gas

reserves, it will be written off or expensed, right?

A That's correct.

Q And any capital costs associated with that unsuccessful well would, then, be -- would also be expensed, right?

A That's correct.

Q And under FPL's proposal, the cost associated with that well that is determined not to be productive will be flowed through as an expense in the next available fuel cost recovery clause, right?

A Right. I mean, our ratemaking typically mirrors our accounting. So, at the time the cost is incurred, that's when, generally speaking, it's included in rates unless the Commission makes a decision to defer and amortize.

Q So, if you expense costs associated with the well, that would add to the variability or the volatility of the gas reserves cost, right?

A Right. I'll remind you that a well is estimated to cost about $5 million to drill under the plan.

Q And under the Woodford proposal, if a well is abandoned or closed or deemed unsuccessful, as we just discussed, it is written off, right, under any of those scenarios?

A That's correct.

Q Likewise, if the operator lets the lease for a particular well lapse by not paying delay rentals or not starting drilling in a timely fashion, the cost of that well would be expensed or written off, right?

A Well, there wouldn't be a well under your hypothetical. There would be --

Q There would be a cost associated --

A If I understand it correctly, there would be --

Q Any capital cost associated with that leasehold.

A With the property.

Q Yes.

A Yes, if there is no way in which the property can be developed, it would be written off.

Q Okay. If the operator lets a lease for a well, a producing well, lapse by not continuing to produce gas during this secondary term of the lease governing that particular well, FPL would also expense the writeoff in the next most current fuel period, right?

A I don't understand the question because I don't understand how you would have a producing well, which I think was part of your setup of the question, that we would then write off.

Q If the well was producing, but it was shut in for whatever reason and not produced and they didn't pay delay rentals -- in other words, they let the lease lapse because it didn't produce --

A Okay. It had ceased to produce.

Q Ceased to produce, yes.

A Okay. And it could not, under any circumstances in the future, restart production -- is that --

Q Correct.

A -- the hypothetical?

Q Yes.

A Yes, a non-producing property would have to be expensed.

Q Okay. During the time that -- let's assume that a well in the Woodford would be shut in for any -- for whatever reason -- do you understand a shut-in well?

A I -- I understand it from a layman's perspective.

Q It would be a well that was capped or not producing for a --

A Permanently?

Q -- period of time?

A Temporary?

Q Yes.

A Okay.

Q You would pay the shut-in royalties in order to be able to do that, right?

A I'm -- I don't know. I'm trying to understand the question.

Q Okay. Do you know what shut-in royalties are?

A No.

Q Would you accept that those are royalties that you pay to preserve your ability to produce gas for a producing well that you shut in or temporarily close?

A Okay. I'll accept it.

Q Okay. While a well is shut in, FPL will still include the unrecovered capital costs associated with that well and the fuel cost recovery, right -- fuel cost recovery clause, right?

A Yes, assuming a property was either proved or probable and the cost had been incurred, if for whatever reason, there was a delay in production -- I'm not sure if that's what your hypothetical is -- there would be less depletion, but a return would continue to be earned.

Q Okay.

A Just like a power plant that's an outage.

Q Let's talk about that for a second. If you

have a power plant that's in an outage, you don't stop depreciating that power plant, do you?

A That's correct.

Q Okay. That would be a difference between a well that was not producing, but still earning a return on the un-depleted investment and a power plant that was not producing. It would -- the net plant balance would continue to go down for the plant, but not for the well, right?

A Right. A well only depletes as you produce. But the analogy I was making was to the earning a return while it was not producing.

Q Okay. If FPL decides to reduce the production volume from existing wells for any reason, the depletion period would either be extended or the depletion would be delayed, wouldn't it?

A If it could not produce quicker in later periods, yes, that would be the arithmetic.

Q Are you familiar with the provision in the guidelines that are attached to Mr. Forrest's testimony that discuss delaying the drilling plan or reducing the production volume from existing wells in the event of unexpected price declines?

A No.

Q Do you have a copy of the --

A I don't.

Q -- guidelines with you? Okay.

If FPL decides to reduce the -- well, strike that.

If FPL either delayed drilling or reduces the production volume in the event of unexpected natural gas price declines, customers would be charged the market price for natural gas through FPL's purchase in the market, and they would also be paying a return on any capital costs incurred for the investment in the wells for which the drilling had either been delayed or the production volume reduced, correct?

A Yes. I assume your -- your hypothetical assumes we would be making up the lost production through a market purchase.

Q That's correct, yes.

A Yes.

Q Okay. And under such circumstances, both types of fuel costs would be passed through the Fuel Clause, correct? The return --

A Yes.

Q -- and costs associated with the well --

A Under our proposal and the current recoveries.

MR. REHWINKLE: Excuse me for a second.

CHAIRMAN GRAHAM: Sure.

MR. REHWINKLE: I'm marking off questions. I think this will be productive time.

CHAIRMAN GRAHAM: I like watching you turn the pages like that.

BY MR. REHWINKLE:

Q You are planning to, if this transaction is approved, record on FPL's books the investment in GRCO and Account 123.1, investment and subsidiaries; and 145, notes receivable, associated companies, right?

A When we report unconsolidated FPL results.

Q Okay. Let's look at KO-1, if you would, please. I think we talked about this one earlier. This is the MOU?

A Yes.

Q Now, you did not negotiate this document, right?

A I'm sorry?

Q You didn't negotiate this document?

A No.

Q This memorandum of understanding --

A No, I reviewed it.

Q But it's attached to your testimony, so -- on Paragraph C, if I could get you to look at that, a little more than halfway down or maybe halfway down at the far right, there is a sentence that starts "each."

Do you see that?

A Uh-huh.

Q It says, "Each" -- "The company has independently approved the project on the basis that each company was willing to assume for itself all of the rights, obligations, and liabilities of the project as of the closing date and the potential rights, obligations, and liabilities of the project that might -- that may arise in the future. Do you see that?

A Yes.

Q Now, the closing date here was back in June, right, the 18th, in Paragraph A?

A Yes.

Q Okay.

A Just wanted to affirm that it wasn't talking about the transfer date.

Q All right. So, you didn't record any liabilities or you wouldn't be -- at this time, you do not foresee a recording in the liabilities -- let me strike that.

Are there any liabilities that you expect to record for what's happened before the closing date?

A When we transfer -- KO-3, demonstrates what we estimate to be the case of transfer date, which is the assumption of the property and recording of those capital charges.

There will certainly be working capital that will be assumed, right, for production and processes, as there is in any acquisition of business or assets. So, there could be operating liabilities that are assumed, payables, trade payables that have to be paid relative to upcoming production that we would assume.

Q Okay.

A There are no contingent liabilities -- that's more the nature of your question.

Q Yes, it is.

A That I'm aware of, yes.

Q Thank you for the clarification.

Potential obligations or liabilities that may arise in the future -- again, FPL isn't recording any kind of provision for payment of liabilities, are you, associated with this?

A We're recording nothing.

Q Yeah. If there are land disputes or disputes over the ownership of mineral rights or past-due royalties, would FPL record their share of those in this transaction?

A I -- I think it's an awfully difficult question for me to answer without a whole lot more facts, right?

Q Okay.

A At the time of transfer, that's when we will assume the net book value cost and, you know, the rights and responsibilities at that point in time moving forward.

Q Okay. If there is some sort of environmental harm that occurs that are not covered by a bond or some other surety, and they were ultimately determined to be owed by the joint venture, would FPL have a share of that based on your operating agreement?

A It's very hard for me to answer. It's so -- it's so broadly hypothetical. I just can't say unilaterally yes or no.

Q Paragraph E, Subsection D, on the next -- on Page 2 -- it mentions hedges, if you will, down in the second half of that sentence. Do you see that?

A Yes.

Q Is PetroQuest going to be able to hedge on gas that FPL takes out of the Woodford Project?

A These hedges refer to hedges that might be placed by USG, not by PetroQuest.

Q Okay. But will PetroQuest be able to hedge?

A I have no idea whether PetroQuest is going to hedge or not hedge.

Q Would USG be able to hedge the gas that FPL

takes?

A I don't know why they would -- why they would incur a financial cost to hedge the gas that we'll attribute to us. This had to do with hedges that they might place on at the time they held the investment.

Q Okay. Do 100 percent of the gas reserve investments that you -- that GRCO will record represent tangible assets or equipment that FPL will own?

A There is both tangible and intangibles associated with the investment and activity and gas reserves.

Q Would you agree that -- that the lion's share or the majority of the investment that would be recorded on FPL's books will represent rights to drill or lease interests?

A I think in the Woodford case, that could be true. I certainly haven't analyzed it. In other cases, you can buy acreage or surface rights. So, I think it would depend.

Q But for the Woodford, there are no fee-simple interests. These are leasehold -- all leasehold interests, right?

A That's my understanding.

Q Those lease interests are the mineral owner's right to reduce minerals to possession; is that right?

A I don't know. I think it's described in one of the commercial documents, if you want to get --

Q Yeah, if you can refer me to one, I would appreciate it.

A (Examining document.) Well, it -- now, in the definitions of the DDNI, it talks about development assets being our right.

Q Before you --

A Title and interest to the mineral interest.

Q Before you read, I just don't want to elicit a confidential answer from you.

A Oh.

Q Or confidential document.

A Sorry.

Q I mean, I don't know if I was about to, but I would urge you not to do so.

A Yeah.

Q Well, let me ask you this: Would you agree with this statement that a grantee in a mineral grant does not acquire ownership of oil and gas in place. Do you agree with that?

A Right. You have --

Q In Oklahoma?

A You have acquired an interest in the right to produce the mineral interest, as I understand it.

Q Would you agree that oil and gas, unlike ore and coal, are fugacious and not susceptible of ownership -- of ownership --

A You'll have to ask Dr. Taylor that question.

Q Okay. But you would agree that oil and gas mineral interests vest no title to any oil or gas which the owner does not extract and reduce to possession and, thus, no title to any corporeal right or interest attaches?

A I don't --

MR. BUTLER: I'm going to object to that as calling for a legal conclusion.

A I don't know.

Q Okay. Would you agree that oil and gas are not capable of distinct ownership in place in Oklahoma?

A I don't know.

MR. BUTLER: Object on the same basis.

CHAIRMAN GRAHAM: He's moving on.

BY MR. REHWINKLE:

Q Would you agree that the mineral interests that FPL would have an interest in it would be booking a recording as investment, on your books would be represented merely by the right to take from the soil such that -- and it would be analogous to the right to hunt?

I'll withdraw --

A Well, I know that there are tangible assets that we will acquire and there are intangibles. Just as you would look on our books and records today, we have intangible assets and tangible assets.

Q Okay. But the value of the -- the interests that you're recording on your books is going to be based not on what's in the soil, but what you can -- you and your joint-venture partners can take out of the soil, right?

A Well, the --

Q Out of the ground.

A The costs we're going to pay is to drill these wells. And that includes -- well, and including carry, which is reimbursement of some of the acquisition costs. That's -- there are hard assets involved in drilling these wells and producing the commodity.

Q But not all of them are hard assets, right?

A That's correct. I've agreed with you that there are tangible and intangible -- real property and intangible.

MR. REHWINKLE: Okay. Mr. Chairman, those are all of questions I have. Thank you.

CHAIRMAN GRAHAM: Thank you.

Retail Federation.

MR. LAVIA: No questions, Mr. Chairman.

CHAIRMAN GRAHAM: Mr. Moyle.

MR. MOYLE: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. MOYLE:

Q Good evening, Ms. Ousdahl.

A Good evening.

Q In response to a question from Mr. Rehwinkle, you said essentially that this oil and gas venture in Oklahoma -- that nobody saw this coming. This was unforeseen by the parties and the Commission; is that right?

A We were talking about that in the context of the last rate case, which was litigated in 2012 for a 2013 test year.

Q Okay. You would agree also, wouldn't you, that the Legislature didn't see this coming or hasn't seen this coming?

A I don't know what the Legislature sees or doesn't see.

Q There is no express legislation that you're aware of that gives this Commission the ability to consider or approve the oil and gas venture that you're proposing, correct?

A That's correct.

Q Walk me through, if you would, how this is going to work. Assume that the Commission -- that your request is approved in toto, everything -- you get everything you ask for, and you've got these guidelines in place.

And I talked to Mr. Forrest about the 750 -- let's just assume that every -- it's used, the 750 for the purposes of our conversation -- that the sum of 750 million per year is invested in qualifying oil and gas projects. Okay?

So, with your -- at your average weighted cost of capital, in year one, what return would that be for Florida Power and Light?

A I don't know. I mean, I think when you've -- oh, excuse me. When we've talked about this previously, I referred you to the 109 -- you know, the metrics that we have in the instant case as representative views of revenue requirements and return.

Q Can you --

A I haven't prepared a calculation.

Q Can you ballpark it for me?

A No. I mean, to -- the investment -- the return earned in the investment depends on the speed at which you develop the properties, the depletion rate, how long you produce -- I mean, there -- I -- no, I can't. I can't.

Q Not capable -- capable of being determined?

A I cannot.

Q And you're the best accounting witness we've got in this case, right?

A You're asking me a hypothetical without any set of facts. I mean, we've given you the return estimate for the instant case. I think that's where we should look.

Q Right.

A Right?

Q And I just want to explore it with respect to the 750 million, which is the upper limit. It's not a hypothetical. It's the upper limit of your guideline, right?

A Right. But there are all sorts of assumptions. I just laid out a quite a few of those --

Q Right.

A -- that go into developing that return calculation.

Q Because you don't know how quickly the well is going to deplete.

A I --

Q We have this new accounting, and it could be depleted in three months or six months or nine months --

A You know --

Q So, you say I need to tell you how long it's going to be depleted?

A The next investment, we could be paying in advance. There could be a conveyance where we had to pay in advance. We're not doing that with this investment.

There are so many variables. And clearly, I'm not able to give you a metric. Again, I suggest we look at the evaluation that you've been crossing folks on all day.

Q Okay. Well, I appreciate that. But I want to stick with the 750.

So, if you did ROE of 10.5 percent on 750, it's north of 750 -- that's 75 million, right? 10.5 percent is --

A That's the arithmetic that you're performing.

MR. BUTLER: So, Mr. Moyle, you're applying the equity component to the entire investment?

MR. MOYLE: Yes, unless -- unless your witness tells me that's not the right way to do it.

BY MR. MOYLE:

Q Is that the right way to do it?

A I don't know what -- Mr. Moyle, I don't know what you want me to try to do for you. If you --

Q What I would like you to do for me is to tell me how this is going to work, assuming this deal gets approved, and it goes on for 20 years and FPL maxes out 750 million per year for 20 years, what kind of number that looks like for the ratepayers.

A I -- I cannot --

Q You can't answer.

A -- give you that answer. I will tell you it will be whatever the cost of capital is as determined by this Commission on the investments we prudently make.

Q What's your current cost of capital?

A It's 10.5 percent midpoint.

Q This 750 million per year is additive, correct? It's not a one-time cap -- we're not going over 750. It's like, in year one, you can do 750; in year two, you can two 750; in year three, you can do 750. Is that your understanding?

A That's my understanding. I'm not the guidelines witness, but that's my understanding.

Q Okay. So, with respect to earning on that and what ratepayers would pay, in year two, it would be 750 and 750 -- it would be 1.5 billion; in year three another 750, 2.25 billion; is that correct?

A If you assume no depletion.

Q And you had talked about drilling these

wells -- that the drilling timeframe is rather short. There is a difference between drilling and operations, correct?

A Production, yes.

Q Production. And production goes on for a long time.

A That's my understanding, uh-huh.

Q 20, 30, 40 years?

A It can. That's my understanding.

Q Can you envision any scenario where FPL does not make money on this deal? I say this deal, the Woodford deal?

A Are you saying --

Q How it's set up?

A By saying making money, are you defining that as earning our required cost of capital on the investments that we make?

Q Yes, ma'am.

A I think Witness Forrest posited some examples where a return would not be earned.

Q Yeah, and I didn't -- I didn't really understand it, which is why I'm asking you that question. I think he said -- as I recollect his answer, he said, well, maybe this Commission could lower the ROE and, therefore, rather than earning a 10.5 percent ROE,

we might earn a lower ROE. Is that how you understood it?

A I think that was part of his answer.

Q To me, that's different than saying you don't earn any money. You would agree, correct?

A Yes. The company is going to have to invest. The customer will not pay for the investments upfront. The return on equity is our cost of capital reimbursement for our cost of making that investment. No different than if it were a power plant.

Q Yeah, I don't think we disagree on that -- on that point. What I'm trying to explore with you is, you know, is there a scenario that you can envision where FPL shareholders do not earn a return on money invested?

A I think we would have to have an imprudent action. We would have to be improperly managing our investment on behalf of customers.

(Whereupon, proceedings continued in Volume 4.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 315 through 465, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 2nd day of December, 2014.

____
ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #EE866180
EXPIRES FEBRUARY 09, 2017