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July 1, 2015

VIA ELECTRONIC FILING
(WEB PORTAL)
Ms. Carlotta S. Stauffer
Division of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 150075-EI

Dear Ms. Stauffer:

I enclose for filing in the above docket the public version of the testimonies of Office of Public Counsel's witnesses Christopher C. Dawson, Gary D. Brunault and Dan J. Wittliff, as well as the public version of the testimony of Florida Industrial Power Users Group's ("FIPUG") witness Michael G. Lane and FIPUG Exhibits 1-17. The attached public versions incorporate confidentiality redactions by both Florida Power & Light Company and non-party Cedar Bay Generating Company, Limited Partnership.

Please contact me if you or your Staff has any questions regarding this filing.

Sincerely,

s/ Maria J. Moncada
Maria J. Moncada

Enclosure
cc: Counsel for Parties of Record

2586888

PUBLIC VERSION OF TESTIMONY OF OPC WITNESS CHRISTOPHER DAWSON

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Arrangement To Mitigate Impact of Unfavorable Cedar Bay Power Purchase Obligation, by Florida Power & Light Company	DOCKET NO. 150075-EI FILED: June 8, 2015

REDACTED

[redacted]

(PER DESIGNATION OF FPL AND/OR COGENTRIX (CEDAR BAY) PENDING FINAL DETERMINATION)

DIRECT TESTIMONY

OF

CHRISTOPHER C. DAWSON

ON BEHALF OF THE CITIZENS OF

THE STATE OF FLORIDA

J.R. Kelly
Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

DIRECT TESTIMONY

OF

CHRISTOPHER C. DAWSON

On Behalf of the Office of Public Counsel

Before the

Public Service Commission

Docket No. 150075-EI

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Christopher C. Dawson, Principal of GDS Associates, Inc., and my business address is 1850 Parkway Place, Suite 800, Marietta, Georgia 30067.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Science degree in Industrial & Systems Engineering from Georgia Institute of Technology in Atlanta, Georgia, in December 1994. I passed the Professional Engineering exam in October 2000 and I am a member in good standing of the Institute of Industrial Engineers as well as the National Society of Professional Engineers. I received a degree of Masters of Business Administration from Georgia State University in Atlanta, Georgia in December 2005. I have been employed with GDS Associates since December 1994. Over the past 20 years at GDS Associates, I have had the primary responsibility for assignments pertaining to power supply planning, procurement and solicitation processes, evaluation of power supply

alternatives, contract negotiations and administration, and activities in RTO/ISO markets. My various assignments include utility projects on behalf of municipal utilities, cooperatives, joint-action agencies, and industrial retail customers in seven states. I have attached a copy of my resume as Appendix A.

Q. WHAT IS THE NATURE OF YOUR BUSINESS?

A. GDS Associates, Inc. ("GDS") is an engineering and consulting firm with offices in Marietta, Georgia; Austin, Texas; Auburn, Alabama; Manchester, New Hampshire; Madison, Wisconsin and Orlando, Florida. GDS provides technical and financial consulting services to a nationwide base of clients, which primarily includes municipal and cooperative electric utilities, Public Service Commissions and large consumers of electricity. Areas of expertise include generation support and management consulting, power supply and transmission planning, rate consulting, distribution services, least cost planning and litigation support. Generation support services provided by the firm include plant operational monitoring on behalf of co-owners of fossil and nuclear power plants, plant ownership feasibility studies, plant management audits, plant construction cost and schedule analyses, evaluations of power plant O&M costs and budgeting practices, production cost modeling and plant outage and replacement power cost evaluations.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN PROCEEDINGS BEFORE THIS COMMISSION?

A. This is the first time I will be testifying before the Florida Public Service Commission, although other members of the firm have provided testimony before the Commission.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN PROCEEDINGS BEFORE OTHER REGULATORY COMMISSIONS?

A. No, I have not filed testimony or testified before other Regulatory Commissions.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am presenting testimony on behalf of the Office of Public Counsel.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My assignment from the Office of Public Counsel is to examine the reasonableness of Florida Power & Light Company's ("FPL") evaluation of the purported benefits for its retail customers, as well as the potential risks, under FPL's proposed acquisition of the Cedar Bay Power Generation Facility ("Cedar Bay Facility") and the Power Purchase Agreement ("PPA") between Cedar Bay Generating Company and FPL through a stock purchase. Regarding the benefits for FPL's retail customers, FPL Witness Hartman provided an economic analysis, Exhibit TLH-4, which projects cost under the existing PPA and compares that to the projected cost of FPL's contemplated method of acquisition of the Cedar Bay Facility. Witness Hartman

claims on page 8 of his direct testimony, and as shown on Exhibit TLH-4, that FPL's retail customers will save an estimated $70 million (NPV). These projected savings are based on various assumptions of the expected cost and availability of the Cedar Bay Facility, as well as the expected cost of replacement power in lieu of energy/capacity received from the Cedar Bay Facility. My testimony examines the reasonableness of Witness Hartman's assumptions and economic analysis, as well as identifying deficiencies in the form of potential liabilities that Witness Hartman, and FPL's other witnesses, have not adequately disclosed, explained or addressed with respect to the proposed Cedar Bay acquisition. These shortcomings cast doubt on whether FPL's retail customers will achieve the estimated $70 million (NPV) savings. As I will discuss in more detail in my testimony, because of the potential for FPL's retail customers to achieve no savings under FPL's proposed acquisition of the Cedar Bay Facility, I have made certain recommendations regarding the conditions which the Commission should consider in deciding whether to approve the transaction as currently proposed by FPL. These conditions include protection of the customers from possibly unnecessary income tax costs, certain unknown liabilities, and an excessive return on the unamortized balance of the regulatory asset that FPL has proposed to recover from customers. I have also evaluated a scenario where FPL pursued a lower overall cost option and buys out of the existing PPA [redacted]. I summarize the benefits of the alternative and compare it to FPL's proposed acquisition of the Cedar Bay Facility.

Q. PLEASE SUMMARIZE YOUR ASSESSMENT OF WITNESS HARTMAN'S ECONOMIC ANALYSIS/ASSUMPTIONS AND THE POTENTIAL LIABILITIES THAT HAVE NOT BEEN ADDRESSED BY FPL WITNESSES IN THIS PROCEEDING.

A. Witness Hartman's Exhibit TLH-4 provides projections of FPL's cost to acquire Cedar Bay (Line H – Total Cost of Acquiring CBAS), the incremental energy/capacity cost to replace the existing PPA (Line I – FPL System Impact), and the related fixed cost under the existing PPA (Line L – Total Avoided Costs of PPA). The $70 million (NPV) in projected retail customers' savings he claims might result are based, in part, on FPL's assumptions for fuel prices, replacement capacity prices, and Cedar Bay capacity bonus payments. Witness Hartman conducted a fuel price sensitivity on natural gas prices but not on the price of coal. According to FPL's economic evaluation, Cedar Bay's projected fuel price for 2015, under the existing PPA, is higher than current spot prices and escalates over the remaining term of the PPA. Cedar Bay's contractual fuel price is tied to actual average fuel cost at the St. Johns River Power Park, which has two coal contracts set to expire in 2015 and 2016. Assuming a reduction of $0.25/MMBtu in Witness Hartman's projected coal prices results in $14 million (NPV) of reduced savings for the retail customers.

In 2018, after retiring the Cedar Bay Facility, FPL anticipates having to acquire up to 322 MW of additional capacity at an estimated cost of $13 million, or equivalent to an average capacity price of $3.48/kW-month. This capacity price is much lower than the cost of new peaking generation and may understate FPL's cost

to replace Cedar Bay by as much as $3 million (NPV) for every $1/kW-month that the actual price is higher than $3.48/kW-month.

Also, under the existing PPA contract scenario, FPL did not account for the 162 MW of excess capacity in 2022 that could be sold for an additional $7 million in revenues. These potential additional revenues, worth $4 million (NPV), reduce FPL's cost under the existing PPA contract as well as reduce the estimated $70 million (NPV) in savings.

As discussed in more detail in the testimony of OPC Witness Gary D. Brunault, the projected Cedar Bay bonus capacity payments are too high relative to Cedar Bay's historical performance and should be reduced by approximately $21 million on a net present value basis.

Regarding other potential risks and liabilities that have not been addressed by FPL's witnesses in this proceeding, I am aware of one and that is the environmental risk associated with the Cedar Bay ground lease which is discussed in more detail in the testimony of OPC Witness Dan Wittliff. I discuss this issue and the potential impact in greater detail in my testimony; however, the combination of FPL's economic evaluation assumptions and these unquantified risks suggests that achieving $70 million in savings for FPL's retail customers could prove difficult, if not impossible.

Q. DID WITNESS HARTMAN PERFORM FUEL COST SENSITIVITES TO SUPPORT HIS ESTIMATES OF SAVINGS TO FPL'S RATEPAYERS?

A. Yes, Witness Hartman performed natural gas price sensitivities.

Q. DID WITNESS HARTMAN PERFORM ANY SENSITIVITIES RELATED TO THE PRICE OF COAL USED TO DETERMINE THE PRICE OF ENERGY FPL WOULD PURCHASE FROM CEDAR BAY?

A. No.

Q. HOW IS THE PRICE OF ENERGY PURCHASED BY FPL FROM CEDAR BAY DETERMINED?

A. The contractual basis for fuel pricing in the existing PPA is stated as follows:

> "Unit Fuel Cost - the weighted average cost, in dollars per million Btu, of coal, and oil if applicable, burned at St. Johns River Power Park's Units #1 and #2. The cost of coal at St. Johns River Power Park shall be calculated from the data reported on a monthly basis to the FPSC in Schedule A5 entitled "System Net Generation and Fuel Cost." Start-up oil cost for St. Johns River Power Park's Units #1 and #2 as reported in Schedule A5 will be included in the Unit Fuel Cost calculation for any Monthly Billing Period that includes one or more Facility start-ups as a result of an FPL-required shutdown. The most recently filed Schedule A5 data shall be used in calculating the Unit Fuel Cost."

Q. IS THIS COST THE SAME AS THE PRICE THAT CEDAR BAY ACTUALLY PAYS FOR FUEL?

A. No, it is not.

Q. DOES CEDAR BAY OR FPL HAVE ANY CONTROL OVER THE PRICE OF COAL DELIVERED TO ST. JOHNS RIVER POWER PARK?

A. As a joint owner of St. Johns River Power Park (SJRPP), FPL may have some control over the negotiated price paid for coal supplied to SJRPP; however, Cedar Bay does not.

Q. WHAT ARE THE SOURCES OF THE COAL DELIVERED TO SJRPP?

A. EIA Form 923 data through March 2015 show deliveries of spot coal from the Illinois Basin, Illinois Basin Coal, provided under a contract set to expire at the end of 2015, and Colombian (imported) coal provided under a contract set to expire at the end of 2016.

Q. ARE THERE PRICE VARIANCES BETWEEN THE COALS PROVIDED?

A. Yes. For instance, in March 2015 coal from the Ace In The Hole mine in Indiana cost $4.072/MMBtu while coal from the El Cerrejon mine in Colombia cost $3.021/MMBtu. Had the Indiana coal not been purchased, the average price of coal delivered for the month would have dropped from $3.149/MMBtu to $3.021/MMBtu – a reduction of $0.128/MMBtu.

Q. DOES WITNESS HARTMAN'S CEDAR BAY COAL PRICE FORECAST RECOGNIZE THE SJRPP COAL COST REDUCTIONS THAT MIGHT BE ACHIEVED AS A RESULT OF THE EXPIRATION OF HIGHER PRICED COAL CONTRACTS AT THE END OF 2015?

A. No, it does not. Witness Hartman's coal forecast (CB-15-009489) for January 2016 shows a $0.13/MMBtu (4%) increase over the estimated fuel cost for December 2015.

Q. IS WITNESS HARTMAN'S ASSUMPTION UNREASONABLE?

A. Not necessarily; however, neither is it unreasonable to assume that the expiration of a higher priced coal contract compared to the current, lower spot prices may result in a

significant cost reduction at the end of 2015 and possibly again at the end of 2016 where Witness Hartman assumes a $0.10/MMBtu (3%) increase. This possibility, at the very least, justifies consideration of a sensitivity.

Q. CAN YOU QUANTIFY THE IMPACT THAT PERFORMING SUCH A SENSITIVITY MIGHT HAVE?

A. Yes. Combining the lower spot price versus the 2015 coal contract price (a difference of $0.128/MMBtu) and eliminating Witness Hartman's 2016 coal price escalation ($0.130/MMBtu), equals approximately a $0.258/MMBtu reduction in coal price projections. Assuming a $0.25/MMBtu decrease from Witness Hartman's estimated fuel cost for 2016 and each year thereafter, the Cedar Bay annual generation amounts assumed by FPL Witness Herr (876,000 MWh per non-leap year), and the contract heat rate and adjustment (0.99) pursuant to the PPA, FPL's annual Cedar Bay energy costs would be lower by approximately $2.1 million per year. If the existing PPA remained in service through the end of its term, the cost under the existing PPA (and therefore the estimated savings to ratepayers by eliminating the PPA) would be reduced by at least $14 million (NPV).

Q. WOULD THE FUEL SAVINGS YOU IDENTIFY ABOVE TEND TO INCREASE WITH INCREASED DISPATCH?

A. Yes. The lower dispatch price for Cedar Bay generation would allow it to be more heavily dispatched into the market when it could replace more expensive generation. This would be particularly true under the high gas price sensitivities in Witness

Hartman's economic evaluation where Cedar Bay's relatively low contract heat rate and lower coal price basis would become highly competitive with natural gas-fired alternatives.

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS REGARDING THE COAL PRICE FORECAST UTILIZED BY FPL TO ESTIMATE CUSTOMER BENEFITS.

A. By over-estimating the cost of SJRPP coal used as a basis for energy pricing at Cedar Bay, FPL may have over-estimated ratepayer savings by $14 million or more on a net present value basis.

Q. WHAT ARE FPL'S INCREMENTAL CAPACITY REQUIREMENTS IF CEDAR BAY IS RETIRED?

A. FPL has proposed to acquire and then shut down the Cedar Bay Facility at the end of 2016. According to documents that FPL provided in discovery, specifically Bates Nos. CB15-009440 and CB15-009467, FPL estimates that it will need 322 MW and 88 MW of short-term capacity purchases in 2018 and 2022, respectively, if the Cedar Bay Facility is retired. Under the scenario where FPL continues to purchase capacity (and energy) from Cedar Bay under the current PPA, FPL estimates that it will only need to purchase 72 MW of short-term capacity in 2018.

Q. WHAT IS FPL'S ESTIMATED PRICE FOR THE INCREMENTAL CAPACITY REQUIREMENTS AND WHAT IS THE BASIS FOR THAT PRICE?

A. According to documents that FPL provided in discovery, specifically Bates Nos. CB15-009440 and CB15-009467, FPL uses a 2015 purchase proxy price of [redacted]-month, which FPL escalates at [redacted] per annum until the year 2018, to determine capacity purchase prices for future years. Using these assumptions, my calculations of the 2018 and 2022 capacity prices is $3.48/kW-month. Using these calculated rates and FPL's claimed capacity requirements of 322 MW (2018) and 88 MW (2022), I derive short-term capacity purchases costs of $13.4 million and $3.7 million, respectively. Excluding rounding to the nearest million, my calculations are close to FPL's capacity charges of [redacted] million (2018) and [redacted] million (2022) contained in Bates Nos. CB15-009457. This provides support for my determination that my calculated $3.48/kW-month capacity price estimate is an accurate representation of FPL's estimated capacity price for 2018 and 2022. To the best of my knowledge, FPL has not provided any additional information regarding the basis for the 2015 proxy capacity price or the annual escalation rate of 9.8%.

Q. WHAT IS THE POTENTIAL IMPACT OF REPLACEMENT CAPACITY COST ON WITNESS HARTMAN'S PROJECTION OF CUSTOMER SAVINGS?

A. FPL has assumed a 2018 and a 2022 capacity price of $3.48/kW-month for capacity purchases of 322 MW and 88 MW, respectively. Depending on when FPL conducts

an RFP for these incremental capacity requirements 3 and 7 years in the future, the actual capacity price may be higher than their estimated $3.48/kW-month. By comparison, according to EIA's 2014 Annual Energy Outlook, the projected cost of new combustion-turbine generation (i.e., peaking capacity generation) is $971/kW (Total Overnight Cost, 2013 $/kW), which translates into a levelized cost of $9.91/kW-month over a 25 year life and a 7.5% WACC. Acknowledging that FPL will probably not build a new combustion turbine generation plant and instead will probably purchase short-term capacity from a third-party supplier, FPL will be subject to prevailing market capacity prices that could be much higher than their current estimate of $3.48/kW-month. For every $1/kW-month that the capacity purchase price is higher than FPL's current estimates, the estimated customer savings will be reduced by $3 million (NPV).

Q. ARE THERE ANY OTHER ISSUES WITH FPL'S EVALUATION OF REPLACEMENT CAPACITY AND IF SO, WHAT IS THE ECONOMIC IMPACT?

A. Yes. FPL has evaluated the incremental capacity cost associated with retiring the Cedar Bay Facility at the end of 2016 and has identified two short-term capacity purchases of 322 MW and 88 MW in 2018 and 2022, respectively. However, in the scenario where FPL continues to purchase the output of Cedar Bay under the current PPA, then FPL should have excess short-term capacity to sell in 2022 (FPL claims they would still have a 72 MW deficiency in 2018 and this was included in their economic evaluation). The amount of excess short-term capacity in 2022 is equal to

the difference between the 88 MW deficiency and the 250 MW of Cedar Bay capacity, or 162 MW. Using FPL's estimated price of $3.48/kW-month for short-term capacity in 2022, the value of the excess capacity would be $6.8 million (on a nominal basis) and $4.1 million (NPV). It does not appear that FPL has considered these additional revenues, which would result in a reduction of cost under the existing Cedar Bay PPA, in Witness Hartman's economic analysis. The effect of this excess capacity sale in the analysis would reduce the claimed $70 million savings to FPL's customers by another $4.1 million.

Q. WHAT IS THE CAPACITY BONUS PAYMENT AND HOW DOES IT IMPACT WITNESS HARTMAN'S ECONOMIC EVALUATION?

A. The "Capacity Bonus" payment is the term used to describe the "bonus", or increase in monthly capacity payments made by FPL to Cedar Bay under the PPA to the extent the Billing Capacity Factor exceeds certain threshold levels. OPC Witness Gary Brunault discusses this Capacity Bonus payment in greater detail in his testimony, as it relates to his review of the purported Fair Value of the PPA. In Exhibit TLH-4, FPL Witness Hartman includes projections of Capacity Bonus payments of 5.0%, which Witness Brunault testifies is too high. The 5% Capacity Bonus payment assumption increases FPL's projected payments to Cedar Bay which has the effect of increasing the projected customer savings versus using an assumption for a lower Capacity Bonus payment.

Q. HAS FPL WITNESS HARTMAN DESCRIBED THE BASIS FOR THE 5% CAPACITY BONUS ASSUMPTION IN HIS TESTIMONY OR EXHIBITS?

A. No, not specifically. FPL Witness Hartman simply qualifies his capacity bonus assumption in his testimony with the statement (page 9 of 17): "While there are performance standards that Cedar Bay Genco must meet in order to qualify for these payments, Cedar Bay Genco reliably achieves those standards and, recent years, has consistently earned the potential performance bonus". However, FPL provided responses to OPC Interrogatory No. 48 and confirmed that Witness Hartman's economic evaluation assumed a 98% Billing Capacity Factor (as defined in the PPA) and was based on Cedar Bay's performance over the most recent five years.

Q. WHAT HAVE YOU DISCOVERED THAT CASTS DOUBT ON THE 5% BONUS CAPACITY REVENUE ASSUMPTION?

A. OPC's Witness Brunault has reviewed the most recent 8-year period of actual average Bonus Capacity Revenue percentage that would be comparable to the 5% assumption reflected in Mr. Hartman's economic evaluation and arrived at 2.59%.

Q. WOULD THE 2.59% CAPACITY BONUS PAYMENT REPRESENT A MORE REASONABLE ASSUMPTION THAN THE 5.0% IN THE ECONOMIC EVALUATION?

A. Yes. I have reviewed Mr. Brunault's testimony and agree with his recommendation.

Q. WHAT IS THE IMPACT ON THE ECONOMIC ANALYSIS OF SUBSTITUTING YOUR RECOMMENDED 2.59% CAPACITY BONUS PAYMENT IN PLACE OF FPL WITNESS HARTMAN'S 5.0% ASSUMPTION?

A. All else the same, reflecting the 2.59% Bonus Capacity Revenue assumption would lower the Customer Savings by approximately $21 million (NPV)[1].

Q. ARE THERE ANY RISKS FPL HAS FAILED TO QUANTIFY IN ITS ECONOMIC EVALUATION OF THE PROPOSED CEDAR BAY PURCHASE?

A. Yes, I have identified one potential liability or risk that FPL has not quantified. As OPC Witness Dan Wittliff describes in greater detail in his testimony, there is also an unquantifiable, environmental risk due to FPL's failure to recognize that its review of Cedar Bay environmental documents was incomplete due to missing pages in the ground lease.

Q. PLEASE EXPLAIN THE RISK ASSOCIATED WITH THE CEDAR BAY GROUND LEASE.

A. As part of the Cedar Bay acquisition, FPL will be acquiring a ground lease. As OPC Witness Dan Wittliff details in his testimony, Article XX of the ground lease contains two sections related to environmental issues: (1) Section 20.1 outlines environmental

[1] The $21 million net present value for this issue is slightly higher than the impact on the Fair Value of the PPA that OPC Witness Brunault reports ($18 million). This is due to differing discount rates and income tax impacts between the two analyses.

representations concerning the condition of the property at the time the lease was signed in 1991, and (2) Section 20.2 contains environmental covenants. Unfortunately, in the confidential documents provided to FPL by CBAS, Appendix 20.1 is missing at least one page containing paragraph (ii) and its sub-paragraphs and possibly some sub-paragraphs associated with paragraph (i). Two blank pages appear instead. Given that this information was missing, it would have been impossible for FPL to properly assess its total environmental liabilities associated with the ground lease it would be assuming should the proposed Cedar Bay purchase be approved by the Commission.

Q. HOW DO YOU RECOMMEND THIS SITUATION BE ADDRESSED?

A. Since FPL evidently did not thoroughly inspect the ground lease document, as discovered by Witness Wittliff, if the Commission approves the transaction as currently proposed, then FPL's retail customers should be held harmless and the Commission should prohibit FPL from recovering costs from customers associated with any environmental remediation costs or other liabilities it incurs as a result of assuming the Cedar Bay ground lease.

Q. PLEASE SUMMARIZE THE POTENTIAL ECONOMIC IMPACTS TO FPL'S ESTIMATED CUSTOMER SAVINGS FOR THE ISSUES THAT YOU HAVE IDENTIFIED.

A. As I have described in my testimony, there are at least five issues that may impact FPL's $70 million (NPV) projection of customer savings pursuant to the proposed

acquisition of the Cedar Bay Facility. These issues, as well as the potential impact of each (on a net present value basis) are:

a) Lower Cedar Bay Fuel Cost Paid under the PPA: $14 million;

b) Inclusion of 2022 Excess Capacity Sale: $4 million;

c) Lower Capacity Bonus Payments: $21 million;

d) Incremental Replacement Capacity Cost: $3 million for every $1/kW-month that the 2018/2022 replacement capacity is higher than $3.48/kW-month; and,

e) Ground Lease Liability: Not quantified.

The total quantified impact from the first three identified issues is approximately $39 million (NPV). Exhibit CCD-1 is a revised version of FPL Witness Hartman's Exhibit TLH-4 that includes the lower Cedar Bay fuel projections, revenues from the 2022 excess capacity sale, and a reduction in projected capacity bonus payments. The result of these revisions is a much lower estimated customer savings of $32 million (NPV) that could be further reduced or eliminated by unquantified liabilities. There are additional potential costs associated with the incremental replacement capacity purchases in 2018 and 2022 and the potential environmental exposure with the ground lease. The combination of these unquantified issues could further reduce, and potentially eliminate, the revised $32 million customer savings.

Of course, FPL's estimated customer savings require that the retail customers absorb potentially significant risks associated with FPL's acquisition and closure of the Cedar Bay Facility, specifically, the risks associated with future fuel prices (i.e. both natural gas and coal prices), incremental capacity purchase cost, and potential environmental exposure associated with the ground lease. On the other hand, FPL's

stockholders could potentially earn a return of up to $121 million (NPV) with the proposed method of the Cedar Bay acquisition and assume very little risk relative to FPL's retail customers.

Q. WHAT OTHER POTENTIAL MODIFICATIONS TO THIS TRANSACTION WOULD HAVE AN OFFSETTING EFFECT ON CUSTOMER SAVINGS?

A. As addressed in testimony by OPC Witness Myers, based on past precedent related to the Commission's allowed return on unamortized regulatory assets in connection with PPA buy-outs, and for the reasons Witness Myers cites in his testimony, one modification to FPL's proposed rate treatment is to only allow recovery of the debt component of FPL's weighted cost of capital ("WACC").

Q. WHAT IMPACT WOULD THIS CHANGE HAVE RELATIVE TO THE RECOMPUTED CUSTOMER SAVINGS YOU PRESENTED ON EXHIBIT CCD-1?

A. This change would significantly improve the likelihood of achieving customer savings, or an amount higher than the $32 million shown on my Exhibit CCD-1. As shown on Exhibit CCD-2, after including all of the same adjusted assumptions reflected in Exhibit CCD-1 as previously discussed, and reducing the return to just the debt cost only on the unamortized regulatory asset that was established as a result of cancelling the PPA with Cedar Bay, the customers' projected savings increase to approximately $108 million (NPV). This is provided more for illustrative purposes since FPL had a provision inserted in the Purchase and Sale Agreement that expressly

requires the Commission to approve the WACC as a carrying cost as a condition of closing on the deal.

Q. WHAT IS ANOTHER WAY THAT FPL COULD REDUCE ITS COST ASSOCIATED WITH ITS PROPOSED ACQUISITION OF THE CEDAR BAY FACILITY?

A. FPL Witness Ousdahl has testified, page 8, lines 19 – 21, that the company believes that the termination of the PPA is not deductible for income tax purposes. OPC Witness Myers disagrees with that assessment and testifies that the proposed Cedar Bay acquisition would qualify as a deduction for income tax purposes.

Q. WHAT IS REQUIRED FOR THE TERMINATION OF THE PPA, UNDER FPL'S PROPOSED CEDAR BAY ACQUISITION, TO QUALIFY AS A DEDUCTION FOR INCOME TAX PURPOSES?

A. As OPC Witness Myers outlines in his testimony, pages 15 – 18, FPL should request a private letter ruling from the IRS regarding the deductibility of the termination of the existing PPA, based on the specific circumstances of this proposed transaction.

Q. WHY DOES OPC WITNESS MYERS BELIEVE THAT IT IS POSSIBLE THE PROPOSED CEDAR BAY ACQUISITION WOULD RECEIVE IRS APPROVAL AS A DEDUCTIBLE EVENT?

A. As OPC Witness Myers outlines in his testimony, in 1997 Florida Power Corporation (FPC) appears to have requested a private letter ruling from the IRS for its proposed

purchased of the Tiger Bay cogeneration facility and the termination of related purchased power contracts. Specifically, FPC was requesting that the Tiger Bay purchase power agreement buy-out costs, not related to depreciable plant, be considered a deductible event for income tax purposes. FPC appears to have received a favorable ruling from the IRS related to this matter since an IRS Private Letter Ruling on a very similar fact scenario was also published in 1997. On the surface, it appears that FPL's proposed acquisition of the Cedar Bay facility, a qualified QF, where FPL purchases the asset and terminates the underlying PPA, is very similar to FPC's acquisition of the Tiger Bay QF facility in 1997. Having said that, and as OPC Witness Myers acknowledges, receiving a favorable ruling from the IRS for the Cedar Bay acquisition is not guaranteed.

Q. WHAT ARE THE ECONOMIC BENEFITS IF FPL RECEIVED A FAVORABLE RULING FROM THE IRS RELATED TO THE ACQUISITION OF THE CEDAR BAY FACILITY?

A. OPC Witness Myers estimates the benefits from an IRS favorable ruling would be approximately $34.5 million per year. Exhibit CCD-3 shows that the estimated customer savings would increase significantly, from $32 million (NPV) to $269 million (NPV).

Q. GIVEN THE POTENTIAL FOR THE $269 MILLION OF ESTIMATED SAVINGS UNDER FPL'S PROPOSED METHOD OF ACQUISITION, SHOULD FPL REQUEST A PRIVATE LETTER RULING FROM THE IRS?

A. Yes. It is my recommendation that the Commission approve FPL's proposed method of acquisition of the Cedar Bay Facility ***if, as a threshold matter,*** FPL requests and receives a favorable ruling from the IRS on the deductibility of the Cedar Bay PPA buy out cost. A favorable ruling on this issue would guarantee a much more appropriate level of customer savings versus FPL's current proposed structure. I also recommend that this condition, if achieved, be accompanied by the use of a lower, debt-based carrying cost as mentioned previously in my testimony and in the testimony of OPC Witness Myers.

Q. WHAT HAPPENS IF FPL DOES NOT RECEIVE A FAVORABLE RULING FROM THE IRS REGARDING THE DEDUCTIBILITY ISSUE?

A. If FPL does not receive a favorable ruling from the IRS, then the Commission should reject FPL's proposed asset acquisition of the Cedar Bay Facility.

Q. WHAT IS YOUR RECOMMENDATION REGARDING FPL'S PROPOSED ACQUISITION OF THE CEDAR BAY FACILITY?

A. As described in my testimony, the combination of the estimated cost impacts and unquantified and/or non-quantifiable issues means that FPL's claim of $70 million in net present value customer savings will be very difficult, if not impossible, to attain. Based on my findings as well as the recommendations put forth by OPC Witnesses' Brunault, Myers, and Wittliff, I recommend that the Commission reject FPL's proposed acquisition of the Cedar Bay Facility in the manner which they have proposed to value, pay for and account for the transaction. As an alternative, and

consistent with my belief that FPL should take action to eliminate the PPA from its cost structure for the benefit of its customers, I recommend that the Commission condition approval of FPL's proposed transaction on modifications to the transaction that are aimed at providing a higher, and more reliable, level of savings for its customers. I have recommended two such modifications: (1) conditioned approval upon FPL receiving a favorable ruling from the IRS on the deductibility of the PPA buy out cost; coupled with (2) allowing only the debt component of the WACC to be recovered on the unamortized balances of the regulatory asset. As shown in Exhibit CCD-4 this would result in customer savings of $408 million (NPV). In addition, the Commission should also re-determine the reasonableness of the equity/asset purchase price taking into consideration the valuation concerns raised in the testimony of OPC Witness Brunault.

Q. DID FPL HAVE ANOTHER ALTERNATIVE TO TERMINATE THE EXISTING CEDAR BAY PPA OTHER THAN FPL'S PROPOSED ASSET PURCHASE OF CEDAR BAY?

A. [redacted]

[redacted]

[redacted]

Q. [redacted]

[redacted]

A. [redacted]

Q. IN YOUR ANALYSIS IN EXHIBITS CCD–1 THROUGH CCD–4, YOU HAVE NOT REFLECTED ANY ADJUSTMENT TO THE PROPOSED PURCHASE PRICE OF $520 MILLION. DO YOU BELIEVE SUCH AN ADJUSTMENT IS WARRANTED?

A. I have not reflected any adjustments to the purchase price for simplicity and consistency in my testimony. I concur with Witness Brunault's conclusions that the valuation supporting the $520 million purchase price that FPL asks the Commission to approve is suspect and should not be accepted for purposes of recovering costs from customers. Any reduction in the purchase price based on a different valuation assumption would be in addition to the adjustments reflected in my testimony and shown in the relevant exhibits, and would need to be considered under each of the equity purchase alternatives.

Q. PLEASE SUMMARIZE FPL'S OPTIONS WITH RESPECT TO THE EXISTING CEDAR BAY PPA.

A. As has been discussed in my testimony, the Commission has four alternatives as it relates to the existing Cedar Bay PPA: (1) do nothing and allow FPL to continue under the terms/conditions of the existing Cedar Bay PPA, (2) allow FPL to purchase the Cedar Bay Facility as they have proposed, (3) allow FPL to purchase the Cedar Bay Facility at a more reasonable purchase price based on a reasonable valuation AND with the conditions that FPL requests and receives a favorable ruling from the IRS on the deductibility of the PPA buy out cost and FPL utilizes an appropriate debt-based carrying cost in cost recovery, or (4) instruct FPL to re-negotiate the transaction with Carlyle to instead buy out the PPA. Exhibit CCD-7 is a table that summarizes these alternatives (subject to appropriate valuation and purchase price), including the amortized regulatory asset amount, key risks/exposures, and expected customer savings for each.

Q. BASED ON THESE ALTERNATIVES, WHAT IS YOUR RECOMMENDATION?

A. Given these alternatives and comparing the potential risks/exposures, as well as the demonstrated customer savings, I recommend that the Commission condition FPL's proposed asset purchase of Cedar Bay at a reasonable price conditioned upon a favorable IRS private letter ruling regarding the deductibility of the PPA buy out cost and a debt-based carrying cost, and consistent with the testimony, in the relevant areas, of all OPC witnesses. Based on the similarities of the Cedar Bay acquisition and FPC's previous acquisition of Tiger Bay, it is reasonable to assume that the IRS would grant FPL's request. If for some reason the IRS were to deny FPL's private letter ruling request, then the Commission should reject FPL's request to acquire the Cedar Bay Facility at the $520 million level and instead direct FPL to negotiate with Carlyle for a buy out of the existing PPA.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

CERTIFICATE OF SERVICE
DOCKET NO. 150075-EI

I HEREBY CERTIFY that a true and correct copy of the Confidential (as designated by FP&L and/or Cedar Bay) Testimony of Christopher C. Dawson has been furnished to the following parties on this 8th day of June, 2015.

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*Not served at this time. One (1) copy of each confidential testimony has been filed with the PSC Commission Clerk's Office under seal, pending confidentiality determination. Staff will be served with a Public Version, when finally so designated.

GDS Associates, Inc
ENGINEERS & CONSULTANTS

CHRISTOPHER C. DAWSON, P.E.

Principal

EDUCATION

Master of Business Administration – Risk Management & Finance, Georgia State University, 2005
Bachelor of Science, Industrial Engineering, Georgia Institute of Technology, 1994

PROFESSIONAL REGISTRATION

Registered Professional Engineer in the State of Georgia

PROFESSIONAL MEMBERSHIP

Institute of Industrial Engineers
National Society of Professional Engineers

PROFESSIONAL EXPERIENCE

GDS Associates, Inc., December 1994 to Present

Mr. Dawson has over 20 years of experience of electric utility consulting experience, serving primarily municipal and electric cooperative entities. Chris has worked with several G&Ts since the beginning of his career as well as joint-action agencies and municipals in Virginia, Louisiana, and Missouri. Chris has provided consulting services to these clients ranging from power supply planning and procurement, market power analysis and management of RTO/ISO market activities, risk analysis, contract negotiations, and litigation support.

More specifically, Mr. Dawson has been provided consulted engineering services in the following areas:

- Solicitation of proposals, evaluation of responses to RFPs for power supply, and contract negotiations
- Assisting with acquiring finance for generation / transmission projects
- Managing ISO/RTO market participation issues for load and generation clients
- Generating asset valuation, strategic portfolio analysis , risk management
- Short and long-term projections of wholesale power supply costs and financial planning
- Analysis of wholesale customer impacts of investor-owned utility mergers and settlement agreements
- Probabilistic analysis related to generating asset decisions
- Litigation support related to contract interpretation disputes

Modified FPL Economic Evaluation[1][13]

Adjustments to Cedar Bay fuel price, 2022 Excess Capacity Sale, and Capacity Bonus

	(dollar in millions)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Nominal Total	Present Value[9]
A	Discount Factor[2]	0.99	0.94	0.88	0.81	0.76	0.7	0.66	0.61	0.57	0.53		
B	Amortization[3]	$30	$90	$90	$90	$90	$90	$90	$90	$90	$90	$842	$613
C	Operating Expenses[4]	8	17	1	1	1	1	1	1	1	1	30	27
D	Asset Retirement Obligation[5]	1	3	-	-	-	-	-	-	-	-	5	4
E	Interest Expenses[6]	3	10	8	7	6	5	4	3	2	1	49	40
F	Return On Equity[7]	10	30	26	23	19	16	12	9	5	2	151	121
G	Income Tax	6	19	16	14	12	10	8	5	3	1	95	76
H	Total Cost of Acquiring CBAS	58	169	142	135	128	121	115	108	101	94	1,171	882
I	FPL System Impact[8]	3	9	3	15	11	9	15	18	22	22	127	86
J	Fuel Price Adjustment[10]	-	2	2	2	2	2	2	2	2	2	19	14
K	Excess Capacity Sale[11]	-	-	-	-	-	-	-	7	-	-	7	4
L	Net FPL System Impact	3	12	5	17	13	11	17	27	24	24	153	104
M	Capacity Payment	(42)	(129)	(134)	(139)	(144)	(149)	(155)	(161)	(167)	(173)	(1,393)	(994)
N	Capacity Bonus[12]	(1)	(3)	(3)	(3)	(3)	(3)	(4)	(4)	(4)	(4)	(32)	(23)
O	Total Avoided Costs of PPA	(43)	(132)	(137)	(142)	(147)	(153)	(159)	(164)	(171)	(177)	(1,425)	(1,017)
P	Net Customer Costs/(Savings)	$18	$48	$10	$10	($6)	($20)	($27)	($29)	($46)	($59)	($101)	($32)

1) Totals may not sum due to rounding
2) Discount Factor is based on weighted average cost of capital of 7.51% discounted to September 1, 2015
3) Reflects amortization of regulatory asset associated with $520.5 MM PPA and respective $326.9 MM tax gross up, less the $4.9 MM regulatory liability associated with the plant book/tax difference
4) Operating Expenses include operations and maintenance, land lease, rail lease, and change in net working capital
5) Reflects amortization of ARO Asset and accretion of ARO Liability
6) Interest expense assumes cost of debt of 5.05%
7) Assumes after-tax return on equity of 10.5%
8) Includes incremental system fuel costs, start-up costs, variable O&M, environmental compliance costs, and short-term purchases
9) Present value is calculated as the sum the annual values multiplied by the respective discount factor
10) Fuel price adjustment to Cedar Bay energy costs
11) Reflects excess capacity of 162 MW using FPL's estimated price of $3.48/kW-month for short-term capacity in 2022
12) Capacity Bonus at 2.59% rate
13) Before consideration of proper equity method purchase price

Modified FPL Economic Evaluation[1][13]
Recovery of Debt Component Only

	(dollar in millions)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Nominal Total	Present Value[9]
A	Discount Factor[2]	0.99	0.94	0.88	0.81	0.76	0.7	0.66	0.61	0.57	0.53		
B	Amortization[3]	$30	$90	$90	$90	$90	$90	$90	$90	$90	$90	$842	$613
C	Operating Expenses[4]	8	17	1	1	1	1	1	1	1	1	30	27
D	Asset Retirement Obligation[5]	1	3	-	-	-	-	-	-	-	-	5	4
E	Interest Expenses[6]	14	39	34	30	25	21	16	11	7	2	200	161
F	Return On Equity[7]	-	-	-	-	-	-	-	-	-	-	0	0
G	Income Tax	-	-	-	-	-	-	-	-	-	-	0	0
H	Total Cost of Acquiring CBAS	53	150	125	121	116	112	107	102	98	93	1,077	806
I	FPL System Impact[8]	3	9	3	15	11	9	15	18	22	22	127	86
J	Fuel Price Adjustment[10]	-	2	2	2	2	2	2	2	2	2	19	14
K	Excess Capacity Sale[11]	-	-	-	-	-	-	-	7	-	-	7	4
L	Net FPL System Impact	3	12	5	17	13	11	17	27	24	24	153	104
M	Capacity Payment	(42)	(129)	(134)	(139)	(144)	(149)	(155)	(161)	(167)	(173)	(1,393)	(994)
N	Capacity Bonus[12]	(1)	(3)	(3)	(3)	(3)	(3)	(4)	(4)	(4)	(4)	(32)	(23)
O	Total Avoided Costs of PPA	(43)	(132)	(137)	(142)	(147)	(153)	(159)	(164)	(171)	(177)	(1,425)	(1,017)
P	Net Customer Costs/(Savings)	$13	$29	($7)	($4)	($18)	($30)	($35)	($35)	($49)	($60)	($195)	($108)

1) Totals may not sum due to rounding
2) Discount Factor is based on weighted average cost of capital of 7.51% discounted to September 1, 2015
3) Reflects amortization of regulatory asset associated with $520.5 MM PPA and respective $326.9 MM tax gross up, less the $4.9 MM regulatory liability associated with the plant book/tax difference
4) Operating Expenses include operations and maintenance, land lease, rail lease, and change in net working capital
5) Reflects amortization of ARO Asset and accretion of ARO Liability
6) Interest expense assumes cost of debt of 5.05%
7) Assumes no equity financing.
8) Includes incremental system fuel costs, start-up costs, variable O&M, environmental compliance costs, and short-term purchases
9) Present value is calculated as the sum the annual values multiplied by the respective discount factor
10) Fuel price adjustment to Cedar Bay energy costs
11) Reflects excess capacity of 162 MW using FPL's estimated price of $3.48/kW-month for short-term capacity in 2022
12) Capacity Bonus at 2.59% rate
13) Before consideration of proper equity method purchase price

Modified FPL Economic Evaluation[1][13]
FPL Acquires IRS Private Letter Ruling

	(dollar in millions)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Nominal Total	Present Value[9]
A	Discount Factor[2]	0.99	0.94	0.88	0.81	0.76	0.7	0.66	0.61	0.57	0.53		
B	Amortization[3]	$18	$55	$55	$55	$55	$55	$55	$55	$55	$55	$516	$375
C	Operating Expenses[4]	8	17	1	1	1	1	1	1	1	1	30	27
D	Asset Retirement Obligation[5]	1	3	-	-	-	-	-	-	-	-	5	4
E	Interest Expenses[6]	3	10	8	7	6	5	4	3	2	1	49	40
F	Return On Equity[7]	10	30	26	23	19	16	12	9	5	2	151	121
G	Income Tax	6	19	16	14	12	10	8	5	3	1	95	76
H	Total Cost of Acquiring CBAS	46	134	107	100	93	86	80	73	66	59	844	644
I	FPL System Impact[8]	3	9	3	15	11	9	15	18	22	22	127	86
J	Fuel Price Adjustment[10]	-	2	2	2	2	2	2	2	2	2	19	14
K	Excess Capacity Sale[11]	-	-	-	-	-	-	-	7	-	-	7	4
L	Net FPL System Impact	3	12	5	17	13	11	17	27	24	24	153	104
M	Capacity Payment	(42)	(129)	(134)	(139)	(144)	(149)	(155)	(161)	(167)	(173)	(1,393)	(994)
N	Capacity Bonus[12]	(1)	(3)	(3)	(3)	(3)	(3)	(4)	(4)	(4)	(4)	(32)	(23)
O	Total Avoided Costs of PPA	(43)	(132)	(137)	(142)	(147)	(153)	(159)	(164)	(171)	(177)	(1,425)	(1,017)
P	Net Customer Costs/(Savings)	$7	$13	($25)	($25)	($41)	($55)	($62)	($64)	($81)	($94)	($428)	($269)

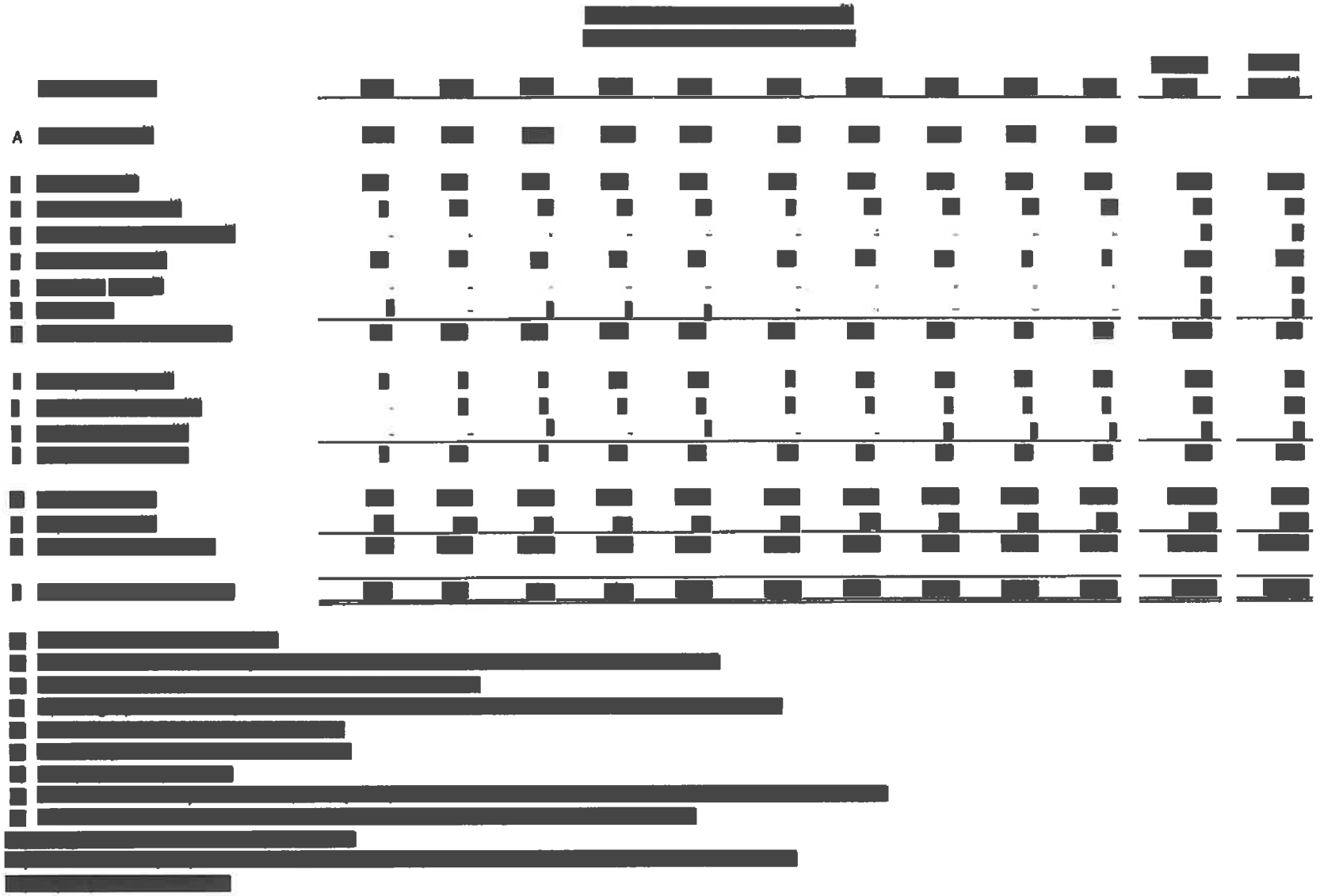
1) Totals may not sum due to rounding
2) Discount Factor is based on weighted average cost of capital of 7.51% discounted to September 1, 2015
3) Reflects amortization of regulatory asset associated with $520.5 MM PPA,
less the $4.9 MM regulatory liability associated with the plant book/tax difference
4) Operating Expenses include operations and maintenance, land lease, rail lease, and change in net working capital
5) Reflects amortization of ARO Asset and accretion of ARO Liability
6) Interest expense assumes cost of debt of 5.05%
7) Assumes after-tax return on equity of 10.5%
8) Includes incremental system fuel costs, start-up costs, variable O&M, environmental compliance costs, and short-term purchases
9) Present value is calculated as the sum the annual values multiplied by the respective discount factor
10) Fuel price adjustment to Cedar Bay energy costs
11) Reflects excess capacity of 162 MW using FPL's estimated price of $3.48/kW-month for short-term capacity in 2022
12) Capacity Bonus at 2.59% rate
13) Before consideration of proper equity method purchase price

Modified FPL Economic Evaluation[1][13]

FPL Acquires IRS Private Letter Ruling & Recovery of Debt Component Only

	(dollar in millions)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Nominal Total	Present Value[9]
A	Discount Factor[2]	0.99	0.94	0.88	0.81	0.76	0.7	0.66	0.61	0.57	0.53		
B	Amortization[3]	$18	$55	$55	$55	$55	$55	$55	$55	$55	$55	$516	$375
C	Operating Expenses[4]	8	17	1	1	1	1	1	1	1	1	30	27
D	Asset Retirement Obligation[5]	1	3	-	-	-	-	-	-	-	-	5	4
E	Interest Expenses[6]	9	24	21	18	15	13	10	7	4	1	123	99
F	Return On Equity[7]	-	-	-	-	-	-	-	-	-	-	0	0
G	Income Tax	-	-	-	-	-	-	-	-	-	-	0	0
H	Total Cost of Acquiring CBAS	36	100	77	74	71	69	66	63	60	57	673	506
I	FPL System Impact[8]	3	9	3	15	11	9	15	18	22	22	127	86
J	Fuel Price Adjustment[10]	-	2	2	2	2	2	2	2	2	2	19	14
K	Excess Capacity Sale[11]	-	-	-	-	-	-	-	7	-	-	7	4
L	Net FPL System Impact	3	11	5	17	13	11	17	27	24	24	153	104
M	Capacity Payment	(42)	(129)	(134)	(139)	(144)	(149)	(155)	(161)	(167)	(173)	(1,393)	(994)
N	Capacity Bonus[12]	(1)	(3)	(3)	(3)	(3)	(3)	(4)	(4)	(4)	(4)	(32)	(23)
O	Total Avoided Costs of PPA	(43)	(132)	(137)	(142)	(147)	(153)	(159)	(164)	(171)	(177)	(1,425)	(1,017)
P	Net Customer Costs/(Savings)	($4)	($22)	($55)	($51)	($63)	($73)	($76)	($75)	($86)	($95)	($599)	($408)

1) Totals may not sum due to rounding
2) Discount Factor is based on weighted average cost of capital of 7.51% discounted to September 1, 2015
3) Reflects amortization of regulatory asset associated with $520.5 MM PPA,
less the $4.9 MM regulatory liability associated with the plant book/tax difference
4) Operating Expenses include operations and maintenance, land lease, rail lease, and change in net working capital
5) Reflects amortization of ARO Asset and accretion of ARO Liability
6) Interest expense assumes cost of debt of 5.05%
7) No equity financing assumed.
8) Includes incremental system fuel costs, start-up costs, variable O&M, environmental compliance costs, and short-term purchases
9) Present value is calculated as the sum the annual values multiplied by the respective discount factor
10) Fuel price adjustment to Cedar Bay energy costs
11) Reflects excess capacity of 162 MW using FPL's estimated price of $3.48/kW-month for short-term capacity in 2022
12) Capacity Bonus at 2.59% rate
13) Before consideration of proper equity method purchase price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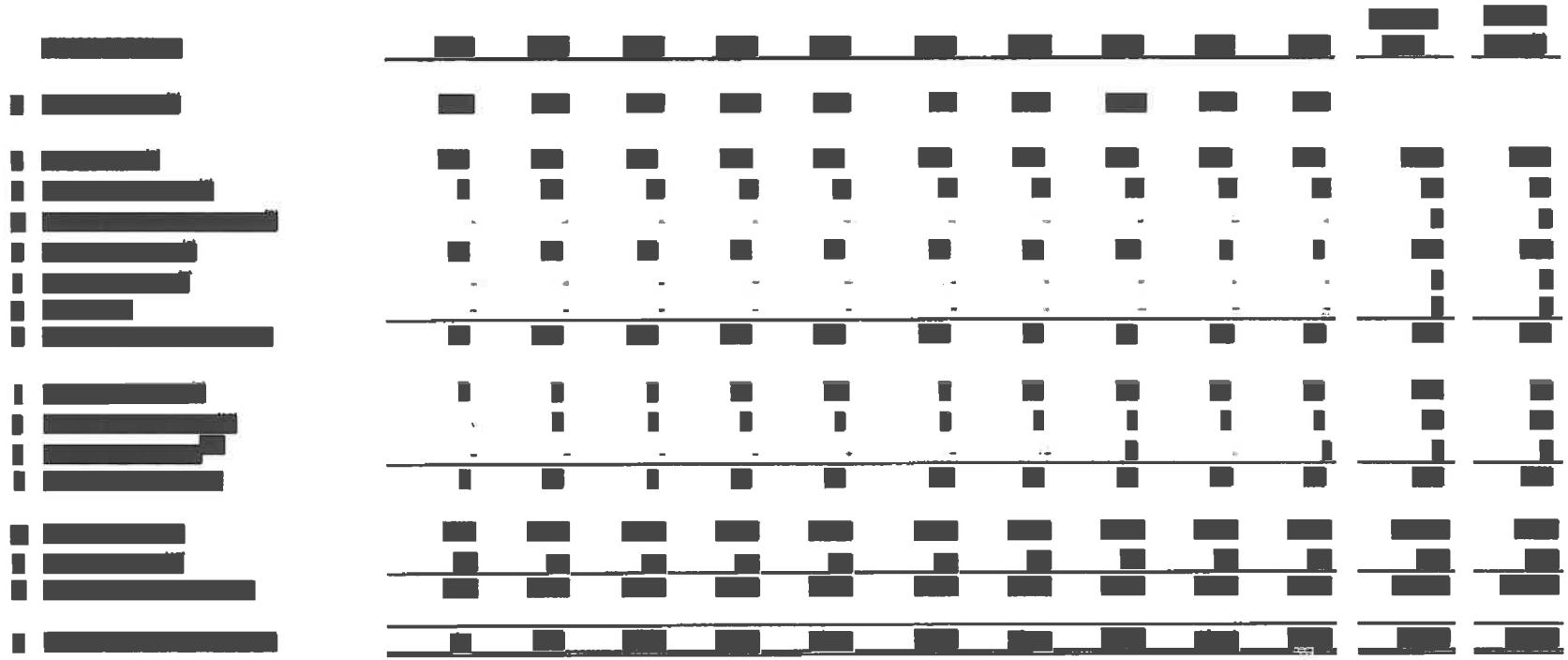

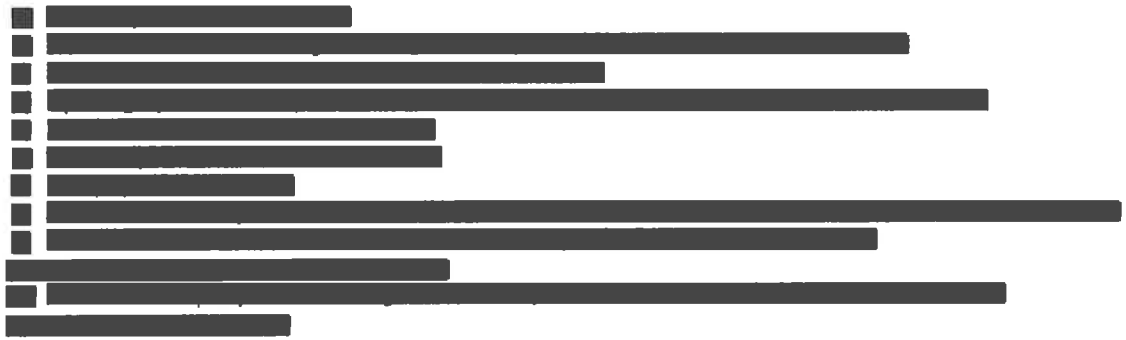

Summary of FPL's Alternatives to Existing Cedar Bay PPA [1]

	Alternatives	Amortization of Regulatory Asset [2] ($ M)	Key Risk/Exposure	Estimated Customer Savings ($ M NPV)
1)	Existing PPA Continues	N/A	N/A	N/A
2)	FPL Purchase Cedar Bay Facility, as proposed (Exhibit CCD-1)	847	- Environmental Liability - Tax / Accounting Treatment - Gas & Coal Fuel Prices - Replacement Capacity Cost	(32)
3)	FPL Acquires IRS PVL & Debt Carrying Cost (Exhibit CCD-4)	520	- Environmental Liability - Gas & Coal Fuel Prices - Replacement Capacity Cost	(408)
[redacted]		[redacted]	[redacted]	[redacted]

1) *This exhibit shows options 2 and 3 without regard to the valuation-related adjustment to the equity purchase price per OPC Witness Brunault's testimony.*
2) *Includes applicable tax gross-ups.*

PUBLIC VERSION OF TESTIMONY
OF OPC WITNESS GARY BRUNAULT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Arrangement To Mitigate Impact of Unfavorable Cedar Bay Power Purchase Obligation, by Florida Power & Light Company	DOCKET NO. 150075-EI FILED: June 8, 2015

REDACTED

[redacted]

(PER DESIGNATION OF FPL AND/OR COGENTRIX (CEDAR BAY) PENDING FINAL DETERMINATION)

DIRECT TESTIMONY

OF

GARY D. BRUNAULT

ON BEHALF OF THE CITIZENS OF

THE STATE OF FLORIDA

J.R. Kelly
Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY OF GARY D. BRUNAULT

ON BEHALF OF

OFFICE OF PUBLIC COUNSEL

DOCKET NO. 150075-EI

JUNE 8, 2015

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Gary Brunault, Principal and Regional Manager of the Orlando Office of GDS Associates, Inc., and my business address is 111 N. Orange Avenue, Suite 750, Orlando, Florida 32801.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Science degree in Civil Engineering from Tufts University in 1979. I have over thirty (30) years of experience working as a consultant in the electric utility industry. My professional experience has included consulting in the areas of power supply planning, generating asset valuation, municipal finance, power purchase agreement negotiations, litigation support related to contract interpretation disputes, preparation of cost of service projections for investor-owned electric utilities, analysis of utility mergers, and rates and regulatory matters. I have attached a copy of my resume as Appendix A.

Q. WHAT IS THE NATURE OF YOUR FIRM'S BUSINESS?

A. GDS Associates, Inc. ("GDS") is an engineering and consulting firm with offices in Marietta, Georgia; Austin, Texas; Auburn, Alabama; Manchester, New Hampshire; Madison, Wisconsin and Orlando, Florida. GDS provides technical and financial consulting services to a nationwide base of clients, which primarily includes municipal and cooperative electric utilities, Public Service Commissions and large consumers of electricity. Areas of expertise include generation support and management consulting, power supply and transmission planning, rate consulting, distribution services, least cost planning and litigation support. Generation support services provided by the firm include plant operational monitoring on behalf of co-owners of fossil and nuclear power plants, plant ownership feasibility studies, plant management audits, plant construction cost and schedule analyses, evaluations of power plant O&M costs and budgeting practices, production cost modeling and plant outage and replacement power cost evaluations.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN PROCEEDINGS BEFORE THIS COMMISSION?

A. This is the first time that I will be providing testimony before the Florida Public Service Commission, although members of the firm have testified before the Commission.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN PROCEEDINGS BEFORE OTHER STATE REGULATORY COMMISSIONS?

A. Yes. I have testified before the North Carolina Utilities Commission.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am presenting testimony on behalf of the Office of Public Counsel.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My assignment from the Office of Public Counsel is to examine the reasonableness of Florida Power & Light Company's ("FPL") determination of Fair Value of the Power Purchase Agreement ("PPA") between FPL and Cedar Bay Generating Company, Limited Partnership ("Cedar Bay"), pursuant to the testimony of FPL Witness Herr. FPL Witness Herr's determination of Fair Value of the PPA of $520 million was prepared, at FPL's request, in connection with the contemplated acquisition by FPL of CBAS Power, Inc. ("CBAS") to assist FPL management with certain financial reporting requirements and to support the regulatory approval process. More specifically, according to FPL Witness Ousdahl's testimony (at page 8), the Fair Value of the PPA will be the basis for FPL's planned recording of a loss associated with the termination of the PPA upon closing and establishing the regulatory asset amount that FPL proposes to amortize through rates over the remaining term of the PPA. My testimony presents several issues that I have identified as a result of reviewing the Discounted Cash Flow ("DCF") spreadsheet model provided in

response to OPC POD Request No. 34, which is the model utilized by FPL Witness Herr, as well as other discovery documents received from FPL, that call into question the reasonableness of FPL Witness Herr's determination of the Fair Value of the PPA and the purchase price FPL proposes to pay for Cedar Bay.

Q. WHAT IS THE OVERALL IMPACT OF THE ISSUES THAT YOU HAVE IDENTIFIED?

A. After making all of my suggested corrections and input assumption adjustments to the DCF spreadsheet model utilized by FPL Witness Herr, the adjusted Fair Value of the Cedar Bay PPA is no greater than approximately $370 million, rounded to the nearest $10 million, consistent with FPL Witness Herr's DCF rounding approach.

Q. AS A PRELIMINARY MATTER, DID YOUR EXAMINATION OF THE DCF SPREADSHEET MODEL UNCOVER ANY DEFICIENCIES IN THE ALGORITHMS THAT ARE USED IN THE DISCOUNTED CASH FLOW ANALYSIS?

A. Other than a couple of minor cell reference issues, which I will discuss later in my testimony, I did not uncover any major deficiencies in the algorithms utilized. Based on my familiarity with valuation models, the DCF spreadsheet model utilized by FPL Witness Herr to arrive at the Fair Value of the PPA over its remaining life is not an unreasonable analytical tool if utilized correctly and with the appropriate inputs.

Q. PLEASE SUMMARIZE THE VARIOUS ISSUES YOU IDENTIFIED DURING YOUR REVIEW OF THE DCF MODEL AND RELATED DISCOVERY DOCUMENTS.

A. The four (4) valuation deficiencies that I have identified as a result of my review include:

1. Bonus Capacity Revenue of 5% is too high;
2. Heat rate used for fuel expense at Cedar Bay is too low;
3. Coal prices should reflect actual supply sources; and
4. Present value discount rate is too low.

I present my discussion of these deficiencies in the following order: (i) revenue related, (ii) expense related, and (iii) discount rate (which is addressed last, since it is the last step in arriving at the valuation).

VALUATION DEFICIENCY 1:

BONUS CAPACITY REVENUE OF 5% IS TOO HIGH

Q. WHAT IS THE BONUS CAPACITY REVENUE AND HOW DOES IT IMPACT THE DCF MODEL RESULTS?

A. The "Bonus Capacity Revenue" is the term used to describe the "bonus", or increase in monthly capacity payments made by FPL to Cedar Bay under the PPA to the extent the Billing Capacity Factor exceeds certain threshold levels. As I understand it, under the PPA, as amended, the term Billing Capacity Factor is akin to availability factor, and as such, the actual availability of the Cedar Bay facility to operate in any given

month dictates the level of Capacity Payment. For Billing Capacity Factors greater than 95%, there is Bonus Capacity Revenue. For Billing Capacity Factors between 87% and 95%, there is no Bonus Capacity Revenue. For Billing Capacity Factors less than 87%, there is effectively a penalty or reduction in Capacity Revenue. FPL Witness Herr modeled Bonus Capacity Revenues of 5.0%, which imply assumed Billing Capacity Factors of 98%. The 5% Bonus Capacity Revenue modeled by Mr. Herr has the effect of increasing the revenue to Cedar Bay that would be generated under the PPA, and consequently increasing the Fair Value of the PPA, as compared to the Fair Value if such Bonus Capacity Revenue were to be projected at lower levels, or not at all (i.e., by assuming lower availability factors).

Q. HAS FPL WITNESS HERR DESCRIBED THE BASIS FOR THE 5% BONUS CAPACITY REVENUE ASSUMPTION IN HIS TESTIMONY OR EXHIBITS?

A. No, he did not. FPL Witness Herr has merely listed the "Bonus Capacity Revenue – calculated as 5.0% of the annual fixed capacity payments" as an assumption on Exhibit DH-3 (page 44 of 60) to his testimony. It does not appear that he independently determined the Bonus Capacity Revenue input, but as with certain other crucial inputs, merely used the information provided by FPL.

Q. WHAT HAVE YOU DISCOVERED THAT CALLS INTO QUESTION THE 5% BONUS CAPACITY REVENUE ASSUMPTION?

A. The document provided by Cedar Bay in discovery, specifically Bates Document No. CB0081585, sets forth a historical calculation of the actual Capacity Payments made

by FPL to Cedar Bay, dating back to 2007. Using this information, I calculated for the 8-year period of 2007 through 2014 the actual average Bonus Capacity Revenue percentage that would be comparable to the 5% assumption reflected in Mr. Herr's DCF analysis, and I arrived at 2.59%. My calculations are set forth in Exhibit GB-1.

Q. HAS ANYTHING CHANGED AT THE PLANT THAT WOULD ALLOW THE PLANT TO MORE RELIABLY EARN BONUS CAPACITY REVENUE OVER THE REMAINING LIFE OF THE PPA?

A. No. Nothing stands out to demonstrate that extraordinary efforts are being undertaken to overcome the effects of aging on the plant's ability to earn bonus payments. Based on my review of Cedar Bay's 2014 Business Plan (CB0013661), there have been significant problems over the years with erosion-related tube leaks in all three boilers, although most of those issues were prior to 2007, which is the first historical year that I used in my calculations of historical Bonus Capacity Revenue. As stated in its 2014 Business Plan, Cedar Bay is located in a "very corrosive environment due to the proximity to the Atlantic." Many of the plant structural components have been replaced with upgraded materials as they have corroded to failure, and those replacement actions have improved the reliability at the plant. Although management has made several improvements and taken corrective action to address the tube erosion issues, the Cedar Bay plant is now more than 20 years old, and, as stated in Cedar Bay's 2014 Business Plan, "as the plant ages, equipment obsolescence becomes an increasing factor in the ability to repair components, especially electronics."

Q. DID THE CEDAR BAY 2014 BUSINESS PLAN CONTAIN ANY PERFORMANCE METRICS OR PERFORMANCE OBJECTIVES WITH REGARD TO FORCED OUTAGE RATES OR AVAILABILITY FACTORS?

A. [redacted]

Q. WOULD THE 2.59% BONUS CAPACITY REVENUE REPRESENT A MORE REASONABLE ASSUMPTION THAN THE 5.0% PROPOSED BY FPL, FOR PURPOSES OF THE FAIR VALUE OF THE PPA?

A. Yes. Given that the remaining life of the PPA is approximately 10 years, use of the actual experienced performance of the Cedar Bay facility over a fairly comparable historical time period would represent a more realistic assumption. Despite the most recent years averaging 5% or more, using the average actual performance under the PPA for the longer historical period represents a more robust basis for an assumption for the next 10 years. Also, given that the facility is aging, it is reasonable to expect that more maintenance issues will arise over the next 10 years, resulting in increased forced outages, lower availability levels, and lower Bonus Capacity Revenue, perhaps even "negative" Bonus Capacity Revenue during some periods remaining under the PPA.

Q. WHAT IS THE IMPACT ON THE FAIR VALUE OF THE PPA OF SUBSTITUTING YOUR RECOMMENDED 2.59% BONUS CAPACITY REVENUE IN PLACE OF FPL WITNESS HERR'S 5.0% ASSUMPTION?

A. All else the same, reflecting the 2.59% Bonus Capacity Revenue assumption would lower the estimated Fair Value of the PPA by approximately $18 million.

VALUATION DEFICIENCY 2:

HEAT RATE USED FOR FUEL EXPENSE AT CEDAR BAY IS TOO LOW

Q. YOU MENTIONED SOME MINOR ISSUES WITH RESPECT TO CELL REFERENCES IN THE DCF SPREADSHEET MODEL. DO THOSE RELATE TO THE HEAT RATE ISSUE?

A. Yes, and I will address those spreadsheet errors first.

Q. COULD YOU PLEASE ELABORATE?

A. First, on the "Inputs" tab of the DCF spreadsheet model that FPL Witness Herr utilized, Excel Row 38, containing the values of 12,500 for the entire study period, was mislabeled as "Heat Rate (Btu/kWh)", when it should have been labeled "Heat Content of Coal (Btu/lb)". That input row was cell-referenced in other formulas within the spreadsheet, as heat rate in two instances and heat content of coal in another. By virtue of the coincidence that the assumed ***heat rate*** value of 12,500 was the same as the assumed ***heat content*** value of 12,500, no apparent mathematical

errors were revealed. However, correction of this confusion of values was required to address the heat rate valuation deficiency upon which I will elaborate further.

Q. WHAT HEAT RATE DID FPL WITNESS HERR REFLECT IN HIS DCF ANALYSIS FOR PURPOSES OF ESTIMATING THE FUEL COSTS AT THE CEDAR BAY FACILITY OVER THE REMAINING LIFE OF THE PPA?

A. His model reflected the assumed heat rate of 12,500 Btu/kWh.

Q. WERE YOU ABLE TO ASCERTAIN THE BASIS FOR MR. HERR'S ASSUMED HEAT RATE?

A. The basis appears to be, based on information contained in column P of the Inputs tab in the model labeled "Support", the "rounded YTD average as of July 2014 and Budgeted", referencing a source document listed as "11.3.3 1407 Monthly Operating Report Cedar Bay" (CB-15-005596-005610).

Q. WAS THAT SOURCE DOCUMENT PROVIDED IN DISCOVERY?

A. Yes, I was able to locate that document and tie into the heat rate that Mr. Herr referenced. The year-to-date actual as of July 2014 "Generation Only" heat rate of 12,358 Btu/kWh and Budgeted "Generation Only" heat rate of 12,520 Btu/kWh (on CB-15-005604) appear to be the basis for his (rounded) 12,500 Btu/kWh assumption.

Q. WHAT IS THE CORRECT HEAT RATE THAT SHOULD HAVE BEEN USED FOR CALCULATING FUEL COSTS IN THE DCF MODEL?

A. The correct heat rate that should have been used to calculate fuel costs for the generation of electricity ***and steam*** in the DCF model should have been the 2014 ***net plant*** heat rate of 14,224 Btu/kWh, not the ***generation only*** heat rate of 12,500 Btu/kWh.

Q. WHY IS MR. HERR'S USE OF THE 12,500 BTU/KWH HEAT RATE WRONG?

A. The heat rate used by Mr. Herr is a "Generation Only" plant heat rate and will under-project the amount of coal consumed in generating both the electricity sold to FPL and the steam sold to the steam host. Since there is no other provision in the DCF analysis to separately account for fuel used to generate steam, and steam revenues are included in the analysis, the heat rate which encompasses energy required for both electricity and steam generation should be utilized and not just the heat rate calculated for electric generation only. Otherwise, the amount (and cost of) of coal required to support steam sales would be left out, and this would understate the true fuel cost that will be incurred at the Cedar Bay Facility to support both sales of electricity to FPL under the PPA and the steam sales. This is an important and integral element of the PPA valuation because failure to make the steam sales at the threshold level to the host (RockTenn) would allow FPL to cancel the PPA with no liability; thus, it cannot be ignored.

Q. HOW IS THE "GENERATION ONLY" HEAT RATE CALCULATED?

A. Based upon my review of monthly calculations in documents provided during discovery by Cedar Bay (spreadsheets CB001923– CB001935), I have concluded that the calculation of the "Generation Only" heat rate is a weighted average plant heat rate for electric production based upon gross plant generation, adjusted by a multiplier that is not defined and is reflected as a hard-coded entry each month (the "Generation Only Heat Rate"). The basis for the calculation of the multiplier is not clear. While Cedar Bay's calculations are extremely convoluted and complex, the essence of the Generation Only Heat Rate calculation can be accurately summarized as follows:

$$\text{Generation Only Heat Rate} = \frac{\text{Total Plant BTU} - \text{Steam Net BTU}}{\text{FPL kWh} + \text{Process Steam Power}}$$

Steam Net BTU = Process Steam BTU – Condensate Return BTU + [HR * Process Steam kWh]

Where: HR = Generation Only Heat Rate
FPL kWh = kWh delivered to FPL
Process Steam Power = Process Steam (lbs/300)

Q. WHY DOES THE USE OF "GENERATION ONLY" HEAT RATE RESULT IN THE IMPROPER CALCULATION OF FUEL CONSUMPTION IN THE DCF ANALYSIS?

A. As shown in the Generation Only Heat Rate calculation above, the BTU's used to generate steam are clearly removed. However, the fuel input BTUs (and corresponding expenses) are obviously necessary to generate the steam sold.

Q. WHAT IS NET PLANT HEAT RATE?

A. The net plant heat rate is calculated by dividing the total fuel consumed at the plant by the kWh delivered to FPL. The amount of power actually delivered to FPL, "Net Exported Generation", is the gross generation minus electricity used internally at the plant.

$$\text{Net Plant Heat Rate} = \frac{\text{Total Plant Fuel BTU Consumed}}{\text{FPL kWh Deliveries}}$$

Q. WHY SHOULD THE NET PLANT HEAT RATE OF THE CEDAR BAY FACILITY BE USED?

A. Using the Net Plant Heat Rate in the calculation of fuel consumption is appropriate because it can be multiplied by the Net Exported Power (kWh Delivered to FPL) to arrive at total fuel consumption, just as Mr. Herr's DCF Analysis does. Calculated fuel consumption (and corresponding expenses) in the DCF Analysis will increase by about 14% when using the correct heat rate of 14,224 BTU/kWh, rather than the 12,500 Btu/kWh "generation only" heat rate.

Q. HOW DID YOU ARRIVE AT THE NET PLANT HEAT RATE OF 14,224 BTU/KWH?

A. The Net Plant Heat Rate of 14,224 Btu/kWh is the weighted average of monthly 2014 net plant heat rate for calendar year 2014. The 2014 monthly net plant data is contained in the Cedar Bay Monthly Operations Summary Reports and native

spreadsheets contained in documents provided by Cedar Bay in response to FIPUG POD No.13. Had I used the Net Plant Heat Rate based on "YTD average as of July 2014", like Mr. Herr relied upon, the heat rate would have been 14,608 Btu/kWh, which is even higher than the calendar year actual for 2014. A calendar year average heat rate is a more realistic and reasonable basis for the assumption to be used in a 10-year projection than an average based on a partial year (January – July).

Q. WHAT IS THE IMPACT ON THE FAIR VALUE OF THE PPA OF MAKING THE CORRECTIONS TO THE DCF SPREADSHEET MODEL AND UTILIZING A MORE APPROPRIATE HEAT RATE FOR PURPOSES OF PROJECTING FUEL COSTS FOR CEDAR BAY?

A. Taking into account the adjustments made with respect to valuation deficiency 1, reflecting the corrections and utilizing a higher, more appropriate heat rate for purposes of projecting fuel costs for Cedar Bay would further reduce the Fair Value of the PPA by approximately $35 million.

VALUATION DEFICIENCY 3:

COAL PRICES SHOULD REFLECT ACTUAL SUPPLY SOURCES

Q. WHAT COAL PRICE DID FPL WITNESS HERR USE IN THE DCF MODEL TO DETERMINE ESTIMATED ENERGY REVENUES FROM CEDAR BAY ELECTRIC SALES UNDER THE PPA?

A. FPL Witness Herr used a forecast [redacted] coal prices.

Q DOES THIS FORECAST ACCURATELY REFLECT THE CONTRACTUAL BASIS FOR COMPUTING ENERGY REVENUES UNDER THE CEDAR BAY PURCHASED POWER AGREEMENT (PPA)?

A. No, it does not. The contractual basis for fuel pricing in the PPA is stated as follows:

> "Unit Fuel Cost - the weighted average cost, in dollars per million Btu, of coal, and oil if applicable, burned at St. Johns River Power Park's Units #l and #2. The cost of coal at St. Johns River Power Park shall be calculated from the data reported on a monthly basis to the FPSC in Schedule A5 entitled "System Net Generation and Fuel Cost." Start-up oil cost for St. Johns River Power Park's Units #l and #2 as reported in Schedule A5 will be included in the Unit Fuel Cost calculation for any Monthly Billing Period that includes one or more Facility start-ups as a result of an FPL-required shutdown. The most recently filed Schedule A5 data shall be used in calculating the Unit Fuel Cost."

According to the EIA Form 923 data base, the current (through February 2015) fuel supply for the St. Johns River Power Park is composed of a mix of coals originating in Indiana (contract) and Illinois (spot) both in the Illinois Basin (not CAPP), and Colombia (imported).

Q. WHAT IS A MORE APPROPRIATE COAL PRICE FORECAST FOR USE IN DETERMINING THE ESTIMATED ENERGY REVENUES FROM CEDAR BAY ELECTRIC SALES UNDER THE PPA?

A. A more appropriate price forecast would be the one utilized by FPL Witness Hartman to support his determination of ratepayer benefits from the proposed transaction. Specifically, the values in the spreadsheet page provided in discovery as CB-15-009489, in the column labeled St Johns $/MMBtu (whose values are identical to those in the column labeled Cedar Bay $/MMBtu, which form the basis for the PPA energy

dispatch pricing for FPL) should be utilized. Given that the coal consumed at St. Johns River Power Park is not sourced from the CAPP coal basin, Mr. Herr should have used the contractual basis for the price of coal in estimating energy revenues under the PPA (i.e., the St. Johns River coal price forecast).

Q. HOW DO THOSE ST. JOHNS COAL PRICES COMPARE TO THE CAPP COAL PRICES ASSUMED BY MR. HERR?

A. Over the 2015-2024 period, the St. Johns River coal price forecast utilized by Witness Hartman is approximately 9% below the [redacted] prices that Witness Herr utilized. Given that the sources for coal delivered to the St. Johns River Power Plant are from the lower cost Illinois basin and Columbia, I would expect the St. Johns coal price forecast to be lower than the [redacted] forecast. However, as explained in the accompanying testimony of OPC Witness Christopher Dawson, even this St. Johns coal price forecast may be too high.

Q. WHAT COAL PRICE DID FPL WITNESS HERR USE IN THE DCF MODEL TO DETERMINE THE ESTIMATED COST TO PRODUCE ELECTRICITY AND STEAM AT CEDAR BAY?

A. FPL Witness Herr used the same forecast [redacted] coal prices.

Q. IS IT APPROPRIATE TO USE THIS COAL PRICE FORECAST TO DETERMINE THE ESTIMATED COST TO PRODUCE ELECTRICITY AND STEAM AT CEDAR BAY?

A. For years beyond 2015, it may be; however, for 2015, it is not appropriate. Cedar Bay coal inventory records provided in response to FIPUG 2nd POD Request No.13 (CB-15-003941) and information provided to the EIA by Cedar Bay Operating Services suggests that the cost of fuel delivered to Cedar Bay in 2015 may be considerably higher than the amount reflected in Mr. Herr's DCF analysis.

Q. PLEASE EXPLAIN.

A. The data submitted by Cedar Bay Operating Services to EIA states that at least some of the coal delivered to Cedar Bay originates at the Balkan Mine in Bell County Kentucky, which is considered to be in the Central Appalachian area. The EIA data also lists the contract expiration date for all of the coal delivered to Cedar Bay in 2014 as "1215", or December 2015 (presumably December 31). This leads to the reasonable conclusion that the cost of coal delivered to Cedar Bay in 2015 through the end of the contract would be at or above the cost of coal delivered in March 2015, the last date for which inventory costs are available. Per CB-15-003941, the recorded average inventory cost as of March 2014 (the latest month available) was [redacted]. The EIA recorded heat content of fuel delivered in March 2014 was 24.47 MMBtu/ton, yielding a coal cost of [redacted] This cost is approximately [redacted] higher than the amount used in FPL's analysis for 2015.

Q. IS CEDAR BAY PARTY TO A LONG-TERM COAL CONTRACT?

A. Yes. Based on my review of discovery documents, Cedar Bay has a contract with Nally and Hamilton for the long-term supply of coal, which was renegotiated in 2011 to provide [redacted] which would explain why [redacted]

Q. [redacted]

A. [redacted]

Q. BASED ON THE INFORMATION YOU HAVE PROVIDED ABOVE, WHAT DO YOU BELIEVE ARE THE APPOPRIATE FUEL COSTS TO BE USED TO DETERMINE FORECASTED CEDAR BAY ENERGY REVENUES UNDER THE PPA AND FUEL COSTS THAT WOULD ACTUALLY BE INCURRED AT CEDAR BAY?

A. For forecasted energy revenues under the PPA, the appropriate coal price forecast would be the forecast utilized by FPL Witness Hartman, as shown in either the column labeled St Johns $/MMBtu or the column labeled Cedar Bay $/MMBtu on

discovery document CB-15-009489, in order to reflect the continued ability of St. Johns River Power Park to accept lower cost Colombian coal.

The 2015 delivered fuel cost used in the determination of Cedar Bay fuel costs should be increased to [redacted] (from $88.20/ton) which, assuming a heat content of 24.47 MMBtu/ton, would yield a coal cost of [redacted] for 2015. Although the 2016 assumed [redacted] delivered coal cost of [redacted] would represent a [redacted] reduction in fuel costs from Cedar Bay's 2015 contract prices of [redacted], the reduction seems reasonable, based on (i) current CAPP spot prices, and (ii) taking into account [redacted]

Q. WHAT IS THE IMPACT ON THE FAIR VALUE OF THE PPA OF MAKING THESE CHANGES TO THE FUEL PRICE ASSUMPTIONS FOR BOTH ST. JOHNS RIVER POWER PARK AND CEDAR BAY?

A. Taking into account the adjustments previously made with respect to valuation deficiencies 1 and 2, making these changes to the fuel prices would further reduce the Fair Value of the PPA by approximately $21 million.

VALUATION DEFICIENCY 4:

PRESENT VALUE DISCOUNT RATE IS TOO LOW

Q. PLEASE GENERALLY DESCRIBE HOW FPL WITNESS HERR ARRIVED AT THE PRESENT VALUE DISCOUNT RATE USED IN THE DCF VALUATION OF THE PPA.

A. FPL Witness Herr used a present value discount rate of 7% based on the weighted average cost of capital ("WACC") that he deemed appropriate for valuing the PPA. Use of the WACC as the basis for discounting cash flows is an industry accepted approach used in valuing assets and is arrived at based on an estimated cost of debt and an estimated cost of equity, weighted by the assumed capital structure of the target market participant and their risk profile. Mr. Herr appears to have assumed a capital structure of [redacted] debt with an after-tax debt rate of [redacted] and [redacted] equity with an assumed rate of return on common equity of [redacted]. When combined, the WACC is equal to 7%, rounded to the nearest 0.5%.

Q. WHAT HAS CAUSED YOU TO QUESTION THE DISCOUNT RATE UTILIZED BY FPL WITNESS HERR IN THE DCF ANALYSIS OF THE VALUE OF THE PPA?

A. The discount rate chosen for the DCF analysis is arguably the single most important assumption to be made, and variations in the rate can change the value of an asset considerably. Also, the discount rate assumption is typically the most difficult to pin down, given that it is theoretical in nature.

Q. WHAT IS THE BASIS FOR MR. HERR'S INPUTS TO THE WACC?

A. FPL Witness Herr (on page 55 of 60 of Exhibit DH-3 to his testimony) appears to draw a sharp distinction between the capital structures of representative market participants that would reflect the relative risk of the investment. He claims to have

concluded that an appropriate capital structure to use in valuing a merchant generation asset without a long-term contract (e.g., a PPA) should be [redacted] debt and [redacted] equity, and that the appropriate capital structure to be used for "contracted" generation (e.g., with a PPA) would be [redacted] debt and [redacted] equity. This rather wide differential in assumed capital structure, combined with the associated variations in the assumed cost of debt and rate of return on equity assumed for each of the respective risk profiles, results in a significant range of discretion for selection of a WACC (or discount rate). Mr. Herr says he estimated the cost of debt and the cost of equity based on the Capital Asset Pricing Model ("CAPM"). He apparently assumed debt rates based on [redacted] rated industrial bonds and [redacted] betas [redacted] for selected independent power producers as inputs to the CAPM. The WACC results range from 7% (for generation with a PPA contract) to 11% (for generation without a PPA, or merchant generation).

Q. SO, ALTHOUGH MR. HERR COMPUTED TWO VERY DIFFERENT RATES, HE CHOSE TO USE THE 7% LOWER RISK PROFILE WACC FOR PURPOSES OF ESTIMATING THE FAIR VALUE FOR THE PPA?

A. Yes.

Q. WHAT OTHER DISCOVERY DOCUMENTS DID YOU REVIEW THAT GAVE YOU CAUSE TO QUESTION THE DISCOUNT RATE THAT FPL WITNESS HERR CHOSE TO REFLECT IN THE FAIR VALUE OF THE PPA?

A. I reviewed documents provided by Cedar Bay in response to FIPUG discovery -- specifically Bates Document Nos. CB0042859 through CB0042981 which contained a DCF valuation analysis of the Cedar Bay PPA, dated April 5, 2013, prepared for Cogentrix Power Holdings LLC ("Cogentrix") by Mr. David Herr, Managing Director, Duff & Phelps, LLC, who I understand is the same David Herr testifying in this docket for FPL. For purposes of discussing this 2013 DCF analysis, I will refer to it hereinafter as the "2013 DCF Report".

Q. WHAT WAS THE STATED PURPOSE OF THE 2013 DCF REPORT?

A. As stated in the cover letter to the 2103 DCF Report, the analysis would be used to assist Cogentrix management with an allocation of the purchase price of certain assets acquired by Carlyle Infrastructure Partners, L.P. for financial reporting purposes in accordance with ASC 805, and incorporate Fair Value guidance presented in ASC 820. The 2013 DCF Report included an analysis of Fair Value for the Cedar Bay PPA, among other assets, both tangible and intangible.

Q. WAS THIS THE SAME STATED PURPOSE AS THE CURRENT FAIR VALUE ESTIMATION AS DESCRIBED IN FPL WITNESS HERR'S EXHIBIT DH-3?

A. Essentially, yes. Both valuations were to arrive at the Fair Value of the Cedar Bay PPA, although in the 2013 DCF Report, Mr. Herr's then client, Cogentrix, was the owner of and had an interest in the Cedar Bay PPA asset seeking to refinance the

operation and [redacted] while his current client, FPL, is the proposed purchaser of the facility in this docket.

Q. WHAT WAS THE CONCLUSION AS TO FAIR VALUE OF THE CEDAR BAY PPA IN THE 2013 DCF REPORT?

A. In Mr. Herr's 2013 DCF Report, the estimated Fair Value of the Cedar Bay PPA was [redacted] as of December 12, 2012.

Q. DID YOU REVIEW THE DCF ANALYSIS, ALONG WITH THE MANY UNDERLYING ASSUMPTIONS, THAT DERIVED THE [redacted] FAIR VALUE AND CONTRAST THAT DCF ANALYSIS TO THE ONE PREPARED BY FPL WITNESS HERR IN THE SUBJECT DOCKET?

A. Yes. Although the Excel spreadsheet was not provided in discovery, I was able to compare Exhibit D.2 of the 2013 DCF Report (in .pdf format) to Mr. Herr's Direct Testimony Exhibit DH-3, Exhibit B.1 in this docket, which was prepared in substantially the same format.

Q. WHAT DID YOU DISCOVER IN REVIEWING MR. HERR'S 2013 VALUATION?

A. Although there were numerous assumption differences from the current valuation model, including significant differences in capacity factor assumptions, which I will address later in my testimony, the most significant difference was the present value discount rate that was utilized. As I discussed earlier, FPL Witness Herr appears to

have concluded that a 7% discount rate was appropriate for this docket in determining the current Fair Value of the PPA, while just 2 years ago, Mr. Herr concluded that a [redacted] was appropriate in determining the same Fair Value of the same Cedar Bay PPA. To give one a sense for the impacts of such a different discount rate, all else the same (i.e., putting aside all of the other valuation deficiencies), by reflecting the [redacted] in Mr. Herr's current DCF analysis in place of the 7% discount rate, the $520 million Fair Value would be reduced to [redacted], representing a reduction of about [redacted]

Q. WERE YOU ABLE TO COMPARE THE BASIS FOR THE [redacted] REFLECTED IN THE 2013 DCF REPORT TO THE 7% UTILIZED IN MR. HERR'S CURRENT DCF ANALYSIS?

A. Yes.

Q. PLEASE ELABORATE.

A. It appears that for purposes of the 2013 DCF Report, although Mr. Herr used the same analytical approach in arriving at a discount rate (i.e., the WACC approach used to arrive at 7%), he reflected significantly different capital structure assumptions. More specifically, he appears [redacted], both reflecting a higher credit quality debt rating, in recognition of the presence of a long-term PPA with a more

secure revenue stream, as compared to a merchant generator selling into the market. [redacted] (as compared to the [redacted] reflected in his current WACC calculation), also contributing to the higher WACC.

Q. RECOGNIZING THAT MR. HERR'S FAIR VALUE ESTIMATIONS, PERFORMED LESS THAN TWO YEARS APART, UTILIZED [redacted], DO YOU HAVE ANY OPINIONS AS TO WHY THIS MIGHT BE?

A. Although I do not have a factual basis for the [redacted], I know of no structural reasons, be it market driven or contractual (with respect to the PPA), for the [redacted] has now taken in this docket. I also have no basis for believing that [redacted] However, with respect to the current engagement with FPL, certainly utilizing [redacted] would increase the Fair Value of the PPA determined in March 2015 to a level that matches the purchase price of $520 million that had already been agreed upon by FPL and CBAS as of August 2014. Assuming FPL were to receive the Commission's approval for the proposed transaction, which is essentially to recover from retail customer electric rates the entire Fair Value of the PPA through amortization of a regulatory asset, once the PPA was terminated, plus a return on the unamortized regulatory asset, FPL would clearly be interested in the highest Fair Value that could be justified, as long as they could demonstrate to the Commission that customers rates would be lower on a

cumulative present value basis, even by the smallest margin. Furthermore, based on information received during discovery, it is clear that the $520 million purchase price for CBAS was negotiated before the estimated Fair Value of the PPA was prepared, which further calls into question the fortuity of the Fair Value of the PPA matching the exact purchase price negotiated seven months earlier.

Q. WITH RESPECT TO THE CAPITAL STRUCTURE TO BE USED, SHOULD FPL'S CAPITAL STRUCTURE BE CONSIDERED?

A. Given that FPL is a very real market participant in this transaction, I would say, yes, their capital structure should have at least been considered in arriving at the capital structure appropriate for this discount rate.

Q. WHAT IS FPL'S CAPITAL STRUCTURE?

A. Based on FPL's Form 1 submitted to the Federal Energy Regulatory Commission in April 2015, their capital structure is 41% debt/59% equity.

Q. GENERALLY, WHAT RISKS HAVE YOU CONSIDERED IN DECIDING WHAT AN APPROPRIATE DISCOUNT RATE WOULD BE TO ARRIVE AT THE FAIR VALUE OF THE PPA?

A. There are several risks that should be considered, including operational risks, contractual risks, and regulatory risks.

Operational risks include risk of mechanical failure or weather-related disruption that would make the facility inoperable for an extended period of time, significantly reducing the Capacity Payments, and possibly eliminating them for some period. In addition, to the extent coal costs under the Cedar Bay PPA were to be more competitive with natural gas generation, FPL may very likely dispatch Cedar Bay significantly more than at the assumed [redacted] capacity factor. Given that Cedar Bay's operating margins are negatively affected by increased dispatch by FPL, an increase in natural gas prices would present additional operating margin risk to a potential purchaser of Cedar Bay.

Contractual risks include the possibility of losing Qualified Facility status or other failure to meet a contractual term, causing the PPA to be terminated before the end of the contract life, perhaps due to the steam host going out of business.

With respect to regulatory risks, the possibility exists that the Commission could find that the payments from FPL to Cedar Bay are uneconomic and should not be recovered, effectively triggering the "regulatory out" clause found in the PPA at Section 18.4 and causing FPL to be relieved of its payment obligations under the PPA. The fact that the PPA capacity payments are so much greater than FPL's current avoided costs should give cause for concern. However, this risk is mitigated by the fact that, to my knowledge, the Commission has yet to deny recovery of a PPA payment once authorized. Lastly, federal legislation that would impose carbon emission costs on the output of the facility or otherwise require/force the premature retirement of the Cedar Bay Facility represent a risk as well.

Q. WHAT IS YOUR RECOMMENDATION AS TO THE APPROPRIATE BASIS FOR THE DISCOUNT RATE TO BE UTILIZED IN FPL WITNESS HERR'S ESTIMATED FAIR VALUE OF THE PPA?

A. Given the current risks associated with the Cedar Bay facility, as outlined above, I recommend a blending of the two approaches to arrive at an appropriate discount rate to be used in estimating the Fair Value of the PPA. More specifically, I would reflect the [redacted] for the 2013 DCF Report, but utilize Mr. Herr's currently estimated (i) after-tax cost of debt, based on an entity with a credit quality rating of [redacted] and (ii) a [redacted] cost of equity, which is consistent with Mr. Herr's risk profile based on today's market environment, per Mr. Herr's estimation.

Q. BASED ON THAT APPROACH, WHAT DISCOUNT RATE WOULD BE REFLECTED IN THE FAIR VALUE OF THE PPA, AS OF AUGUST 30, 2015?

A. The calculated WACC, and discount rate that would be reflected would be [redacted] That is, the WACC formula would be populated with the following values:

[redacted]

Total WACC (rounded) = [redacted]

Q. WHAT IS THE IMPACT ON THE FAIR VALUE OF THE PPA OF CHANGING THE PRESENT VALUE DISCOUNT RATE FROM 7% TO [redacted]?

A. Taking into account the adjustments previously made with respect to issues 1, 2 and 3, and without rounding to the nearest $10 million, changing the present value discount rate from 7% to [redacted] would further reduce the Fair Value of the PPA by approximately [redacted].

OTHER CONCERNS WITH THE ESTIMATED FAIR VALUE

Q. WITH RESPECT TO THE CAPACITY FACTOR ASSUMPTION DIFFERENCES YOU MENTIONED EARLIER, HOW DIFFERENT WERE THE ASSUMED CAPACITY FACTORS FOR CEDAR BAY IN THE 2013 VALUATION, AS COMPARED TO MR. HERR'S CURRENT VALUATION MODEL?

A. Capacity factors in the 2013 valuation model averaged [redacted] while the current PPA valuation model assumes a static [redacted] over the remainder of the PPA term.

Q. WHAT IS THE SIGNIFICANCE OF THE DIFFERENT CAPACITY FACTOR ASSUMPTIONS?

A. Given that the fuel expense to operate the Cedar Bay facility is not covered by the energy and steam revenues received, the greater the capacity factor assumed, the lower the Fair Value of the PPA.

Q. WHAT ARE THE PROSPECTS THAT TWO YEARS FROM NOW, FPL WOULD CALL ON CEDAR BAY TO BE DISPATCHED MORE OFTEN AND THE CAPACITY FACTORS WOULD RETURN TO THE [redacted] LEVELS?

A. With potential natural gas price volatility, as evidenced by history, and the ability of St. Johns River Power Park to source low cost coal that is barged in from Columbia, there is a distinct possibility that the energy strike price on the PPA will be attractive enough for FPL to dispatch Cedar Bay more often, approaching the [redacted] capacity factor levels.

Q. SO, WHAT POINT ARE YOU MAKING?

A. My point is that, if the 10-year capacity factor assumptions can change from averaging [redacted] to only [redacted] in less than a two-year timeframe (April 2013 to March 2015), there is significant uncertainty surrounding the assumed capacity factors at Cedar Bay. To the extent those capacity factors increase, the Fair Value of the PPA will be considerably affected.

Q. WHAT WOULD BE THE IMPACT ON THE FAIR VALUE OF THE PPA IF MR. HERR WERE TO HAVE ASSUMED CAPACITY FACTORS OF [redacted] AS COMPARED TO [redacted]?

A. All else the same, and after making the corrections and adjustments associated with valuation deficiency 2 and 3 related to heat rates and fuel costs, changing the assumed capacity factors from [redacted] to [redacted] in all remaining years of the PPA would reduce the Fair Value by $70 million.

Q. ARE YOU SUGGESTING THAT THE ASSUMED [redacted] CAPACITY FACTOR IS TOO LOW, AND SHOULD BE INCREASED FOR PURPOSES OF THE PPA VALUATION?

A. No, I am not. Rather, I point this out to illustrate the uncertainty relative to the projected dispatch of Cedar Bay by FPL over the remaining PPA life, and the potentially significant impacts that assumed capacity factors have on the Fair Value of this PPA. This uncertainty further supports my recommendation of using a higher discount rate in the DCF model.

SUMMARY

Q. WHAT IS THE COMBINED IMPACT ON THE FAIR VALUE OF THE PPA OF ALL FOUR OF THE DEFICIENCIES THAT YOU HAVE IDENTIFIED ARE NECESSARY AS A RESULT OF YOUR REVIEW OF THE DCF MODELS UTILIZED BY FPL WITNESS HERR?

A. After making all of my suggested corrections and input assumption adjustments to the DCF spreadsheet model utilized by FPL Witness Herr, the maximum adjusted Fair Value of the Cedar Bay PPA is approximately $370 million, rounded to the nearest $10 million, consistent with Mr. Herr's DCF rounding approach.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

CERTIFICATE OF SERVICE
DOCKET NO. 150075-EI

I HEREBY CERTIFY that a true and correct copy of the Confidential (as designated by FP&L and/or Cedar Bay) Testimony of Gary D. Brunault has been furnished to the following parties on this 8th day of June, 2015.

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Associate Public Counsel

*Not served at this time. One (1) copy of each confidential testimony has been filed with the PSC Commission Clerk's Office under seal, pending confidentiality determination. Staff will be served with a Public Version, when finally so designated.

GDS Associates, Inc
ENGINEERS & CONSULTANTS

GARY D. BRUNAULT

Principal

EDUCATION

Bachelor of Science, Civil Engineering, Tufts University, Medford, MA, 1979

EXPERIENCE

Mr. Brunault has over 30 years of electric utility consulting experience, serving primarily joint action municipal power agencies. Gary started his career in the early 1980's and was involved in the start-up phases of operations for North Carolina Eastern Municipal Power Agency, North Carolina Municipal Power Agency Number 1, and Piedmont Municipal Power Agency, collectively representing 61 municipal utilities in the Carolinas. Gary has provided consulting services to these and other municipal clients ranging from power supply planning, municipal bond finance, wholesale electric cost of service and rates, risk analysis, contract negotiations, and litigation support.

More specifically, Mr. Brunault has provided consulting engineering services in the following areas:

- Evaluation of responses to RFPs for power supply, and contract negotiations
- Generating asset valuation, strategic portfolio analysis
- Consulting Engineer's reports for Official Statements in connection with the issuance of municipal revenue bonds
- Annual Engineering Reports in support of Bond Resolution requirements
- Long-term projections of wholesale power supply costs
- Working capital requirements
- Nuclear decommissioning planning and funding policy development
- Wholesale rate development and implementation of rate structure changes
- Negotiation support for development of (investor-owned utility) production and transmission cost of service formulas (and auditing of the implementation of such formula rates)
- Analysis of wholesale customer impacts of investor-owned utility mergers and settlement agreements
- Probabilistic analysis related to generating asset decisions
- Testimony in state utility commission proceedings related to municipal utility matters
- Support of jointly-owned coal and nuclear generation project agreements and contract amendments
- Litigation support related to contract interpretation disputes

GDS Associates, Inc., October 2012 – Present
Managing Director (Principal, effective January 1, 2015)

SAIC Energy, Environment, and Infrastructure, LLC, August 2009 – October 2012
Senior Program Manager

R. W. Beck, Inc., September 1981 – August, 2009
Principal

Florida Power and Light Company
Fair Value of Cedar Bay PPA
Proposed Bonus Capacity Revenue

	Base	O&M	Total	Actual Capacity Payments	Capacity Payments (without Bonus)	Bonus Capacity Revenue (% of Base Capacity Payment)
Base Capacity Credit and O&M Credit for 2007	$35,630	$3,220	$38,850	$ 116,055,218	$116,550,000	-0.46%
Base Capacity Credit and O&M Credit for 2008	$36,940	$3,350	$40,290	$ 117,391,789	$120,870,000	-3.14%
Base Capacity Credit and O&M Credit for 2009	$38,290	$3,490	$41,780	$ 125,348,712	$125,340,000	0.01%
Base Capacity Credit and O&M Credit for 2010	$39,700	$3,630	$43,330	$ 133,866,402	$129,990,000	3.25%
Base Capacity Credit and O&M Credit for 2011	$41,150	$3,780	$44,930	$ 137,621,447	$134,790,000	2.29%
Base Capacity Credit and O&M Credit for 2012	$42,660	$3,930	$46,590	$ 146,244,246	$139,770,000	5.06%
Base Capacity Credit and O&M Credit for 2013	$34,560	$4,090	$38,650	$ 123,914,033	$115,950,000	7.68%
Base Capacity Credit and O&M Credit for 2014	$35,820	$4,260	$40,080	$ 126,711,441	$120,240,000	6.02%
					Average:	2.59%

PUBLIC VERSION OF TESTIMONY OF OPC WITNESS DAN J. WITTLIFF

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Arrangement To Mitigate Impact of Unfavorable Cedar Bay Power Purchase Obligation, by Florida Power & Light Company	DOCKET NO. 150075-EI FILED: June 8, 2015

REDACTED

[redacted]

(PER DESIGNATION OF FPL AND/OR COGENTRIX (CEDAR BAY) PENDING FINAL DETERMINATION)

DIRECT TESTIMONY

OF

DAN J. WITTLIFF

ON BEHALF OF THE CITIZENS OF

THE STATE OF FLORIDA

J.R. Kelly
Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Attorney for the Citizens
of the State of Florida

DIRECT TESTIMONY

OF

DAN J. WITTLIFF

On Behalf of the Office of Public Counsel

Before the

Public Service Commission

Docket No. 150075-EI

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Dan Wittliff. My business address is 919 Congress Avenue, Suite 800, Austin, Texas 78701.

Q. PLEASE OUTLINE YOUR FORMAL EDUCATION.

A. I am a 1972 graduate of Southern Methodist University (SMU) where I earned a Bachelor of Science degree in mechanical engineering and membership in Pi Tau Sigma mechanical engineering honorary. In 1975, I earned a Master of Business Administration from the University of Oklahoma where I was elected to membership in the Beta Gamma Sigma business honorary.

Q. WHAT IS YOUR PRESENT POSITION?

A. I am Managing Director of Environmental Services for GDS Associates, Inc. in Austin, Texas.

Q. PLEASE STATE YOUR PROFESSIONAL EXPERIENCE.

A. Currently, I serve as Managing Director of Environmental Services with GDS Associates, Incorporated in Austin, Texas. I have been with GDS since January 2007. I manage complex and multi-media (e.g., air, water, wastewater, and solid waste) environmental projects. Prior to joining GDS Associates, I was Principal of Dan Wittliff Consulting, PLLC. This firm provided professional engineering services in environmental engineering, regulatory affairs, and energy systems.

From May 1995 through November 1999, I served as the first Chief Engineer for the Texas Natural Resource Conservation Commission (TNRCC). Before service with TNRCC, I served in several supervisory positions with West Texas Utilities Company, Abilene, Texas managing and monitoring power station performance to include issues related to air pollution, water treatment, industrial hygiene, and solid waste disposal.

Q. WOULD YOU PLEASE DESCRIBE GDS?

A. GDS Associates, Inc. ("GDS") is an engineering and consulting firm with offices in Marietta, Georgia; Austin, Texas; Auburn, Alabama; Manchester, New Hampshire; Madison, Wisconsin and Orlando, Florida. GDS provides technical and financial consulting services to a nationwide base of clients, which primarily includes municipal and cooperative electric utilities, Public Service Commissions and large consumers of electricity. Areas of expertise include generation support and management consulting, power supply and transmission planning, rate consulting, distribution services, least cost planning and litigation support. Generation support

services provided by the firm include plant operational monitoring on behalf of co-owners of fossil and nuclear power plants, plant ownership feasibility studies, plant management audits, plant construction cost and schedule analyses, evaluations of power plant O&M costs and budgeting practices, production cost modeling and plant outage and replacement power cost evaluations.

Q. HAVE YOU GIVEN TESTIMONY BEFORE?

A. This is the first time that I will be providing testimony before the Florida Public Service Commission, although members of the firm have testified before the Commission. I previously offered testimony in the matter of the Hicks-Elizabeth CCN Application (Texas SOAH Docket No. 473-14-2252, PUC Docket No. 42087) on June 17, 2014.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony will address environmental issues and concerns involving the proposed purchase of Cedar Bay Power by Florida Power and Light. In doing so, I will respond to environmental documents, testimony, depositions, and representations provided by representatives of Florida Power & Light, Cogentrix, and Cedar Bay Generating Company concerning the Cedar Bay Power Purchase Obligation by Florida Power & Light Company.

Q. BY WHOM ARE YOU RETAINED IN THIS PROCEEDING?

A. GDS is being retained by the Office of Public Counsel.

Q. PLEASE SUMMARIZE THE SALIENT POINTS YOU WILL ADDRESS IN YOUR TESTIMONY.

A. Specifically, I will (1) identify the documented presence of groundwater contamination at the Cedar Bay Cogeneration Project site, (2) explain the indemnifications for pre-existing environmental conditions in the 1991 ground lease, (3) identify information gaps from the ground lease that were not identified as missing by Florida Power & Light, (4) explain how the information is essential to quantifying environmental risk and liability, and (5) point out how parties who caused little or no site contamination can be drawn into expensive cleanups under the U.S. Environmental Protection Agency's Superfund program.

III. CONCERNS WITH INDEMNIFICATION IN APRIL 29, 1991 GROUND LEASE

Q. HOW IS THE APRIL 29, 1991 GROUND LEASE BETWEEN SEMINOLE KRAFT CORPORATION AND AES CEDAR BAY LIMITED PARTNERSHIP RELEVANT TO THE PROPOSED PURCHASE OF CEDAR BAY POWER BY FLORIDA POWER AND LIGHT?

A. Even though this lease was executed over 24 years ago, Section 4.1 of the lease specifies a term of 50 years. Without a valid lease for the land on which the power plant and its associated facilities are constructed and operate, the plant would almost

certainly cease to be a going concern. Further, language in the lease allows for the continuation of the lease to successors or assignees unless otherwise terminated in accordance with Sections 12.2, 13.1, and 14.1 of the lease.

Q. IN THE COURSE OF YOUR REVIEW OF THE GROUND LEASE, DID YOU IDENTIFY ANY CONCERNS WITH THE TERMS OF THE LEASE?

A. Yes.

Q. PLEASE EXPLAIN.

A. At first glance, the indemnification provisions in Section 10 appear to provide broad and mutual indemnifications to hold each party harmless for past, current, and future acts or failures to act on general, environmental, and waste disposal liability issues.

However, Section 10.2(ii) specifically refers to a Schedule of Environmental Concerns in Appendix 20.1 as listing instances of Lessor's non-compliance with environmental laws presumably for the purposes of disclosing pre-existing conditions with the property. Article XX of the ground lease that Florida Power and Light is acquiring as part of its Cedar Bay equity purchase contains a Section 20.1 outlining environmental representations concerning the condition of the property at the time the lease was signed in 1991 and a Section 20.2 providing environmental covenants. Paragraph 20.1(i) (Bates no CB-15-00447) states "to the best of its knowledge except as would not have a Material Adverse Effect and except ***as indicated on Appendix 20.1 attached hereto*** [emphasis added]: a) the SX site is now in compliance and

Ground Lessor operations have not been and are now in compliance, with all Environmental Laws."

When I reviewed the details of this appendix, I found two parts (i) and (iii) with two blank pages between the end of (i) and the beginning of (iii) and no explanation as to why there were intervening blank pages and no part (ii). Part (i) addresses environmental matters in four parts: (a) compliance, (b) release of hazardous materials, (c) environmental claims, and (d) facts, circumstances, conditions, or occurrences. Part (iii) addresses environmental permits in two parts: (a) NPDES Permit 0000400 (issued in 1991) and (b) Consumptive Groundwater Use Permit (not yet issued at the time of the lease).

In a May 28, 2015 email exchange between the Office of Public Counsel and Florida Power and Light, the company confirmed that they noticed the same thing regarding the apparent missing information and advised that this was how the company had received the document from Cedar Bay. The clear implication is that FPL never reviewed the documents that appear to be missing information with no explanation as to why, nor is there any indication that FPL requested the missing information. This is in contrast where the phrase "THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK" is clearly typed in on page CB-15-00455 of the ground lease. In addition, page CB-15-00485 of the ground lease shows Item 3 as "Intentionally Deleted" and page CB-15-00488 of the ground lease shows Item 10 as "Intentionally Deleted." Clearly, the ground lease adopted a protocol of identifying where information is missing or deleted.

In addition, other documents such as the March 10, 2010 modification to conditions of the site certification stipulate that RockTenn's predecessor -- Smurfit Stone -- operated a dedicated waste disposal site between 1972 and 1991 on the site and that exceedances of Florida drinking water standards for nine metals and sulfate were observed during groundwater sampling at many of the site monitoring wells.

[redacted]

It appears that FPL is relying on the ground lease to shield Cogentrix and its successors (such as Florida Power and Light) from liability for pre-existing conditions. It is well known that the plant is built on a brownfield site with pre-existing contamination and that the site was used by various forest industries for decades. The ground lease attempts to assign pre-existing conditions under what can be described as a "what's mine is mine, what's yours is yours" remediation doctrine.

It also appears that both FPL and Cedar Bay are relying on what can be considered environmental indemnification provisions in the ground lease and an assertion that there has been no groundwater contamination from Cogentrix

operations at the site to shield them from environmental remediation liabilities. It further appears that both companies assume that ultimate cleanup and remediation of the site as a result of dismantling or demolishing the cogeneration facility would be negotiated with RockTenn, the existing property owner. However, a reading of the ground lease reveals that it contains no express provisions dictating how the cleanup, transfer, and remediation of the site would be handled.

The recognition of pre-existing contamination in these environmental reports and depositions as well as the importance of identifying and properly disclosing all pre-existing conditions and remedial obligations so that an appropriate environmental risk assessment can be made highlights the need to understand the circumstances surrounding the missing text in Appendix 20.1 of the ground lease. At a minimum, it calls for FPL to explain why there is this void. The lack of either the lease documents or such explanation makes it unnecessarily difficult to determine (1) the potential environmental liability associated with the lease as well as owning and operating a power plant on the leased land and (2) the adequacy of environmental liability insurance to cover this risk.

Q. **WHY IS IT IMPORTANT TO IDENTIFY ALL PRE-EXISTING CONDITIONS IN ORDER TO EVALUATE THE POTENTIAL ENVIRONMENTAL LIABILITY AND RISKS THAT FPL MAY INCUR IN ACQUIRING THE CEDAR BAY FACILITY?**

A. Environmental regulators at the Federal and State levels attempt to recover costs associated with site remediation under their respective superfund programs should the

site be closed or abandoned without what they believe is adequate remediation. The parties targeted by the agencies to pay for remediation are referred to as potentially responsible parties (PRP). Based on past experience, the agencies are less concerned about what the indemnification agreements say on liability than who has been associated with the facility and has the ability to contribute funds to the remediation. In this case, Florida Power and Light would present very deep pockets potentially to clean up contamination which neither they nor Cedar Bay would have actually caused.

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §1906, was enacted by Congress in 1980 in response to widely known pollution sites such as Love Canal and Times Beach. Also known as "Superfund", CERCLA is aimed at cleaning up sites contaminated with hazardous waste, and preventing contamination of future sites by assigning liability to parties involved. The liability requires the parties to pay for the cleanup of the sites. While there are thousands of sites across the country and more than 90 in Florida alone that have been drawn into the Superfund remediation program, one particular site bears directly on the power industry and casting a wide net in identifying parties to pay for the cleanup.

In 1982, Martha C. Rose Chemical Company in Holden, Missouri began receiving electrical equipment from electric companies that was contaminated by polychlorinated biphenyls (PCB's) which were outlawed by Congress in 1979 because of their toxicity and persistence when released to the environment. Up until the ban, PCB's were used widely in the electric power industry as a coolant and

dielectric in equipment such as transformers, capacitors, voltage regulators, switches, and reclosers. The company represented to electric companies that the company would drain the equipment and destroy the liquid and service the containers. The company even issued certifications of destruction for the material which led the electrical companies to believe that their liability going forward had been eliminated.

Between 1983 and 1986, more than 700 companies, including West Texas Utilities, sent more than 20 million pounds of equipment and liquids to Rose Chemical for processing and destruction. In 1986, Rose Chemical declared bankruptcy and closed its doors. Their senior executives pled guilty to fraud and received prison sentences for storing most of the material on site when they had certified to its destruction. Even though 16 companies sent the bulk of the equipment and material to the site, USEPA identified any company who sent even one small piece of equipment to the site as a potentially responsible party (PRP). The total cleanup cost of the site including water and soil contamination was estimated at $35 million.

Rena I. Steinzor, an attorney who represented many public utilities during the Rose Chemical clean-up negotiations, observed how the EPA used CERCLA's strict liability to make utilities "pay to clean it up even if [they] did nothing wrong when [they] disposed of it."

The point here is that it is difficult for an entity to escape all liability for environmental clean-up when that entity has contacts with a contaminated site.

Q. WHAT MODIFICATIONS, IF ANY SHOULD BE MADE TO THE PROPOSED PURCHASE AS A RESULT OF THIS MISSING INFORMATION?

A. The Commission should require Florida Power and Light to produce this information, increase the assumed costs of remediation and/or assume double the amount of environmental liability insurance currently associated with this project in order to cover the additional uncertainty.

Q. WHAT SHOULD BE THE IMPACT ON THE FINAL ORDER IN THIS DOCKET AS A RESULT OF THE CONCERNS IDENTIFIED IN YOUR TESTIMONY?

A. The Commission should hold Florida Power and Light to its burden of proof and not approve the transaction absent complete disclosure and evaluation of the costs that FPL would incur if it became entangled in site remediation litigation. Part of this burden is to produce the apparently missing information. Part of FPL's burden is to fully disclose and evaluate all environmental liabilities and costs. This evaluation could include increasing the environmental liability insurance currently associated with this project in order to cover the additional uncertainty – if such coverage can even be obtained. If the missing information is provided, intervenors, including the OPC, should have the right to provide supplemental testimony based on receipt and further analysis of the missing environmental data.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

CERTIFICATE OF SERVICE
DOCKET NO. 150075-EI

I HEREBY CERTIFY that a true and correct copy of the Confidential (as designated by FP&L and/or Cedar Bay) Testimony of Dan J. Wittliff has been furnished to the following parties on this 8th day of June, 2015.

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Dan J. Wittliff, P.E., DEE, Fellow NSPE **GDS Associates, Inc.**
Managing Director -- Environmental Services

EDUCATION: Southern Methodist University - B.S. in Mechanical Engineering
University of Oklahoma - Master of Business Administration

PROFESSIONAL Licensed Professional Engineer in the State of Texas (46887)
Licensed Professional Engineer in the State of Tennessee (114184)

MEMBERSHIPS: National Society of Professional Engineers (President 2012-2013 and Fellow)
Texas Society of Professional Engineers (Past State President)
American Academy of Environmental Engineers (Diplomate, General; Member Board of Trustees)
TxSWANA and SWANA

CERTIFICATIONS: Radiation Safety Officer (1985 to present)
Registered Environmental Manager (1994-2003)

EXPERIENCE:

Dan Wittliff, P.E., DEE, F. NSPE serves as Managing Director of Environmental Services with GDS Associates, Incorporated in Austin, Texas. Prior to joining GDS Associates, Mr. Wittliff was Principal of Dan Wittliff Consulting, PLLC. This firm provided professional engineering services in environmental engineering, regulatory affairs, and energy systems.

From 1995 through 1999, Mr. Wittliff served as the first Chief Engineer for the TNRCC. Upon leaving TNRCC, he worked with Naismith Engineering, Inc. for two years providing consulting services to a wide array of industrial and municipal clients. Before service with TNRCC, Mr. Wittliff served in several supervisory positions with West Texas Utilities Company, Abilene, TX managing and monitoring power station performance to include issues related to air pollution, water treatment, industrial hygiene, and solid waste disposal.

The National Society of Professional Engineers (NSPE) House of Delegates elected Dan Wittliff, P.E., F.NSPE, DEE, as President in 2012–13. Since joining NSPE in 1972, Wittliff has served in various leadership positions including president of the Abilene Chapter and the Texas Society of Professional Engineers where he was honored as Engineer of the Year in 1998 and Distinguished Engineer of the Texas Engineering Foundation in 2001. He was made a Fellow of NSPE in 2004.

Specific Experience Includes:

Facility Permitting, Design, and Construction

Mr. Wittliff works closely with regulators and owners to permit and build facilities that: (1) comply with the law, (2) make good engineering and economic sense, and (3) come in on schedule. Listed below is a sample of the permitting and construction work that Mr. Wittliff accomplished.

- **Multi-Media Permitting for 49 MW Biomass Energy Project.** Managed agency contacts, environmental permitting, and public outreach for 49 MW biomass energy project in East Texas. Scope included new source review permitting, acid rain permitting, Title V operating permits, wetlands review, cultural and historic review, storm water permitting and pollution prevention, and waste registration.

- **Review of Renewable Fuels for Industrial and Power Generation Projects.** Reviewed and evaluated landfill gas and biomass as alternative, renewable fuels for 15 MW landfill gas power plant and a 36 to 140 MW mixed fuels electric power projects in Missouri, 50 MW biomass power plant in Texas, 25 to 30 MW refuse derived fuel and landfill gas power plant, and a secondary aluminum smelter in Texas.

- **Multi-Media Permitting for Two 150 MW Combustion Turbine Projects.** Managed agency contacts, environmental permitting, and public outreach for two East Texas sites each with twp 75 MW combustion turbines. Scope included new source review permitting, acid rain permitting, Title V operating permits,

wetlands review, cultural and historic review, storm water permitting and pollution prevention, and waste registration.

- **Multi-Media Permitting for 24 MW Hydroelectric Power Project.** Managed agency contacts, environmental permitting, and public outreach for hydroelectric project located on 83,000 acre reservoir in East Texas. Scope included wetlands review, 401 certification, water rights, endangered and threatened species for power project and associated 138 kv transmission line.

- **New Source Review and Title V Operating Permits and Compliance for Nine Municipal Solid Waste (MSW) Facilities.** Provided essential support to permitting team and provided key testimony before state officials to secure a MSW permit for six landfills and three transfer stations. Wrote and secured from state regulators a standard air permits and permits by rule for these facilities. Modeled landfill gas emissions and developed a compliance timeline for relevant LFG control systems. Wrote application for a Title V Air Operating Permit for these facilities. Worked with client and legal team to resolve compliance and enforcement issues.

- **Payson Power Project, Payson, Utah.** Evaluated suitability of city WWTP effluent for use in cooling system of a 150 MW combined cycle plant. Worked with city and client engineers to determine availability and cost of surface and ground water for use in power plant. Worked with client's engineers and attorneys and represented client to the Utah regulators on a New Source Review Air Permit for the project.

- **Environmental Services, West Texas Utilities, Abilene, Texas.** Managed the efforts of a professional environmental staff and a million plus dollar budget used in securing permits, determining fees, reporting compliance, and maintaining awareness for company's nine power stations, eight service facilities, and 1,100 employees. Supervised staff engaged in:
  - Air emissions, water rights, wastewater discharge, solid waste, and storm water permits;
  - Industrial hygiene and radiation safety;
  - Pollution prevention and emergency response, and
  - Coordinating with state's health and environmental agencies.

- **Oklaunion Power Station, West Texas Utilities, Vernon, Texas.** Supervised plant engineering staff and oversaw the efficiency of systems and equipment at this 720 MW coal-fired plant. Conducted comprehensive acceptance and operations tests of steam generator, turbine-generator, cooling/heating apparatus, and other power plant equipment according to the national test codes. Developed management, performance testing, and operations procedures. Coordinated environmental compliance and radiation safety program. Participated in last two years of construction, initial unit start-up, and checkout.

- **Power Plant Engineering, West Texas Utilities, Abilene, Texas.** Prepared support information and testimony used in fuel filing and reconciliation. Reviewed/evaluated contractor proposal for remediation of environmental problems. Served on Central and South West project team on standardized performance test procedures and online performance monitoring. Managed the company's power station performance testing program for 18 units in 8 locations. Co-authored the WTU *Environmental Policy Manual* and *Water Treatment Manual*. Managed computer retrofit of fuels measuring and monitoring at two plants. Responsible for performance efficiency of two gas-fired electric power units with a combined capacity of 362 MW. Developed engineering training manuals and supervised overhaul work at WTU plants. Managed company cathodic protection program. Wrote the company's power plant *Performance Testing Guide*. Supervised Fort Phantom Power Station Operations.

PUBLICATIONS AND PRESENTATIONS:

- Authored *Power Plant Performance Testing Guide*, West Texas Utilities, Abilene, Texas, 1983.

Dan J. Wittliff, P.E., DEE, Fellow NSPE
Managing Director -- Environmental Services

GDS Associates, Inc.

- Co-authored *Environmental Policy Manual* and *Water Treatment Manual*, West Texas Utilities, Abilene, Texas, 1984-1985.

PUBLIC VERSION OF TESTIMONY OF FIPUG WITNESS MICHAEL LANE

TESTIMONY
OF
MICHAEL G. LANE

01. Q. **PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Michael G. Lane and my business address is NewGen Strategies and Solutions, 5115 Maryland Way, Brentwood, TN 37024.

02. Q. **BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am employed by the firm of NewGen Strategies and Solutions, LLC. I am a Director, an LLC Member, and an Accredited Senior Appraiser.

03. Q. **BRIEFLY DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.**

I received an Associate's Degree in Applied Science and Nuclear Engineering Technology from Thomas Edison State College, in Trenton, New Jersey in 1994. In 1999, I earned a Bachelor of Business Administration Degree from Belmont University in Nashville, Tennessee, and in 2003 I earned a Masters of Business Administration (finance) from the Jack Massey Graduate School of Business at Belmont University, Nashville, Tennessee. Also, in 2003, I earned the designation of Accredited Senior Appraiser from the American Society of Appraisers. Accredited Senior Appraisers are required to have passed required appraisal education classes, to have a minimum of five years full time experience appraising and valuing utility property, and to pass an 8-hour comprehensive public utility appraisal exam administered by the American Society of Appraisers. Attached as Exhibit MGL-1 is a list of independent appraisals that I have performed.

From 1985 to 1994, I was with the United States Navy as a submarine-based nuclear power plant operator. From 1994 until 1998 I was employed by Hartford Steam Boiler Inspection and Insurance Company as a boiler inspector. I joined R. W. Beck in 1998. R. W. Beck changed its name to SAIC Energy Environment and Infrastructure (SEE&I) in 2010. I am currently an LLC Member at NewGen Strategies and Solutions, LLC.

04. Q. **PLEASE DESCRIBE NewGen Strategies and Solutions, LLC**

A. NewGen Strategies and Solutions, LLC was formed in 2012 by a group of consultants that had constituted the core of R.W. Beck's rates, financial, appraisal and economic consulting practices for the last 25 years of R. W. Beck's existence. Since its founding it has expanded rapidly and has offices in Austin, TX, Dallas, TX, Nashville, TN, Denver CO, and Seattle, WA. The firm started with 8 employees in 2012 and now employs 35 consultants with clients throughout the United States.

05. Q. **WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

A. I am providing testimony regarding my review of certain documents related to the valuation of the 250 MW Cedar Bay coal fired generating facility in Jacksonville, Florida. I am filing this testimony on behalf of the Florida Industrial Power Users Group ("FIPUG").

06. Q. **HAVE YOU PREPARED APPRAISALS OF OTHER UTILITY PROPERTY PRIOR IN THE PAST?**

A. Yes. I have prepared appraisals of generation assets as well as electric, water**,** wastewater and gas utility facilities throughout the country. Exhibit MGL-1 is a listing of utility appraisals that I have prepared or participated in preparing.

07. Q. **What documents did you review as a part of this testimony?**

A. I reviewed the following documents:

-April 5, 2013 Duff and Phelps document entitled "Valuation of Certain Tangible and Intangible Assets & Liabilities of Cogentrix Power Holdings LLC"

-August 9, 2013 Memorandum TO: Cogentrix Power Holdings II LLC 2013 accounting files FROM: Phil Gegorich regarding [redacted]

- Agreement for the purchase of Firm Capacity and Energy between AED Cedar Bay, Inc. and Florida Power and Light Company

-The deposition of Stephen Mark Rudolph taken on May 15, 2015.

-The March 4, 2015 Duff & Phelps report entitled "Valuation of Certain Tangible and Intangible Assets of CBAS Power, Inc."

08. Q. **WHAT FINDINGS DID YOU DISCERN FROM YOUR REVIEW OF THESE DOCUMENTS RELATED TO THE VALUE OF CEDAR BAY GENERATING STATION?**

A. The Goldman sale of the Cedar Bay generating assets (the assets) in 2013 represents an arm's length transaction and provides a strong market comparable transaction that is useful in the valuation of the Cedar Bay generating assets. In the deposition of Mr. Rudolph on page 31, Mr. Rudolph implies that the Duff and Phelps report dated

April 5, 2013 was simply an "allocation" of the purchase price that had been set by the transaction and not really a valuation of the assets. I disagree with that statement in that, the purpose of the Purchase Price Allocation is to establish a Fair Market Value for the assets to first check for the presence of identifiable and unidentifiable intangible assets as well as goodwill that would have to be accounted for properly. The secondary purpose of a Purchase Price Allocation is to then allocate the value to assets for accounting purposes. The Duff & Phelps report is clearly titled "Valuation of Certain Tangible and Intangible Assets & Liabilities of Cogentrix Power Holdings, LLC".

09. Q. **ARE THERE ANY OTHER FINDINGS OF NOTE?**

A. Yes. The arm's length transaction and valuation of the assets in 2013 both provide a strong starting point for valuation of the assets. Based on Duff & Phelps' valuation, [redacted] (see Duff & Phelps Valuation of Certain Tangible and Intangible Assets & Liabilities of Cogentrix Power Holdings, LLC [redacted]). [redacted] (see Duff & Phelps Valuation of Certain Tangible and Intangible Assets & Liabilities of Cogentrix Power Holdings, LLC [redacted]). Since the PPA has a defined term, the value of the PPA will generally go down over time unless it is extended or there is some dramatic change in the gas and power markets over the life of the PPA.

10. Q. **ARE YOU ABLE TO RECONCILE THE DIFFERNCE BETWEEN DUFF & PHELPS 2013 AND 2015 VALUATIONS OF THE CEDAR BAY**

GENERATING STATION?

In part, yes. The 2013 report relied on a [redacted] based on market-based inputs to the cost of capital analysis, which is appropriate for determining the fair market value of the asset. The 2015 report relied on a discount rate of 7%, based on the cost of capital of Florida Power and Light, which is appropriate for an investment value analysis of the assets, but not for a fair market value analysis of the assets. The appropriate discount rate for estimating fair market value would utilize market based inputs. In fact, Duff & Phelps prepared a market based cost of capital analysis for the 2015 report (see the March 4, 2105 Duff & Phelps report Valuation of Certain Tangible and Intangible Assets of CBAS Power, Inc. Exhibit D.2) that resulted in an [redacted] discount rate. The difference in value resulting from using the more appropriate discount rate accounts for about [redacted] (See exhibit MGL-2) of the total difference between 2013 and 2015 valuations of [redacted]. Additionally, there was a tax amortization benefit included in the 2015 valuation that was not included in the 2013 valuation that accounts for [redacted] of the difference. Those two items account for approximately [redacted] of the increase in value from 2013 to 2015. The remaining [redacted] appears to be related to differences in assumptions related to the revenues produced.

11. Q. **Do you believe the $520,000,000 fair market value suggested by the Duff and Phelps March 4, 2015 report is overstated? If so, why?**

A. Yes, I believe that the $520,000,000 value suggested by Duff and Phelps' March 4, 2015 report is overstated. The premise of value was intended to be Fair Market Value and the discounted cash flow analysis upon which the March, 2015 valuation

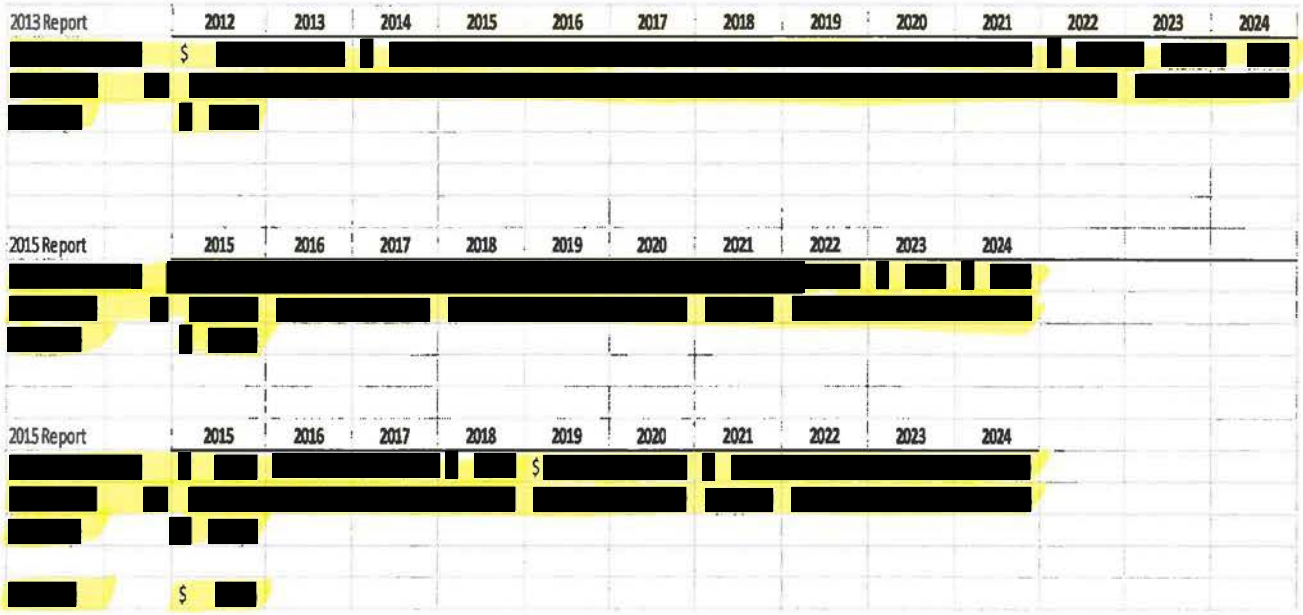
is based utilizes a discount rate more appropriate for an Investment Value premise of value. Utilizing the lower, Florida Power and Light specific, discount rate inappropriately adds at least [redacted] to the valuation results. Additionally, the truly arm's length transaction that occurred when the Assets were purchased by Carlyle in 2013 is a better indicator of value and a better market comparable than Florida Power and Light's purchase of the assets in 2015. Since Florida Power and Light is compelled by the Purchased Power Agreement (the Agreement for the purchase of Firm Capacity and Energy between AED Cedar Bay, Inc. and Florida Power and Light Company) to pay higher than market rates for the power purchased from Cedar Bay, the purchase price appears to have been affected by undue stimulus. A common definition of Market Value is: *Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.* Based on that definition, Florida Power and Light's ability to cease purchases of power at higher than market rates after the purchase of Cedar Bay appears to meet the definition of undue stimulus and the purchase price does not reflect Fair Market Value.

12. Q. **DOES THIS CONCLUDE YOUR PREPARED TESTIMONY?**

A. Yes, it does.

Petitioners' Exhibit MGL-1

Indianapolis Water and Wastewater Asset Appraisal
City of Falls Church, VA Water and Wastewater Asset Appraisal
Eastman Chemical Company
Hull, Massachusetts
Volunteer Army Ammunition Plant
Hemphill Light and Power (Bio Mass)
Upper Occoquan Sewer Authority
Mass Development (Electric and Gas)
North VA Electric Coop (power portfolio)
Key Equipment Finance (coal fired power)
Alcoa Power Generating (Hydro)
Alcoa Power Generating (Cogen)
Citipower (gas field and gas distribution)
Key Equipment Finance
Smurfitt Stone Container (cogen)
Williams Power Company (Combined Cycle generating)
Wheelabrator (Waste energy facility)
Capstar Partners Capital (wind generating facility)
Bank of America (coal fired generating)
Ky. Governor’s Office for Local Development (gas distribution)
Mesirow Financial (Wind generating)
Competitive Power Ventures (geothermal)
South Kentucky RECC (electric distribution)
AES (coal fired generation)
Southeastern Public Service Authority (waste to energy)
Currituck County, NC (water distribution)
GE Capital (cogen)
Louisville Water Company (water transportation valuation)
Key Equipment Finance (coal generation)
Kill Devil Hills, NC (waste water appraisal)
Brownsville Public Utility Board (water distribution)
Brownsville Public Utility Board (wastewater)
Concord, NC (water appraisal)
Greater Ouachita Water Company (water distribution)
Greater Ouachita Water Company (wastewater)
St. Tammany Parrish (wastewater)
Geneva, Ohio (water distribution)


2013 Report
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2024
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$

PUBLIC VERSION OF
FIPUG'S EXHIBITS 1-17

Cedar Bay Monthly Operations Summary

April, 2013

Electrical Power

Gross Generation:
Net Exported:
Used In House:
Imported:
Equivalent Net Exported:
Decommit Export:(Incl. above)

Process Steam

Steam Exported:
Steam Energy:
Condensate Returned:
Condensate Energy:
Net Exported Process Energy:
Equivalent Power:
Conversion:

Capacity Factors, Contractual

On Peak:
Off Peak:
Overall:

Capacity Factors, Raw

On Peak:
Off Peak:
Overall:

Production (non-shutdown hours)

On Peak

AGC Hours:
AGC Average Load:
Derate Hours:
Derate Average Load:
Force Majeure Hours:
Force Majeure Average Load:
Over Generation Hours:
Over Generation Average Load:
Planned Outage Hours:
Planned Outage Average Load:
Net Exported:

Production (cont., non-shutdown hours)

Off Peak

AGC Hours:
AGC Average Load:
Derate Hours:
Derate Average Load:
Force Majeure Hours:
Force Majeure Average Load:
Over Generation Hours:
Over Generation Average Load:
Planned Outage Hours:
Planned Outage Average Load:
Net Exported:

Heat Rates

Generation Only:
Average Full Load (Gen. Only):
Gross Plant:
Net Plant:
Net Plant equivalent:
Process:
Average Boiler Efficiency:
Turbine

Consumables

Coal Used:
Coal Heat Input:
Average Coal Heating Value:
Boiler Oil Used:
Boiler Oil Heat Input:
Fiber Rejects Used:
Fiber Rejects Heat Input:
Average Fiber Rejects Heating Value:
TDF Used:
TDF Heat Input:
Average TDF Heating Value:
Total Heat Input:
Limestone Used:
Limestone Usage Rate:
Limestone Drying Oil Used:
Limestone Drying Oil Heat Input:
Aqueous Ammonia Used:

Efficiencies and QF Standard, %

ACTUAL				BUDGET			
	Net Thermal Effic.	Pump Therm. Eff.	QF Standard Pump Therm. Use		Net Thermal Effic.	Pump Therm. Eff.	QF Standard Pump Therm. Use
Month							
QTD							
YTD					3		

EXHIBIT 1
Witness Pattison
Date 5-14-15
Reporter: Sarah B. Gilroy

NOT FOR DISTRIBUTION

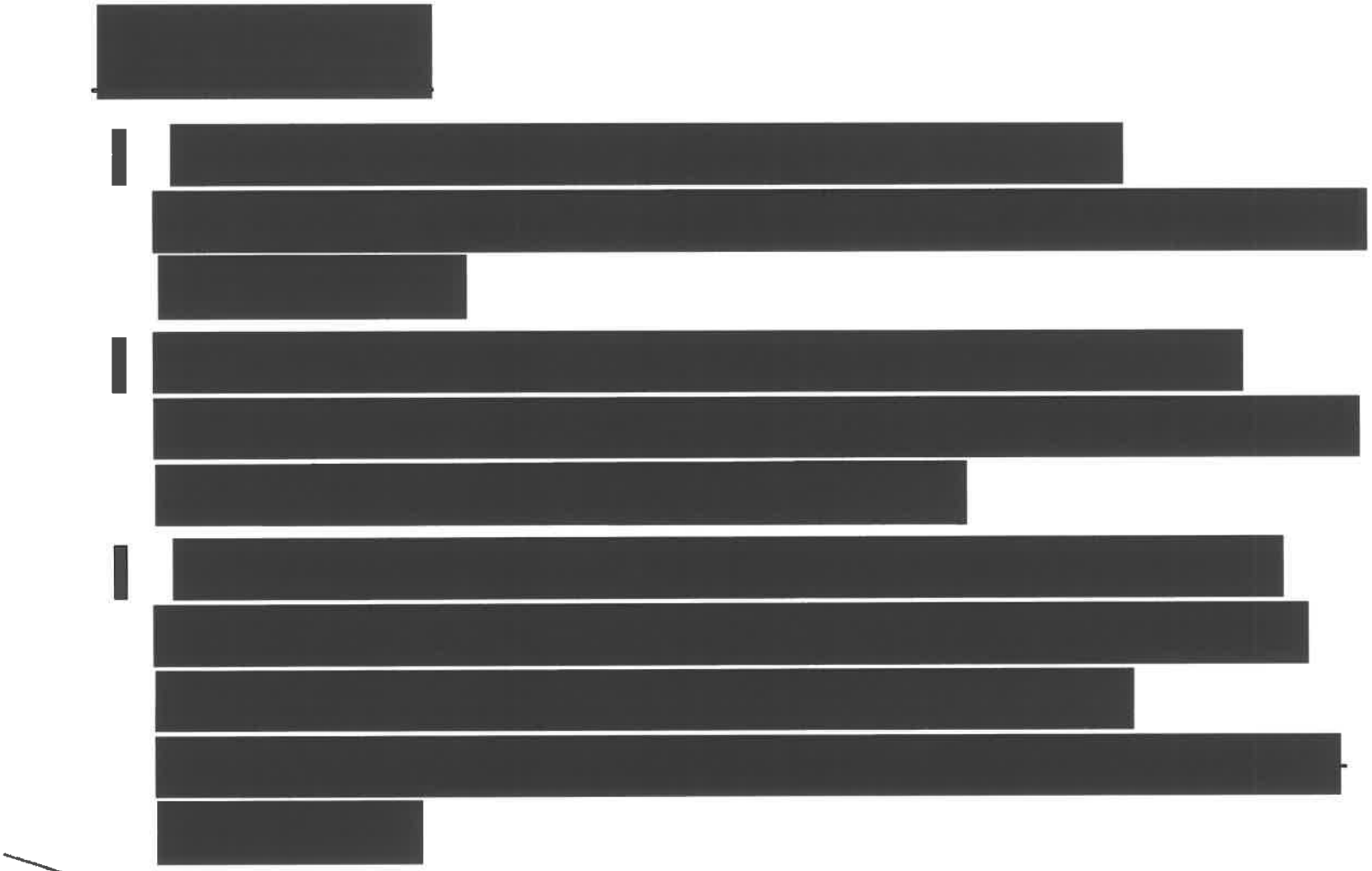
2014
Cogentrix Energy Power Management Business Plan Objectives

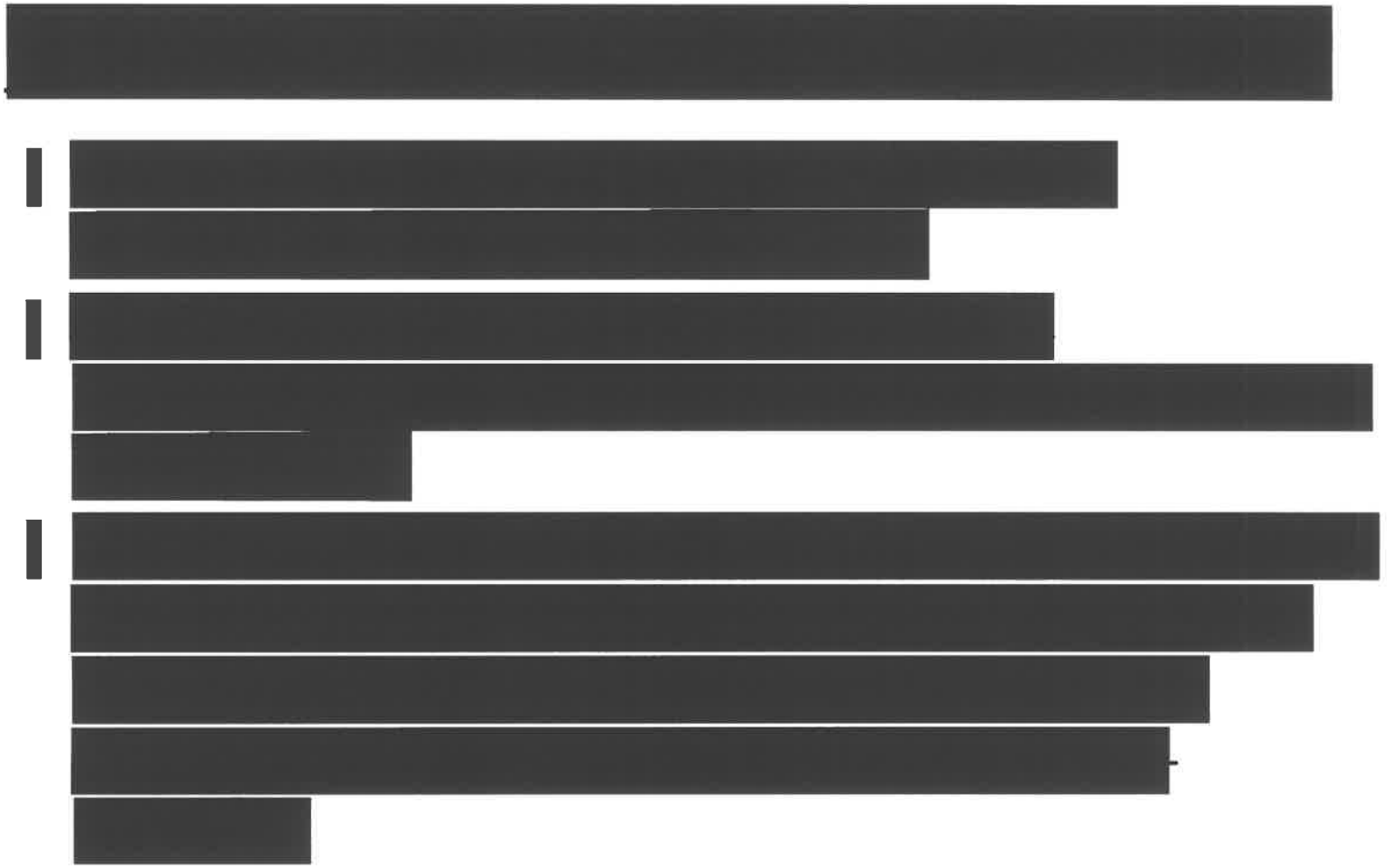
All Hands Meeting
October 7, 2014

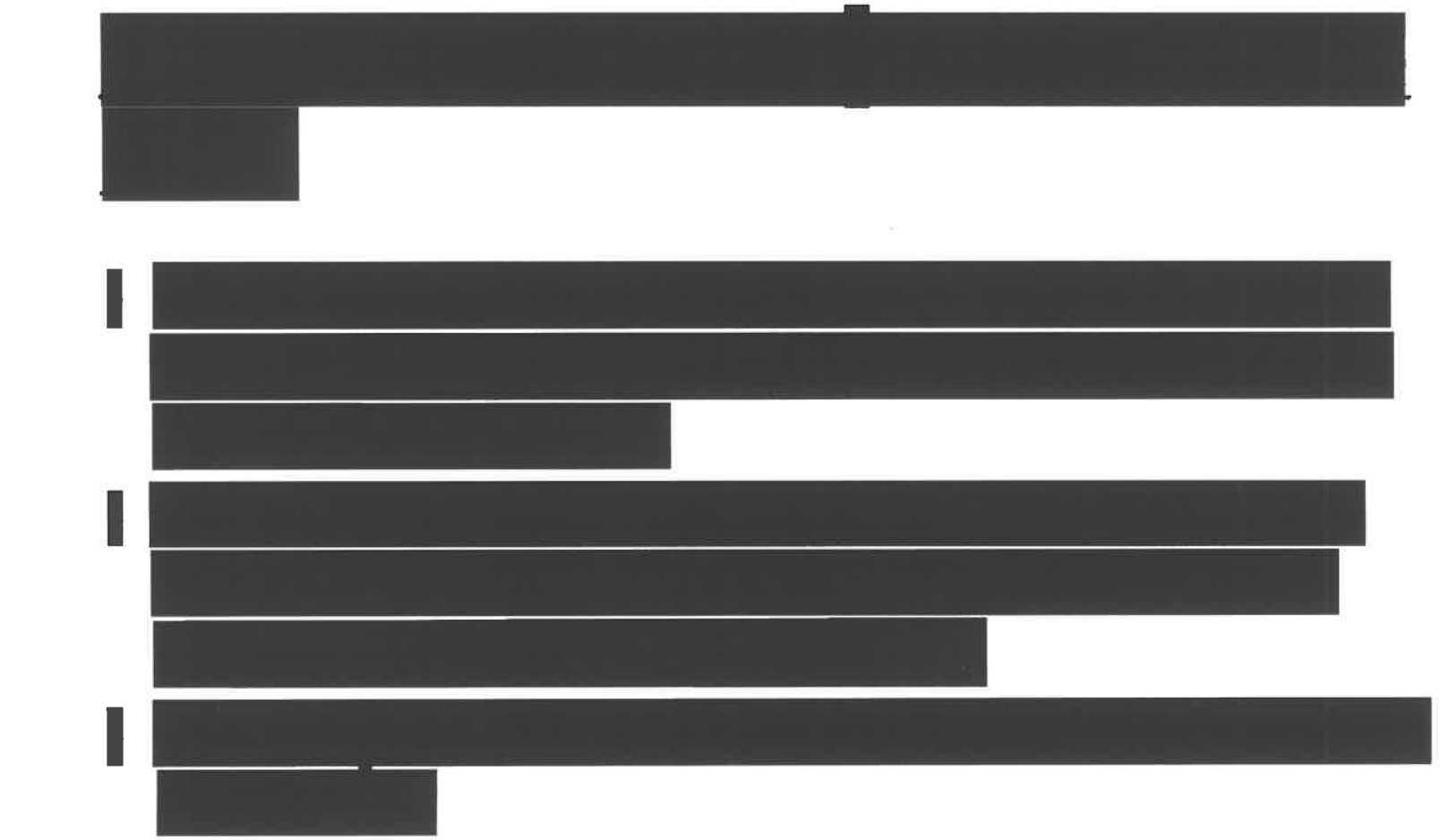
Cogentrix

EXHIBIT 5
Witness Patterson
Date 5-14-15
Reporter: Sarah B. Gilroy

[redacted]







Questions and Answers

CB0010336 (3)

From: Franceschi, Collin
Sent: Thursday, August 14, 2014 02:57 PM
To: Chaffee, Mark
CC: Evans, Cliff; Gray, Richard

[redacted]

EXHIBIT 10
Witness Patterson
Date 5-14-15
Reporter: Sarah B. Gilroy

[redacted]

Notification to Cedar Bay Employees

[redacted]

EXHIBIT 15
Witness Pattison
Date 5-14-15
Reporter: Sarah B. Gilroy

[redacted]

Cogentrix

MEMORANDUM

TO: [redacted] II LLC 2013 accounting files

FROM: Phil Gregorich

DATE: 8/9/13

[redacted]

EXHIBIT 17
Witness Ludolph
Date 5-15-15
Reporter: Sarah B. Gilroy

[redacted]

DUFF&PHELPS

Except for this title page, this document is REDACTED in its entirety.

CONFIDENTIAL

Valuation of Certain Tangible and Intangible Assets & Liabilities of Cogentrix Power Holdings LLC

April 5, 2013

Prepared for
Cogentrix Power Holdings LLC

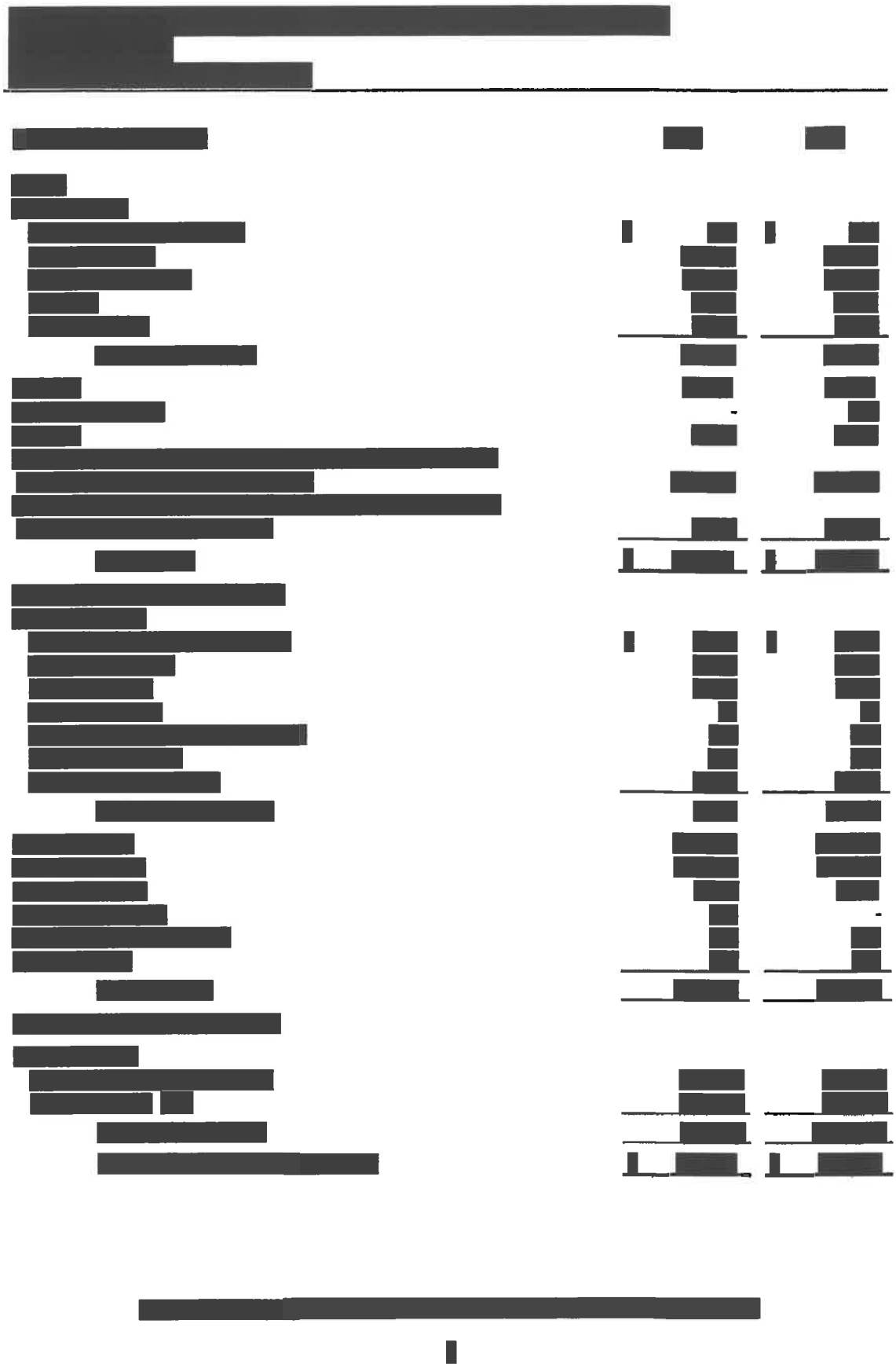
EXHIBIT 18
Witness Audited
Date 5-15-15
Reporter: Sarah B. Gilroy

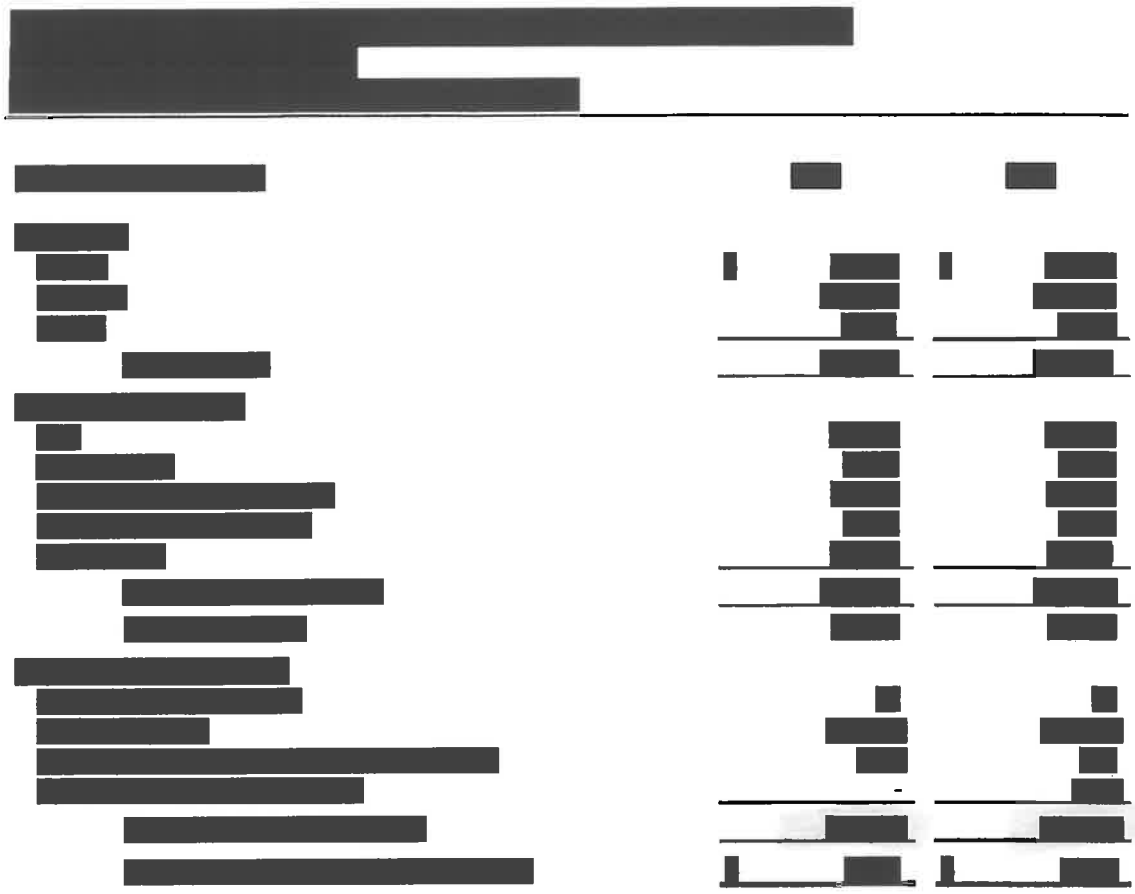
Cedar Bay Generating Company, Limited Partnership

Financial Statements
December 31, 2014 and 2013

EXHIBIT 21
Witness Dunsted
Date 5-15-15
Reporter: Sarah B. Gilroy

[redacted]





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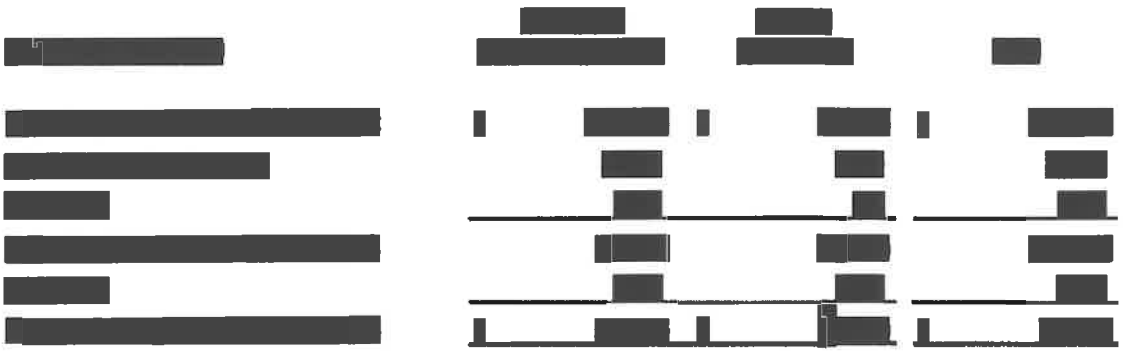

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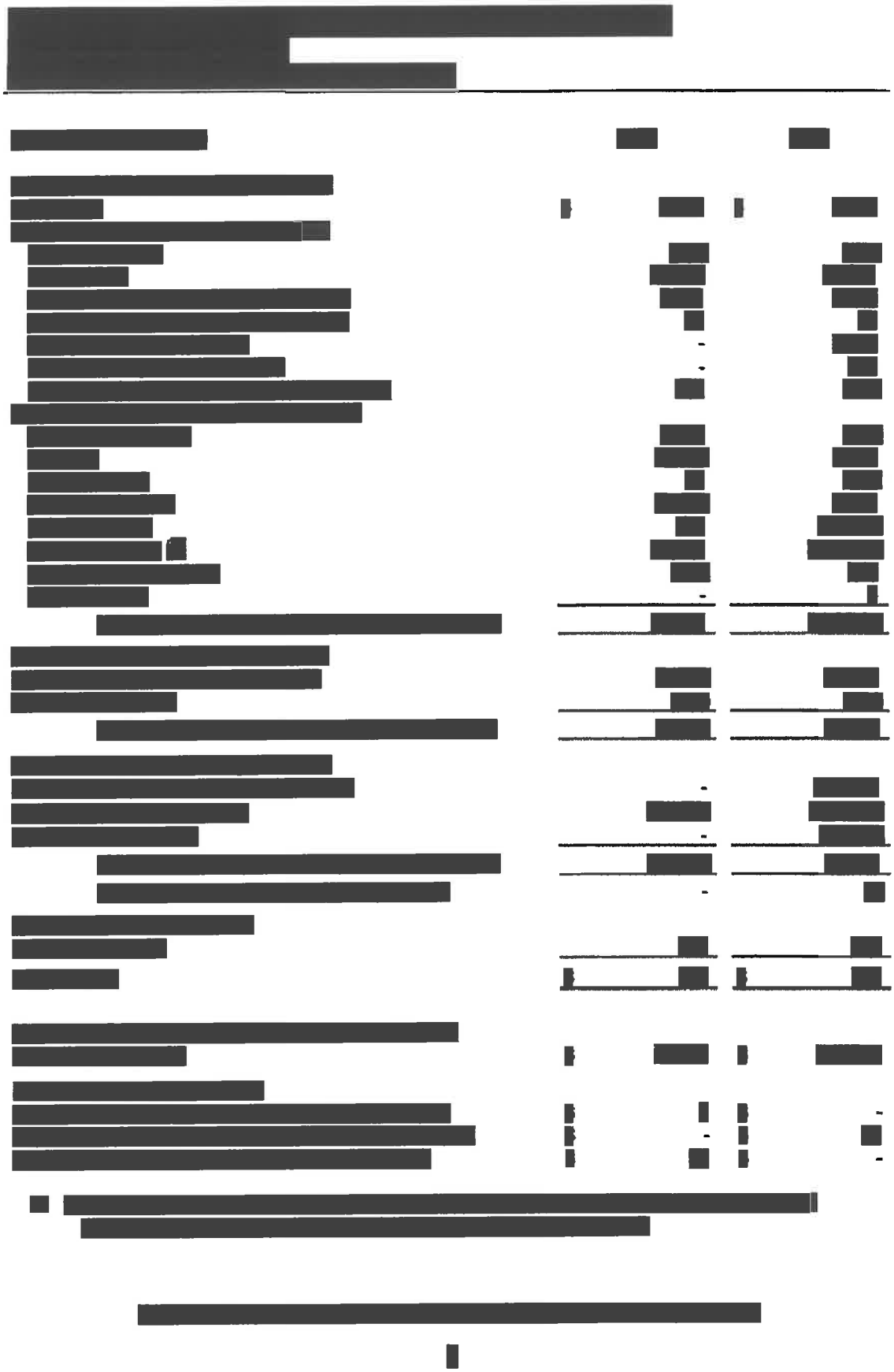
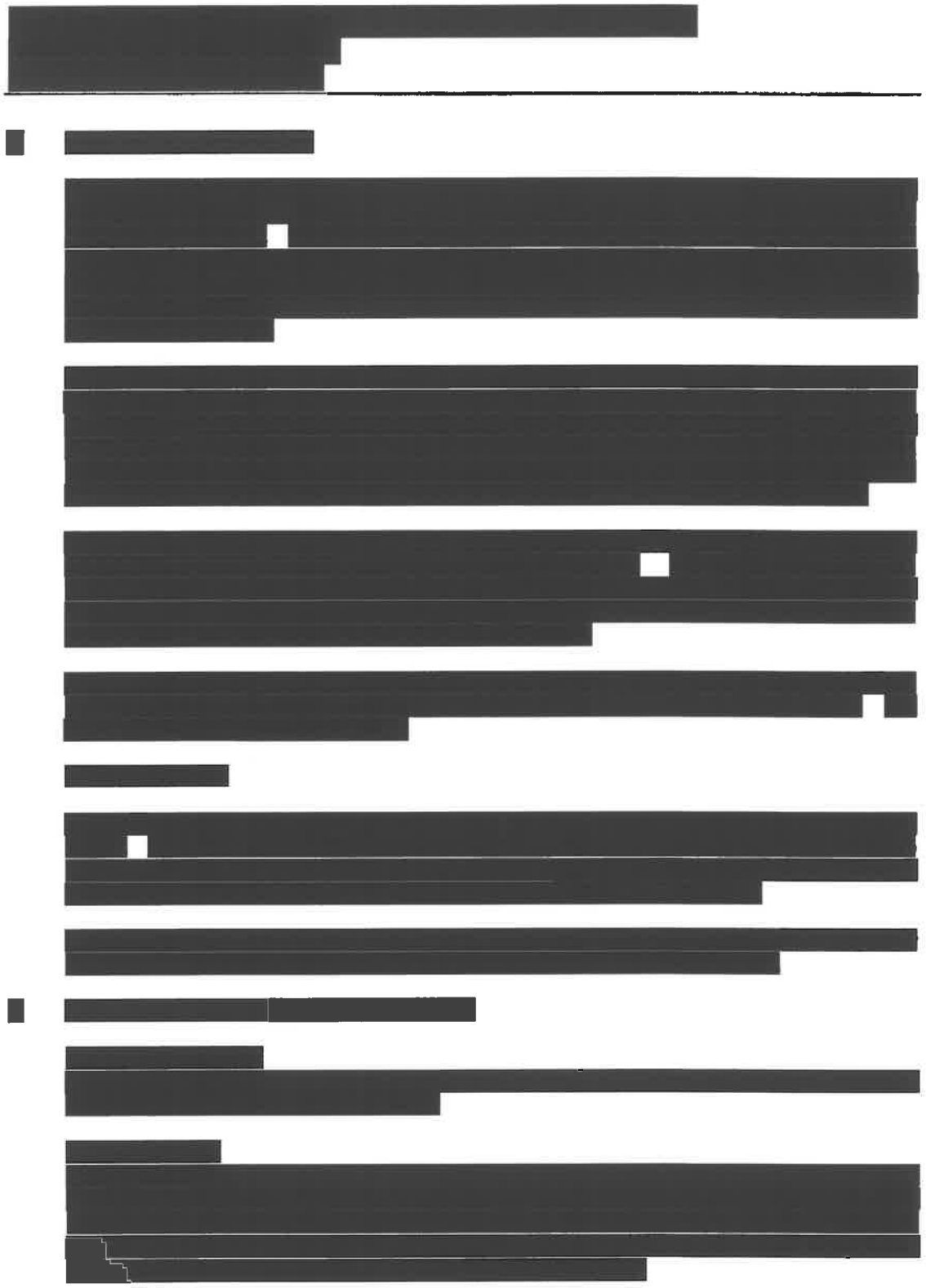
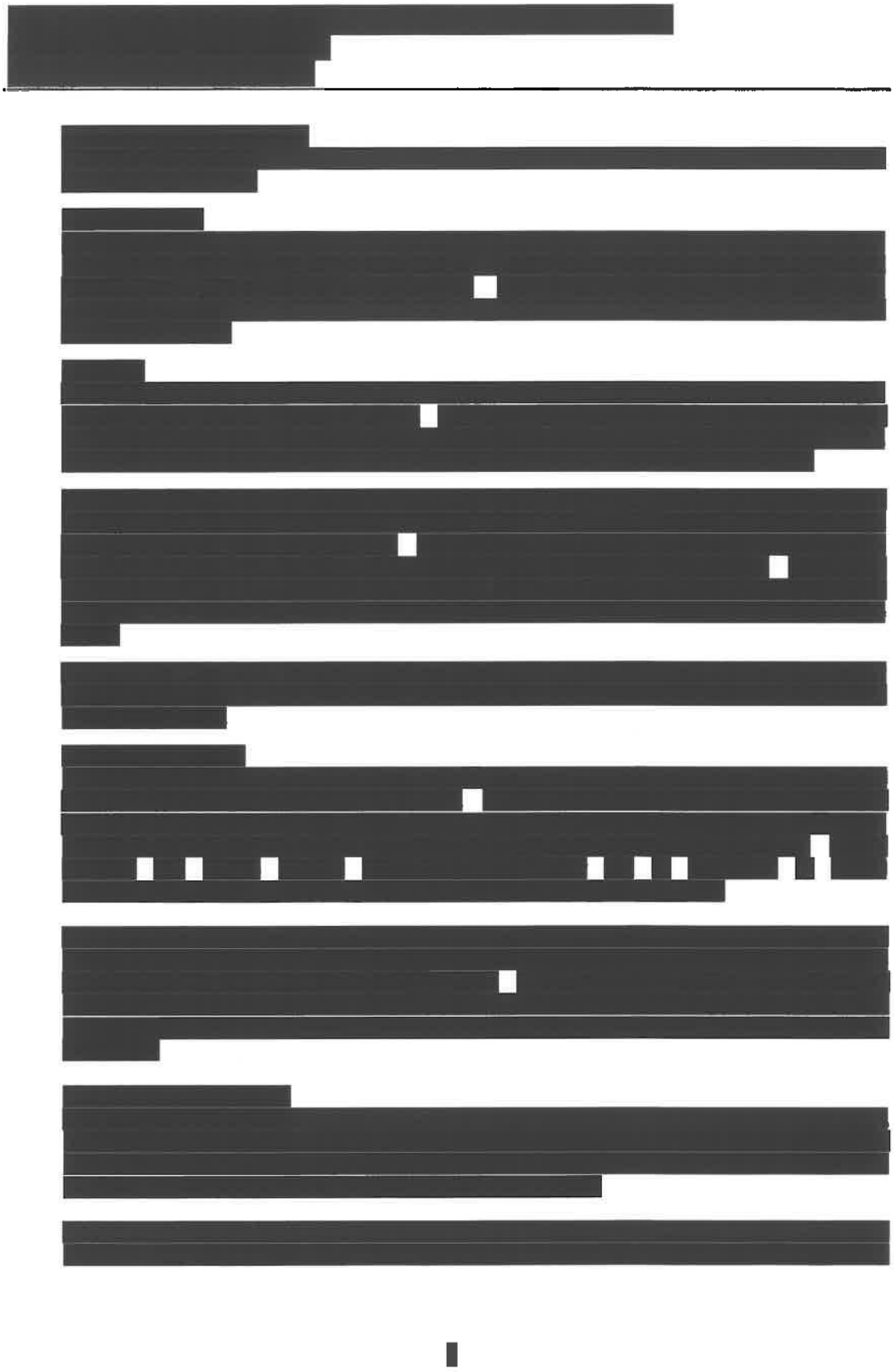
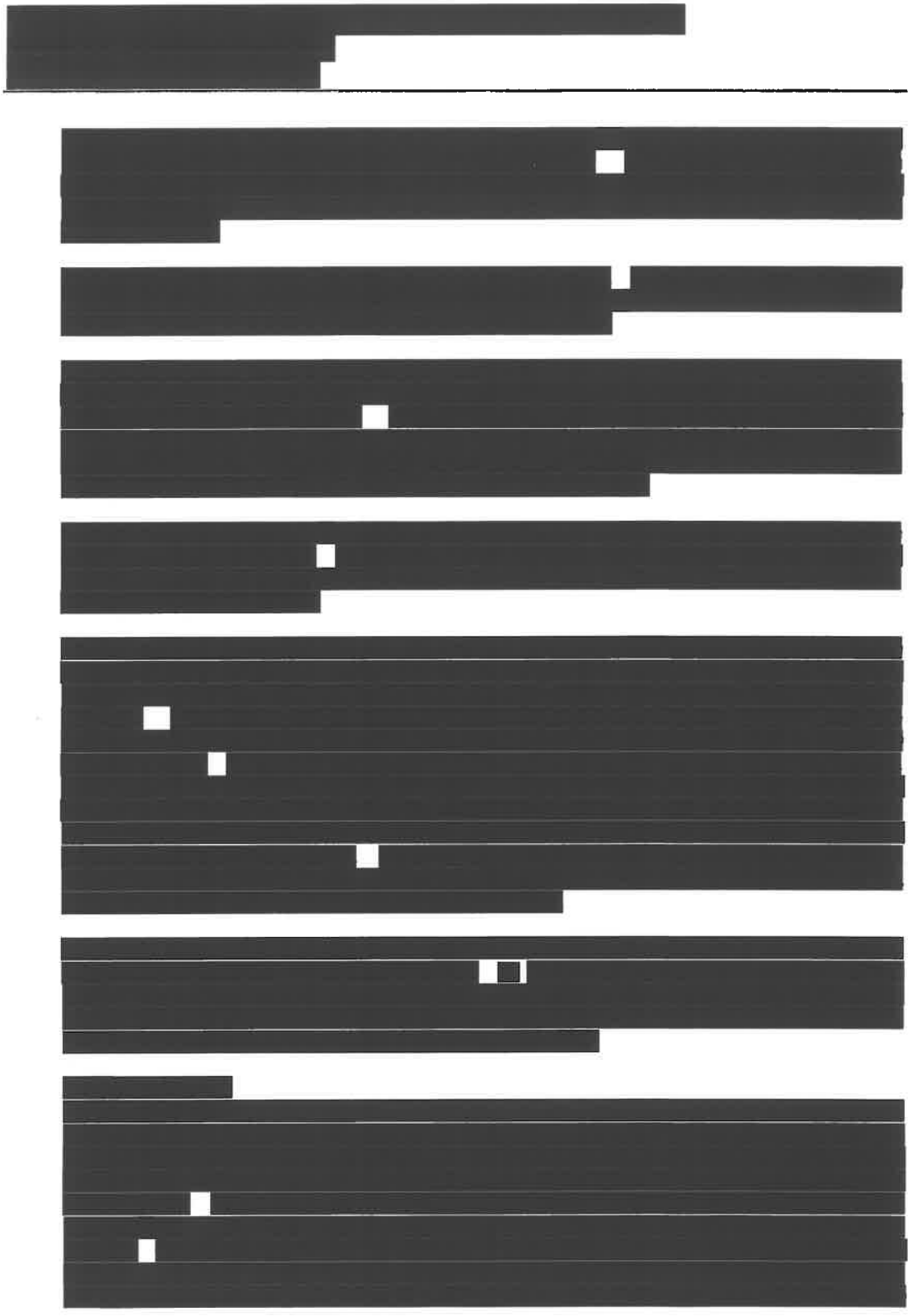
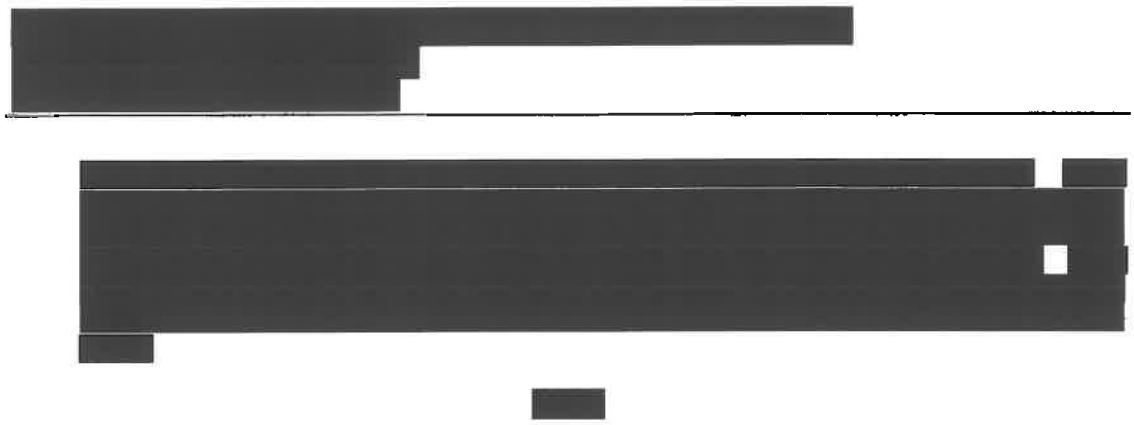






[redacted]





Cedar Bay Generating Company, L.P.

$250 Million Senior Secured Term Loan

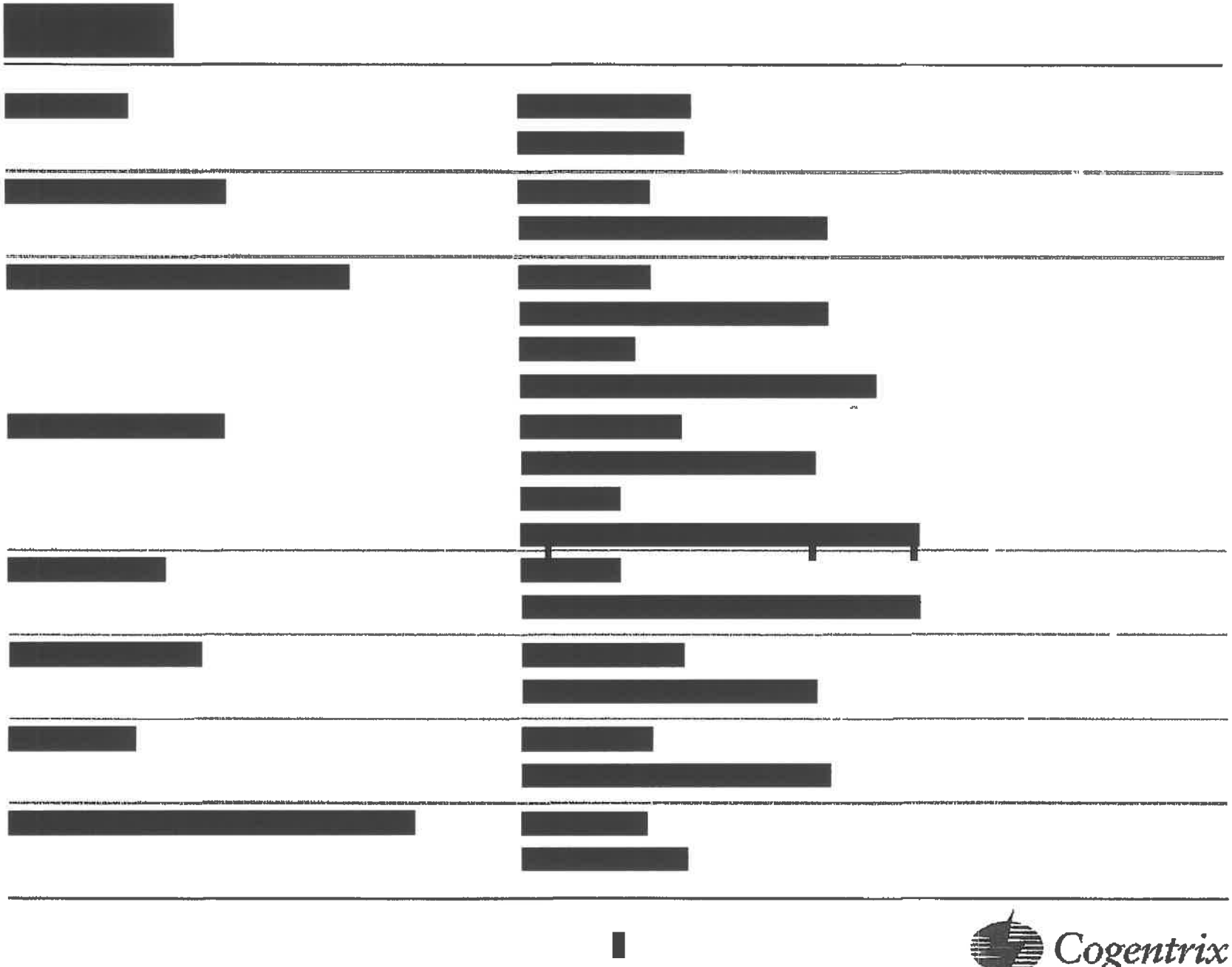
March 20, 2013

Confidential Presentation
to
Prospective Public-Side Lenders

EXHIBIT 22
Witness Rudolph
Date 5-15-15
Reporter: Sarah B. Gilroy

Disclaimer

[redacted]



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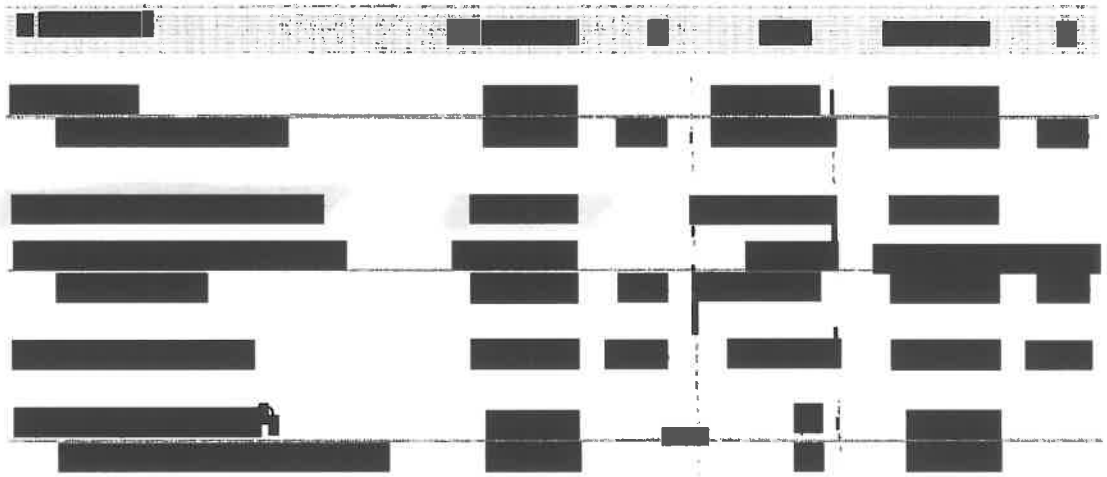

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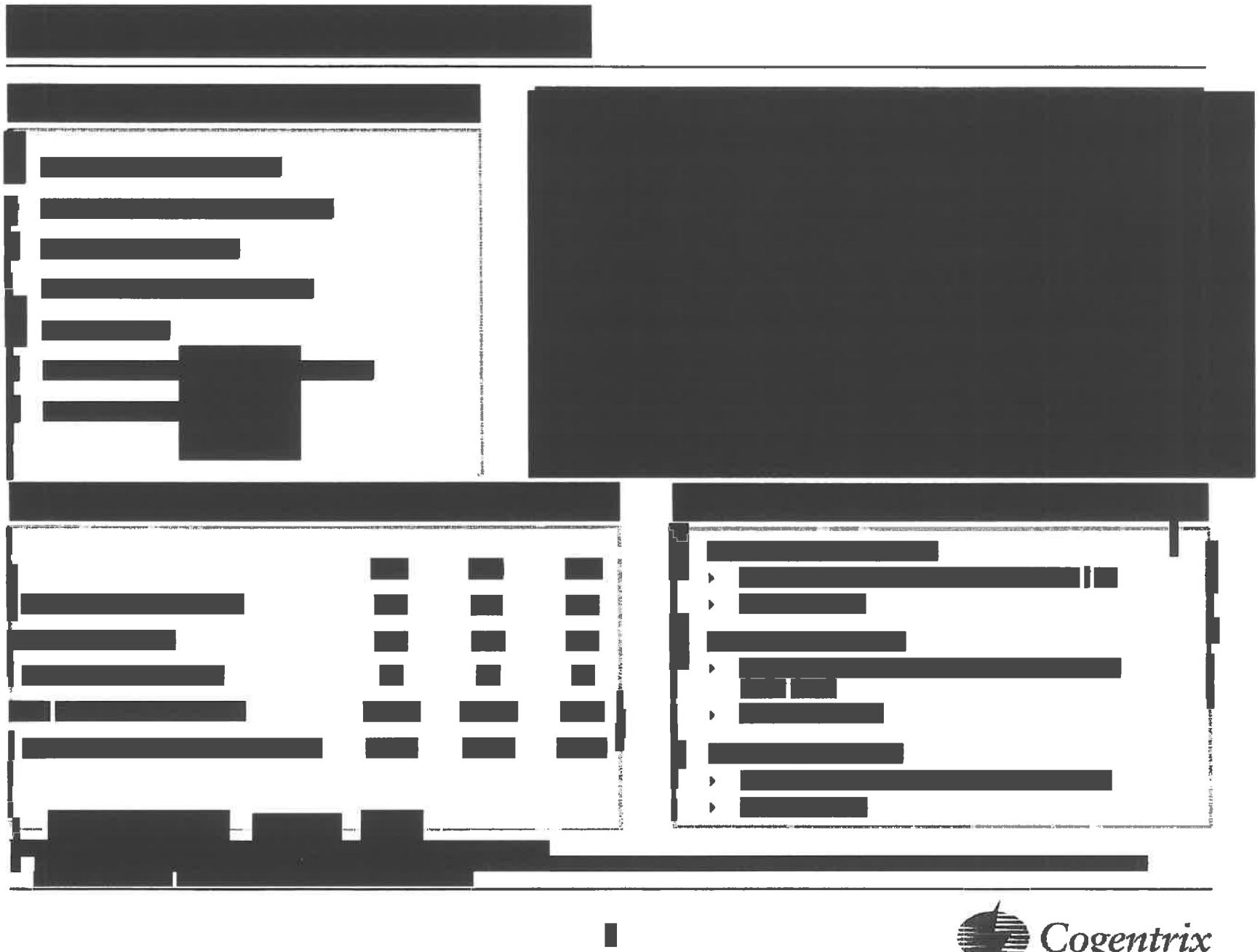

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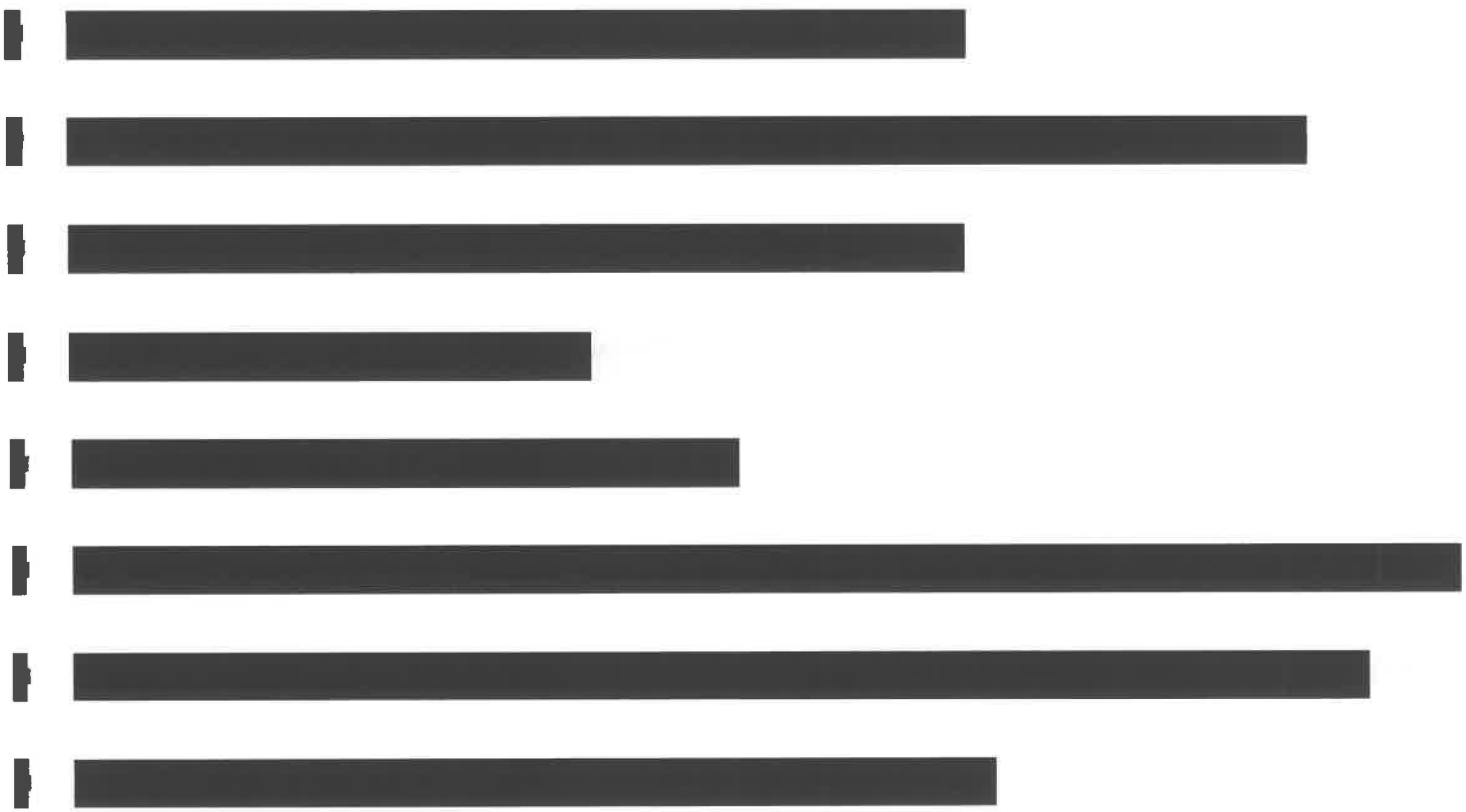

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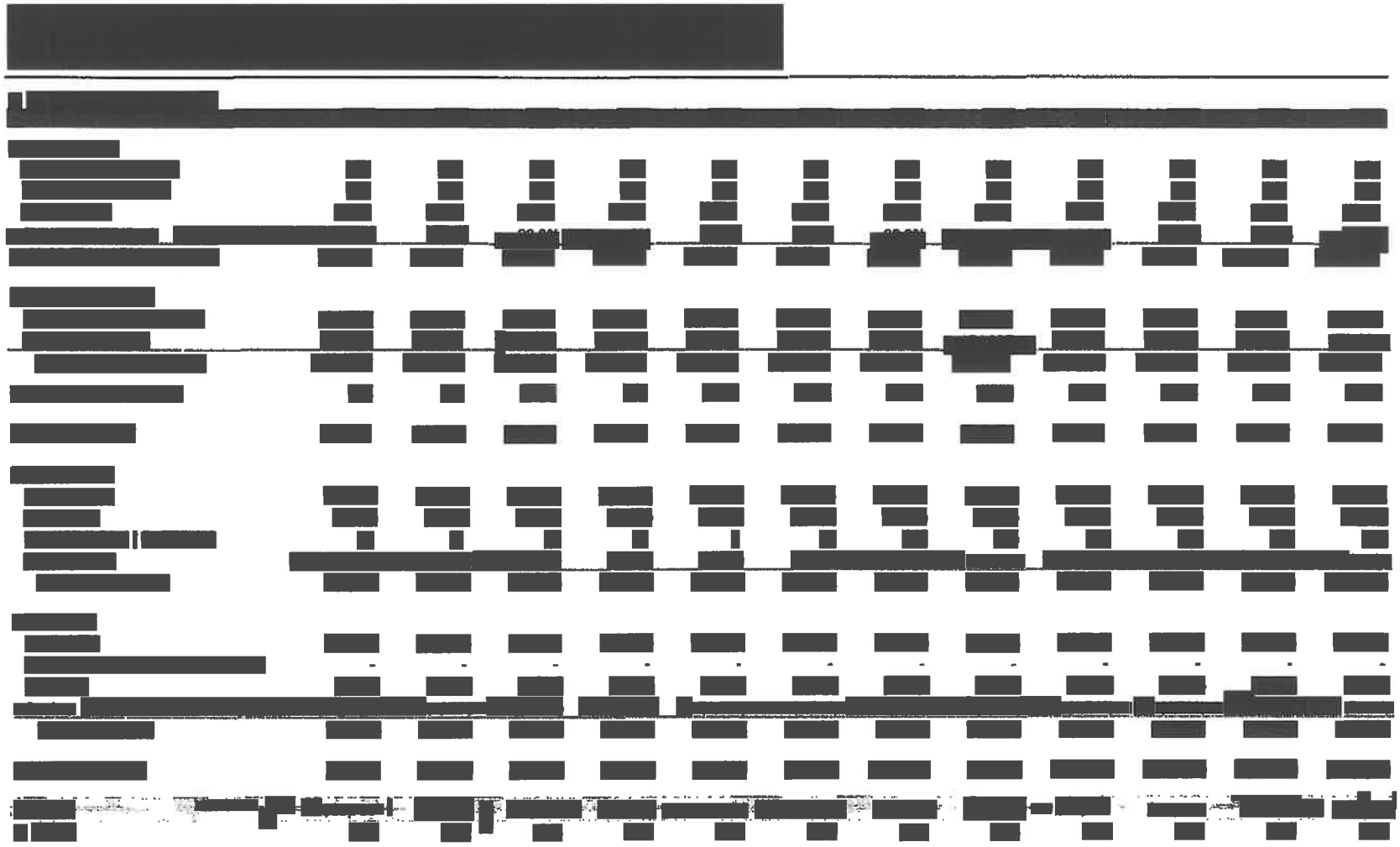

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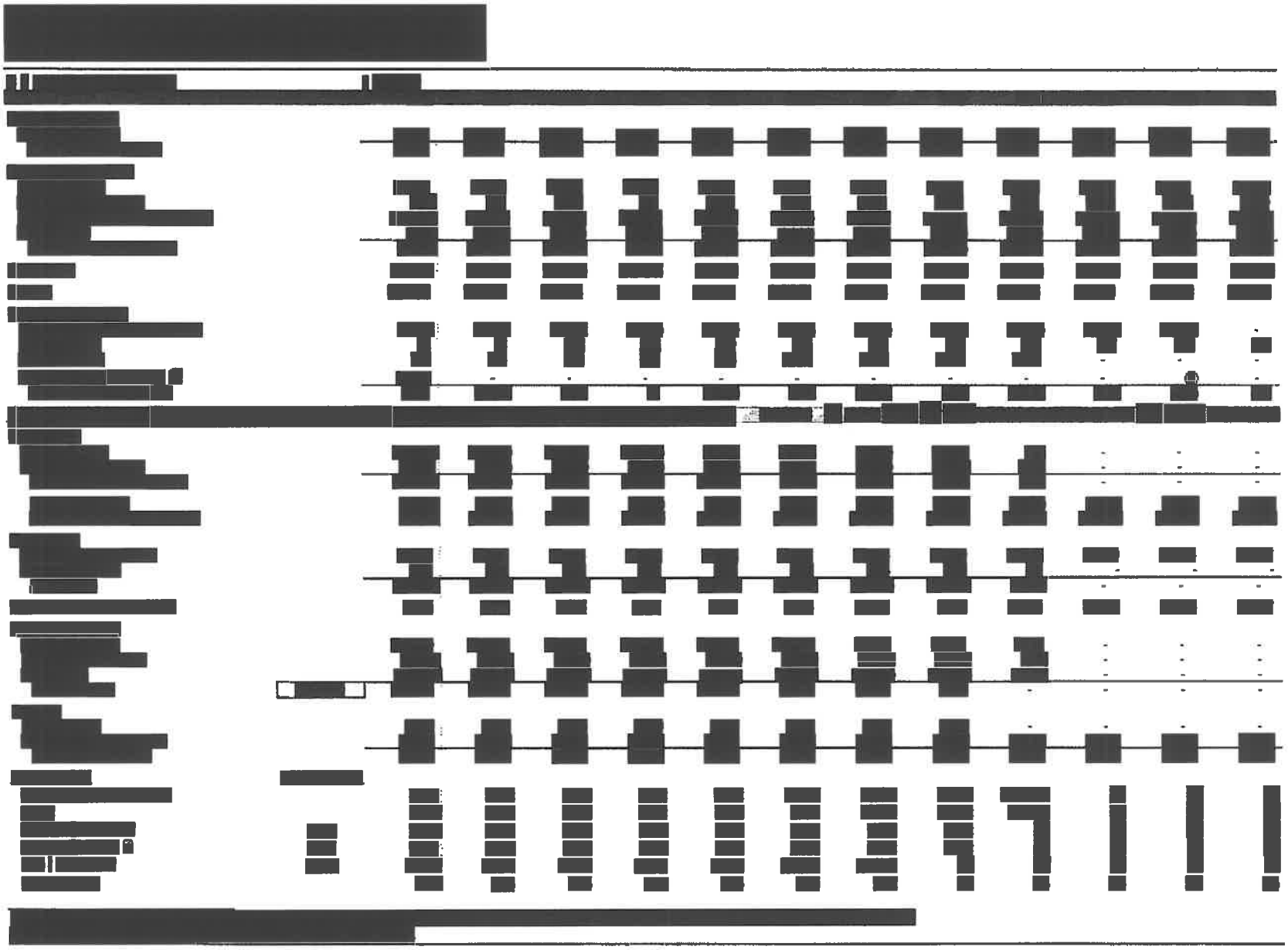

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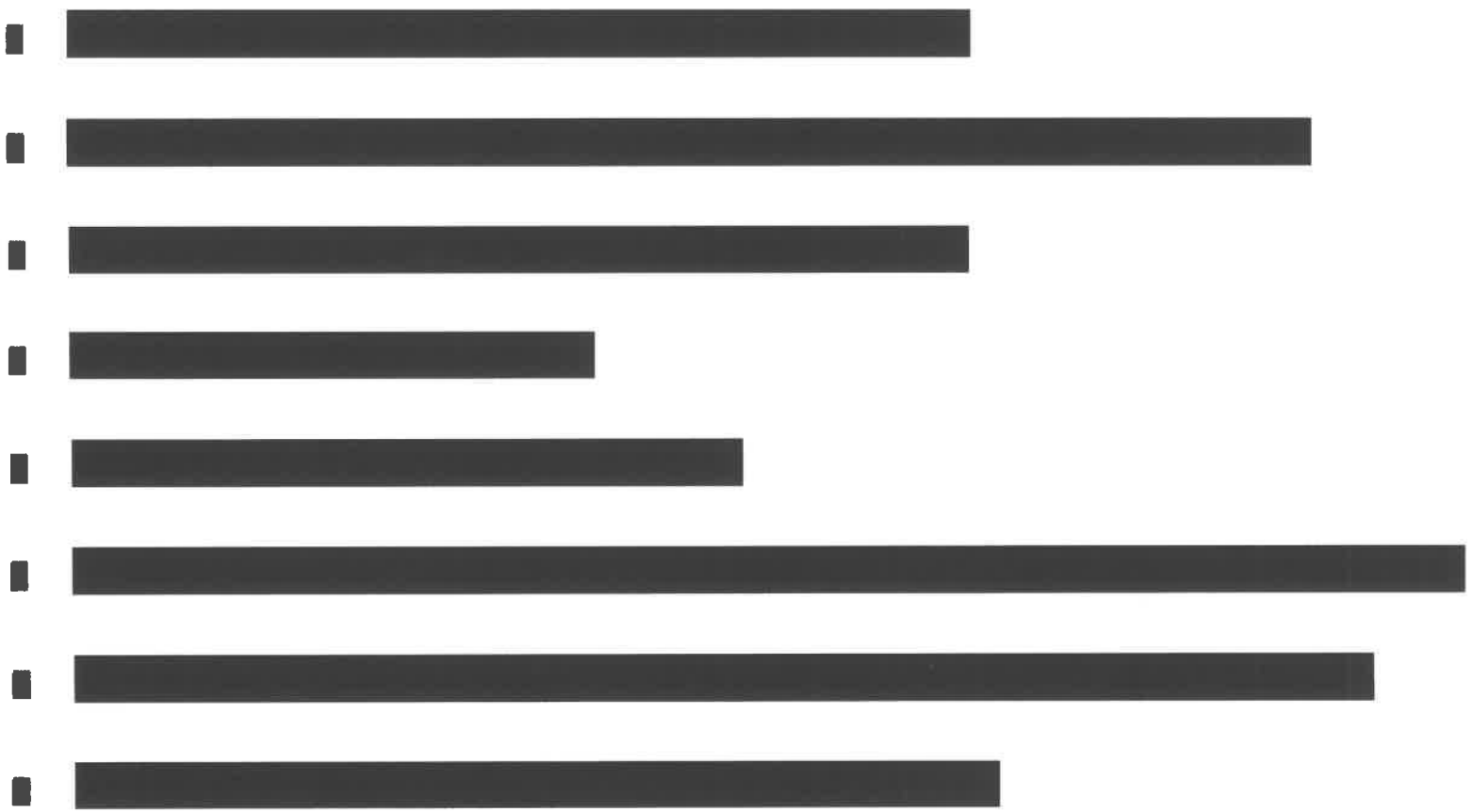

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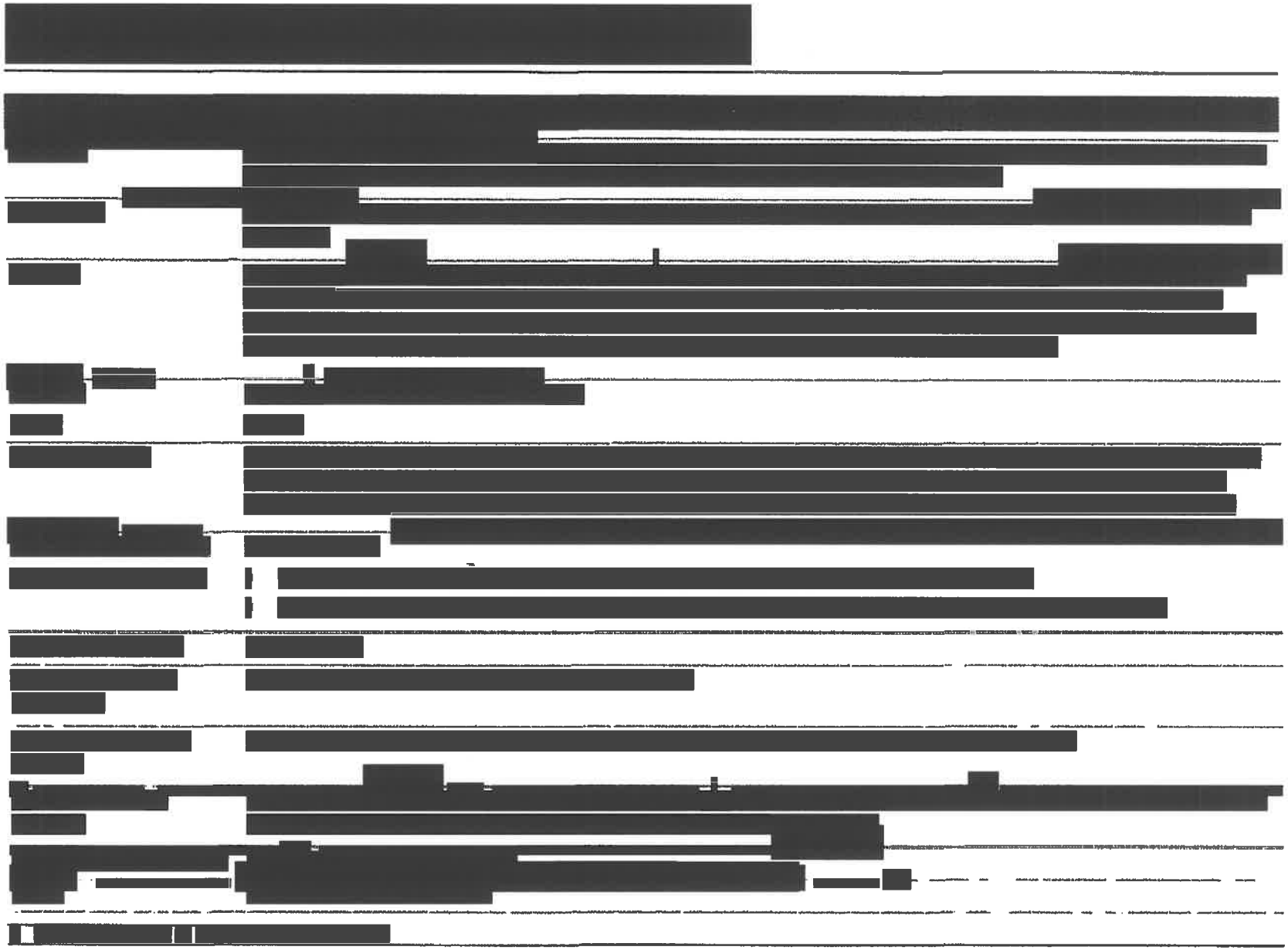

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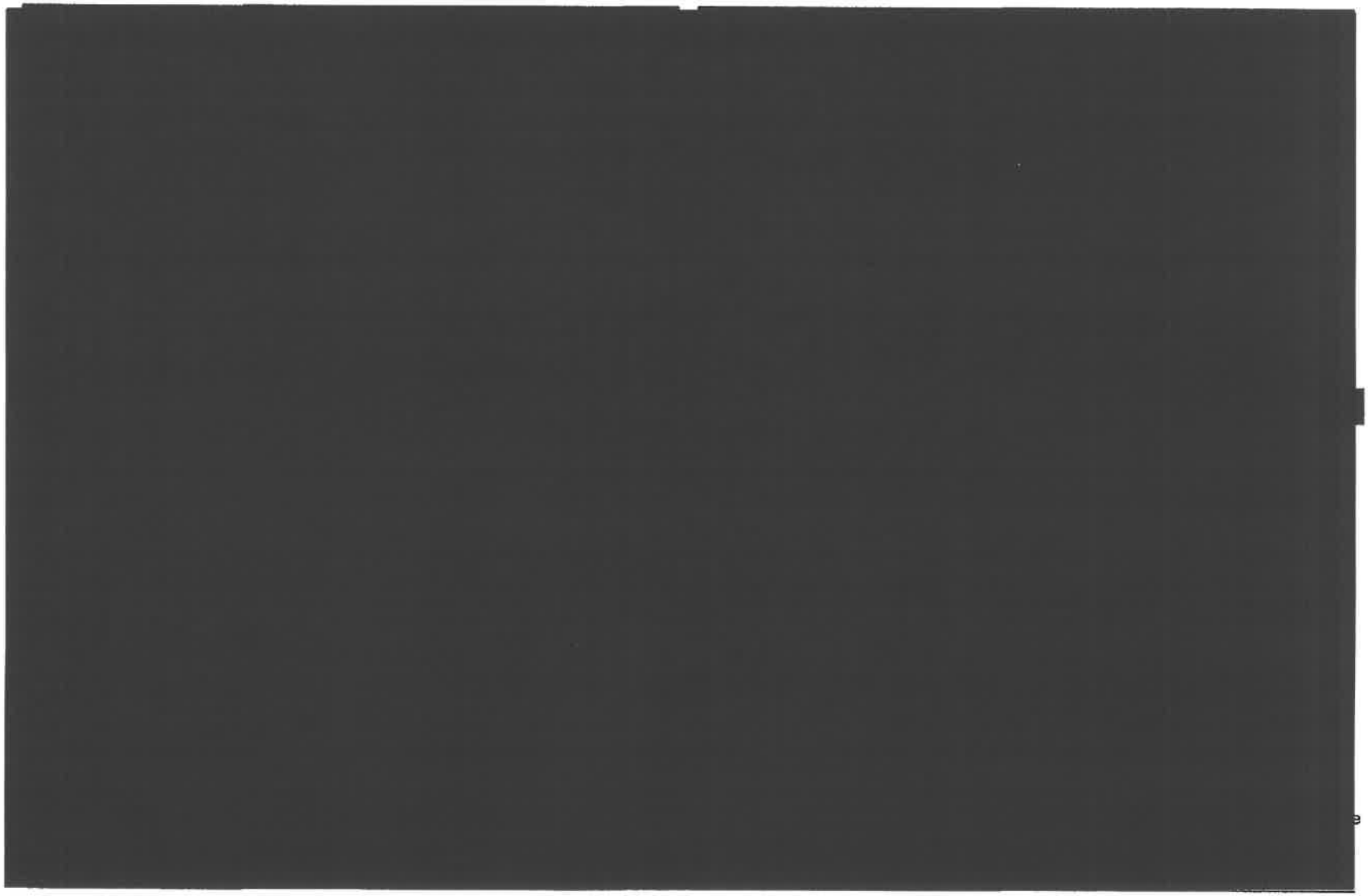

Cogentrix

CB0013721

From: Antreas Ghazarossian | CCA
Sent: Tuesday, November 26, 2013 03:50 PM
To: 'Heichel, Gary'
CC: Kitty Guinsler | CCA
Subject: FW: Cedar Bay Generating
Importance: High

[redacted]

EXHIBIT 24
Witness Cuano
Date 5-27-15
Reporter: Sarah B. Gilroy

CB0013721

To: Antreas Ghazarossian | CCA; Meaux, Ryan
Cc: Kitty Guinsler | CCA
Subject: RE: Cedar Bay Generating
Importance: High

[redacted]

From: Franceschi, Collin
To: Evans, Cliff
Sent: 10/15/2014 4:58:29 PM
Subject: RE: Cedar Bay Dispatch

[redacted]

EXHIBIT 25
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

[redacted]

From: Franceschi, Collin
To: Evans, Cliff
Sent: 10/15/2014 2:59:52 PM
Subject: RE: Cedar Bay Dispatch

30

From: Franceschi, Collin
To: Evans, Cliff
Sent: 5/30/2014 2:50:32 PM
Subject: RE: PO Sent to you for Further Review2057-0000012094by:TPATTERSON

[redacted]

EXHIBIT 26
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

[redacted]

From: Fraites, John
To: Bendel, Michelle
Sent: 1/6/2015 4:36:39 PM
Subject: FW: Cedar Bay Budget Presentation
Attachments: [redacted]

FYI

From: Franceschi, Collin
Sent: Tuesday, January 06, 2015 4:32 PM
To: Larocque, Jim
Cc: Gasbarro, John; Fraites, John; Evans, Cliff
Subject: Cedar Bay Budget Presentation

Jim,

[redacted]

Happy New Year,

Collin

Collin Franceschi

Cogentrix Energy Power Management, LLC

Desk: 704-672-2760

Cell: 704-517-2295

collinfranceschi@cogentrix.com

EXHIBIT 29
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

From: Evans, Cliff
To: Larocque, Jim
Sent: 10/20/2014 10:27:18 AM
Subject: FPL/Cedar Bay Dispatch Savings

Jim,

[redacted]

Cogentrix Energy Power Management, LLC

9405 Arrowpoint Boulevard

Charlotte, NC 28273-8110

Tel: 704-672-2806 Fax: 704-529-1006

e-mail: CliffEvans@Cogentrix.com

Logo.gif

Cliff Evans

Sr. Vice President - Asset Management

EXHIBIT 30
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

From:	Evans, Cliff
To:	Thomas Hartman (tom.hartman@fpl.com)
CC:	Larocque, Jim
Sent:	8/17/2014 9:24:25 PM
Subject:	Cedar Bay Action Items

Tom,

I hope your weekend has gone well. I will be travelling to the west coast in the morning, but will have access to email (if the server on the plane is working properly). Please feel free to reach out to me on my cell phone (704) 560-2322 as well.

[redacted]

Cogentrix Energy Power Management, LLC

9405 Arrowpoint Boulevard

Charlotte, NC 28273-8110

Tel: 704-672-2806 Fax: 704-529-1006

e-mail: CliffEvans@Cogentrix.com

Logo.gif

Cliff Evans

Sr. Vice President - Asset Management

EXHIBIT 31
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

Cedar Bay Ownership Structure
CONFIDENTIAL

KEY
All ownership is 100% unless noted otherwise.

- HC — Holding Companies
- Partnerships
- CB — Cedar Bay Project
- C-Corps
- LLC treated as a corp
- Disregarded Entities
- Ownership
- Subordinated debt
- Borrower group

[redacted]

EXHIBIT 33
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

From: Evans, Cliff
To: Oldenburg, John; Robert Mancini (robert.mancini@carlyle.com); Matt O'Connor; Bonner, Tom; Larocque, Jim
CC: Barbosa, Daniel
Sent: 3/24/2014 9:38:58 AM
Subject: [redacted]
Attachments: [redacted]

[redacted]

Cogentrix Energy Power Management, LLC

9405 Arrowpoint Boulevard

Charlotte, NC 28273-8110

Tel: 704-672-2806 Fax: 704-529-1006

e-mail: CliffEvans@Cogentrix.com

Logo.gif

Cliff Evans

Sr. Vice President - Asset Management

EXHIBIT 37
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

THE CARLYLE GROUP

520 Madison Avenue • New York, New York 10022
Tel (212) 381-4900 • Fax (212) 381-4901

STRICTLY PRIVATE & CONFIDENTIAL

March 24, 2014

Mr. Thomas Hartman
Director, Business Management
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

Re: [redacted]

Dear Mr. Hartman,

[redacted]

1. **PPA Background**

Cedar Bay is a 250 MW circulating fluidized bed coal facility operating under the PPA with FPL, which by its terms, runs through January 2025. Pursuant to Appendix A of the PPA, FPL makes certain capacity payments to the Project including: (1) Base Capacity Credits, (2) Operations & Maintenance ("O&M") Credits, and (3) ~~Bonus~~ bonus Capacity Credits. [redacted]

[redacted]

- [redacted]

EXHIBIT 38
Witness Evans
Date 5-27-15
Reporter: Sarah B. Gilroy

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]