

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR RATE INCREASE BY
FLORIDA POWER & LIGHT COMPANY.

DOCKET NO. 160021-EI

PETITION FOR APPROVAL OF
2016-2018 STORM HARDENING PLAN
BY FLORIDA POWER & LIGHT
COMPANY.

DOCKET NO. 160061-EI

2016 DEPRECIATION AND
DISMANTLEMENT STUDY BY,
FLORIDA POWER & LIGHT COMPANY.

DOCKET NO. 160062-EI

PETITION FOR LIMITED
PROCEEDING TO MODIFY AND
CONTINUE INCENTIVE MECHANISM,
BY FLORIDA POWER & LIGHT
COMPANY.

DOCKET NO. 160088-EI

VOLUME 5

(Pages 461 through 563)

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JIMMY PATRONIS

DATE: Tuesday, August 23, 2016

TIME: Commenced at 9:00 a.m.
Concluded at 11:42 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

APPEARANCES: (As heretofore noted.)

I N D E X

WITNESSES

NAME:	PAGE NO.
JOHN J. REED	
Examination by Ms. Brownless	496
Examination by Mr. Sayler	501
Examination by Mr. Moyle	502
Examination by Mr. Sundback	526
Examination by Mr. Wright	557

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUMBER:		ID.	ADMTD.
579	List of witnesses and exhibits	484	
580	Staff Interrogatory, No. 142	508	
581	Excerpt/Reed Testimony before FERC in Docket No. RP94-149	537	
582	Excerpt/Reed Testimony before Public Service Commission of Utah in Docket No. 07-057-13	541	
583	Excerpt/Reed Testimony before Indiana Utility Regulatory Commission in Cause No. 41746	544	
584	Excerpt/Reed Testimony before Illinois Commerce Commission in Docket No. 14-0496	550	
585	Excerpt/Reed Testimony before Public Utilities Commission of Texas in Docket No. 38929	553	

P R O C E E D I N G S

1
2 **CHAIRMAN BROWN:** Just a reminder to silence
3 all of your phones this morning. And we are reconvening
4 the hearing today at 9:00 a.m. here, and my
5 understanding is we have a few preliminary matters to go
6 over before we hear from Witness Reed. So with that,
7 staff.

8 **MS. BROWNLESS:** Yes, ma'am. I believe that
9 the Office of Public Counsel has come up with a
10 methodology to address several preliminary issues, and
11 if they may be allowed to discuss those at this time.

12 **CHAIRMAN BROWN:** Mr. Rehwinkel, thank you.

13 **MR. REHWINKEL:** Thank you, Madam Chairman. I
14 would like to beg your indulgence to introduce this
15 stipulation because it requires -- because of its
16 compromised nature, it requires some remarks on the
17 front end.

18 **CHAIRMAN BROWN:** Absolutely.

19 **MR. REHWINKEL:** But I think it will save a lot
20 of time in the hearing, if it's agreeable to everyone.

21 There's \$4.4 billion in customer revenue over
22 the next four years at issue in this case. There are
23 three test years. This is the most that ever -- it's a
24 complex case. We raised filing issues yesterday. We're
25 not revisiting that today. The intervenors are doing

1 their best, the company is doing their best, we believe,
2 and your staff is working hard and doing their best.
3 The public and the legislature expect that customers are
4 zealously represented in adversarial proceedings, and to
5 that end we have conducted discovery, including
6 depositions, interrogatories, and production of
7 documents. And the attorneys, in conjunction with our
8 experts, have culled through the discovery and selected
9 the evidence that we want to put on to represent our
10 clients in the form of direct testimony or impeachment
11 cross-examination, keeping in mind that the scope of
12 discovery is broader than the test for admissibility and
13 the much narrower test of what constitutes competent,
14 substantial evidence.

15 We have noted the complexity and the
16 compression of the schedule in this case at the outset
17 of the hearing. And to that end, the Public Counsel,
18 J. R. Kelly, and I spent some time last night seeking to
19 devise a compromise that would allow us to discharge our
20 ethical responsibilities to our clients while
21 facilitating your legitimate concerns about conducting
22 this hearing in a reasonable, timely, and orderly
23 fashion.

24 To that end, we will ask that you direct your
25 staff and the parties who wish to convene after the

1 conclusion of this case and the briefs and a
2 recommendation is filed and perhaps after your vote to
3 address procedural issues that have arisen. That way we
4 can take these issues off the table for congestion in
5 this hearing while representing our clients, and,
6 accordingly, we propose two stipulations to you to
7 address the procedural issues from yesterday.

8 **CHAIRMAN BROWN:** Okay. Thank you. And just
9 to be clear, so after -- at the conclusion of the
10 hearing and after the vote on this proceeding, you want
11 staff to address some of the procedural issues that
12 you've delineated throughout.

13 **MR. REHWINKEL:** Yes. Yes.

14 **CHAIRMAN BROWN:** Okay.

15 **MR. REHWINKEL:** And the key one would be the
16 timing and the way to address the staff exhibit list.
17 We think it can be addressed in the next proceeding
18 better than in this one, and so we're proposing a
19 compromise to get us through this process and to solve
20 the issues that we went through painfully yesterday.

21 **CHAIRMAN BROWN:** And I absolutely appreciate
22 Public Counsel's efforts. I have a copy of the
23 stipulation. I want to confirm that my colleagues have
24 a copy of the stipulation, and all of the parties, I'm
25 assuming, have a copy of the stipulation, before you

1 propose it.

2 **MR. REHWINKEL:** Yes.

3 **CHAIRMAN BROWN:** Okay. Go forward, please.

4 **MR. REHWINKEL:** If you -- would you like me to
5 read it into the record?

6 **CHAIRMAN BROWN:** Absolutely.

7 **MR. REHWINKEL:** Okay. We, and I'm speaking
8 for the Public Counsel and hopefully the other
9 intervenors, I've discussed it with a few, but obviously
10 in the amount of time, we haven't had the opportunity to
11 discuss it thoroughly with everyone, that "We are
12 willing to agree that the discovery listed in the
13 staff's exhibit can be stipulated into the record with
14 these caveats: (A) Staff represents that the discovery
15 meets the test of Section 120.569(2)(g) for
16 admissibility, namely that it does not contain matters
17 that are irrelevant, immaterial, or unduly repetitious;
18 (B) that if admitted under the standard of that statute
19 and it is nevertheless hearsay, that it will not be
20 utilized as the sole support for a finding in accord
21 with Section 120.57(1)(c); C, Staff will indicate in its
22 post-hearing recommendation what is the primary evidence
23 that such stipulated discovery hearsay corroborates; and
24 (D), the parties reserve the right to object to the
25 admissibility or competent, substantial evidence status

1 of such stipulated discovery evidence in post-hearing
2 filings if these conditions are not met and the
3 representations as to the admissibility of (CSE), or
4 competent, substantial evidence, status are not
5 accurate. The only exception to the above is that
6 information that was provided through discovery after
7 the discovery cutoff or after the witnesses' deposition
8 (i.e. not subject to cross-examination) may not be used
9 to the extent a party identifies it and objects by a
10 time certain."

11 And, Madam Chairman, we have not identified
12 that time certain. It could be the end of the hearing,
13 it could be in the post-hearing brief, but that's
14 another issue.

15 **CHAIRMAN BROWN:** Okay.

16 **MR. REHWINKEL:** Two, "The parties will provide
17 cross-examination exhibits in advance to staff for
18 pre-distribution to the extent that in the attorney's
19 judgment, it is not tantamount to disclosing litigation
20 strategy in the form of cross-examination questions or
21 impeachment of the witness." And we call these
22 sensitive documents. "For such sensitive documents, the
23 attorney will work out a lockbox method whereby parties
24 and Commissioners receive the sensitive or strategic
25 exhibits at the discretion of the attorney at the time

1 chosen in accord with the attorney's cross-examination
2 strategy. Documents will be safeguarded and returned to
3 the attorney for breaks and lunch/dinner recess and
4 overnight, if requested by the attorney."

5 Madam Chairman, that is our proposal. And I
6 would like to state finally that this is not meant to
7 convey that we believe this is the best way to handle
8 these issues. They are offered as a compromise and not
9 as a precedent-setting decision. So we commend that to
10 you and to the parties for their consideration to
11 facilitate the process in this hearing.

12 **CHAIRMAN BROWN:** Thank you, Mr. Rehwinkel.
13 And I appreciate these and I do think that these are
14 reasonable caveats, and, again, appreciate you taking
15 the effort. But I will turn to Florida Power & Light
16 for --

17 **MR. LITCHFIELD:** Thank you, Madam Chair. We
18 were just handed this a few moments ago, and we
19 appreciate the opportunity to review this this morning.

20 Let me address first No. 2. I think that may
21 be the easiest from our perspective. We'll really defer
22 to the Commission based on staff's recommendation on how
23 to handle this. I would only note that --

24 **CHAIRMAN BROWN:** Please let the attorney
25 speak. Thank you.

1 **MR. LITCHFIELD:** I would only note that to the
2 extent that there are some documents that will be handed
3 out at the time of the cross, would request that we be
4 given time sufficient for the witness to review it, for
5 the lawyers to review it so we're not launching
6 immediately into cross-examination. That was one of the
7 benefits, I think, of the process that we employed
8 yesterday. But, again, subject to that caveat, we'll
9 defer to however the Commission wants to approach item
10 No. 2 as proposed by Office of Public Counsel.

11 No. 1 is a little more complicated, I think,
12 and I'll address them relative to the letters in the
13 stipulation starting with 1(B). And the point that
14 Public Counsel would suggest that it may nevertheless be
15 hearsay, that troubles me a little bit in that if staff
16 has authenticated the discovery response through a
17 witness that is sponsoring them, that means the witness
18 has either prepared it him or herself, has had it
19 prepared under his or her direction, reviewed it,
20 authenticated, agreed with it, and it becomes
21 effectively that witness's testimony. So, I mean, we
22 could take the time and staff could say, "Mr. Reed," for
23 example, "would you please read the question and read
24 the answer. Is that your testimony?" "Yes." That
25 would add a lot of time to the hearing and really add no

1 incremental evidentiary worth to the process. So we're
2 not really sure really why we're still struggling with
3 the concept of hearsay here.

4 Number -- letter (D), reserving the right to
5 object to the admissibility through post-hearing
6 filings. Well, I'm concerned that this is intended to
7 suggest an additional layer or number of post-hearing
8 filings over and above what is already ordinary --
9 ordinarily available to the parties through
10 reconsideration, and I think that would be the
11 appropriate place to make those points. And also in
12 (D), that last point beginning, "The only exception to
13 the above is that information that was provided through
14 discovery after the discovery cutoff may not be used to
15 the extent a party identifies it and objects by a time
16 certain," boy, this strikes me as asking for a change in
17 your Order Establishing Procedure. I mean, the OEP or
18 series of OEPs made it pretty clear that there were time
19 certainties in which the parties were to object, and I
20 think that was confirmed at the prehearing conference,
21 in fact, by Commissioner Edgar that the parties were
22 given ample opportunity by staff to review the exhibit
23 list and determine what objections they had to the
24 discovery. And, of course, as we've talked about
25 yesterday, they still have that opportunity at the time

1 that staff is now taking the witness through those
2 discovery points, and, of course, the witness is there
3 to be cross-examined on each and every discovery
4 response, if the parties so choose. So I am troubled
5 by -- we will go with whatever the Commission decides,
6 but those are the points that I think are troubling to
7 Florida Power & Light.

8 **CHAIRMAN BROWN:** Thank you. I appreciate
9 those.

10 Public Counsel.

11 **MR. REHWINKEL:** First of all, the -- with
12 respect to item (B), "if admitted under the standard of
13 that statute and it is nevertheless," the assumption
14 isn't that it is hearsay. If it is hearsay. This is
15 not saying that everything that comes in is hearsay.
16 It's just that if it is, it has to meet that test. And
17 I think the staff is fine with that. We're not saying
18 that all of it is, but that if it has that quality and
19 if that's a clarification, that's fine.

20 Post-hearing filing that I intended in here
21 was the brief. No supplemental pleadings or motions to
22 strike or anything like that. You just -- in your
23 brief, you say, "Exhibit 479, Interrogatory 14, came in
24 late or it did not meet the representations of the staff
25 and we object to it." It's just a way of not waiving

1 our right to object to it. That's all that's intended
2 there.

3 **CHAIRMAN BROWN:** FPL.

4 **MR. LITCHFIELD:** That's a helpful explanation.
5 And I apologize. I neglected to make two additional
6 points. One on (C) -- again, this is really for staff
7 to weigh in on. It strikes us that that's a very
8 extraordinary burden to impose upon your staff.

9 But the other point of clarification that I
10 wanted to ask Mr. Rehwinkel to address, he started out
11 by proposing some additional post-hearing procedures to
12 address procedure. It sounded as though he was
13 requesting a post-hearing prehearing conference to
14 address procedure, which struck me as not only odd, but
15 inappropriate at this point in the schedule.

16 **MR. REHWINKEL:** Okay. I can easily clarify
17 that.

18 **CHAIRMAN BROWN:** Hold on one second,
19 Mr. Rehwinkel. Do any of the other parties have any
20 comments before I turn to Public Counsel?

21 **MR. SUNDBACK:** Good morning, Madam Chair.
22 We'd just like to pose through the bench a question of
23 clarification to OPC regarding this stipulation, if we
24 could.

25 **CHAIRMAN BROWN:** Uh-huh.

1 **MR. SUNDBACK:** We'd ask Public Counsel
2 regarding paragraph No. 1, third and second-to-the-last
3 lines of that paragraph, there's a parenthetical and a
4 reference to cross-examination. Is it OPC's position
5 that that cross-examination is the examination that
6 takes place in the witness's deposition?

7 **MR. REHWINKEL:** Yes, it is.

8 **MR. SUNDBACK:** Thank you.

9 **CHAIRMAN BROWN:** Okay. Mr. Rehwinkel.

10 **MR. REHWINKEL:** The post-hearing process I was
11 talking about was purely generic, nothing to do with
12 this case. It's about how we go forward in Gulf Power
13 or TECO or any other case that might come up. So it's
14 --

15 **CHAIRMAN BROWN:** Not -- just a generic
16 procedural process.

17 **MR. REHWINKEL:** Correct. That's why I said
18 after we're done with this case, let's all get together
19 and do a lessons learned and how do we improve the
20 process.

21 **CHAIRMAN BROWN:** That's how I understood it
22 too.

23 **MR. REHWINKEL:** Yes.

24 **MR. LITCHFIELD:** Thank you. And if I might
25 address -- Mr. Sundback's clarification actually muddies

1 the water quite a bit here. By tying that parenthetical
2 "not subject to cross-examination" to the deposition,"
3 what I think he's really intending to suggest is that
4 the availability for cross-examination here in the live
5 evidentiary hearing is not going to count for purposes
6 of this stipulation. And of course it counts and
7 anything is subject to cross-examination that is
8 produced or sponsored by that witness.

9 **CHAIRMAN BROWN:** Uh-huh. Uh-huh.

10 Mr. Rehwinkel.

11 **MR. REHWINKEL:** Yes. Okay. Again, this is a
12 compromise. This is a thick -- sticky wicket, as they
13 call it, and we're trying to find a way to get us where
14 we need to be. This only relates to the very small
15 amount of information that simply came in in the past
16 week that we have not had -- all of us have been
17 diligently preparing for trial and cross-examination and
18 working with our witnesses. We have not had time to go
19 and pick through the 3,000 pages that are at issue here
20 and synchronize and refine. So it's a compromise
21 proposal that that stuff that came in, and it's not a
22 lot, is subject to objection. We might find the time to
23 look at it and say we're okay with it. But if something
24 came in after a deposition that we did not have the
25 opportunity to inquire about during the deposition, we

1 would like to reserve the opportunity to object to it
2 being used in the hearing, and it is a small piece of
3 the iceberg.

4 **MS. HELTON:** Madam Chairman, could I ask a
5 clarification question on that?

6 **CHAIRMAN BROWN:** Yes.

7 **MS. HELTON:** I'm assuming you mean late-filed
8 deposition exhibits.

9 **MR. REHWINKEL:** No.

10 **MS. HELTON:** No.

11 **MR. REHWINKEL:** No.

12 **MS. HELTON:** So it's broader than late-filed
13 deposition exhibits.

14 **MR. REHWINKEL:** Late-filed deposition exhibits
15 we asked for purposely, knowing that we were going to
16 get them after the deposition. Some of the discovery
17 came in and was revised or supplemented in the past
18 week, and that's what this is dealing with.

19 **MS. HELTON:** Okay. And so do you mean you're
20 taking issue with that being on the Comprehensive
21 Exhibit List, or you're taking issue with anyone using
22 it for cross-examination purposes during the hearing?

23 **MR. REHWINKEL:** We're objecting to it coming
24 in through the stipulation. If parties want to bring it
25 in through normal cross-examination, that's fine. It's

1 just we're not agreeing to stipulate it in.

2 **MS. HELTON:** So, first of all, it would have
3 to be on staff's Comprehensive Exhibit List.

4 **MR. REHWINKEL:** Yes.

5 **MS. HELTON:** Okay. And I'm not sure that
6 there is any of that information that falls into that
7 category. But what we're -- so that's what we're
8 talking about, is staff's Comprehensive Exhibit List.

9 **MR. REHWINKEL:** Yeah, that's correct.

10 **MS. HELTON:** Not the use of that information
11 by other parties and other appropriate means.

12 **MR. REHWINKEL:** That's correct. This is aimed
13 solely at the staff's exhibit list and those documents
14 being stipulated into the record. If there's other
15 means for it to go in that are legitimate, we're fine
16 with that.

17 **MS. HELTON:** And I'm assuming that if you are
18 saying that something is hearsay information on that
19 list, if we can show that there's an exception to the
20 hearsay rule, then you then have no hearsay objection
21 that you're wishing to carry forward.

22 **CHAIRMAN BROWN:** Is that correct?

23 **MR. REHWINKEL:** Absolutely, that's correct.
24 Yeah. If it's not hearsay, you don't have to worry
25 about that test about it not being allowed to support a

1 finding.

2 **CHAIRMAN BROWN:** Okay. Now before I go to
3 you, Mr. Moyle, I'm going to give Mr. Litchfield an
4 opportunity to respond.

5 **MR. LITCHFIELD:** No, not at this time. Thank
6 you.

7 **CHAIRMAN BROWN:** Okay. Mr. Moyle.

8 **MR. MOYLE:** Stipulations are something that
9 when you can work them out make sense, but they're also
10 something that you need to make sure you understand what
11 you're stipulating to. And, respectfully, I don't
12 understand this. And I think, you know, just listening
13 --

14 **CHAIRMAN BROWN:** First of all, my
15 understanding was that all of the parties had an
16 opportunity to review this and to agree to this process.

17 **MR. MOYLE:** Right. But I -- just listening to
18 the back and forth, I hear Mr. Litchfield saying, "Well,
19 this isn't what I" -- you know, I don't think there's --

20 **CHAIRMAN BROWN:** This is not a stipulation
21 obviously.

22 **MR. MOYLE:** -- a stipulation, so it's a
23 proposal. And FIPUG is all for trying to figure out a
24 better way to do it. I'm not sure FIPUG necessarily
25 thinks this solves all the problems, just, for example,

1 based on what was just said.

2 I don't understand this hearsay process. So
3 to extent we say, "Wait, it's hearsay," and then staff
4 just said, "Well, if it's an exception to the hearsay,
5 it's a business record exception." You know, who's
6 making that decision? My understanding is typically
7 that's the role of the presiding officer to make a
8 decision. But somehow we're going to have all this --
9 you know, I call it a data dump. It's thousands and
10 thousands of pages that, you know, we're all trying to
11 get ready for trial and it's coming in. And, you know,
12 I have to also think it's their burden of proof. Right?
13 So all the information coming in isn't really helping my
14 guys much because they have the burden.

15 So one thing that would make me more
16 comfortable is we have this process set up, prefiled
17 testimony, everyone has to show their cards way, way
18 early. If we're getting all this data in at the 11th
19 hour, then it seems maybe that staff -- if staff is the
20 ones that need it, maybe staff should be able to rely on
21 it and others not so it doesn't create opportunities for
22 people to, "Well, we didn't really get" -- you know, I'm
23 not saying this happened, but you can take a lot of
24 information and put them in interrogatories.
25 Interrogatories come in and then you're like, "Well,

1 this is in now." So I guess, you know, maybe that's
2 just a comment that we're not saying we are opposed to a
3 stipulation, but we want to understand well a
4 stipulation and what it means and how it would play out.

5 **CHAIRMAN BROWN:** You know, I think right now
6 is a good time to take about a 15-minute break. All
7 right? And let's reconvene at 9:35. Okay. Thanks.

8 (Recess taken.)

9 **CHAIRMAN BROWN:** All right. That was a long
10 break, and I hope it was productive and I hope we have
11 an amenable solution and that we can move forward with
12 the important work of the day. And I'm going to have
13 our staff recap with Ms. Brownless. Are you prepared
14 to -- are you prepared right now?

15 **MS. BROWNLESS:** Yes, ma'am.

16 **CHAIRMAN BROWN:** Go for it.

17 **MS. BROWNLESS:** All right. Staff can do the
18 following: We can and will represent that the discovery
19 that we have listed on the Comprehensive Exhibit List as
20 staff's exhibits meet the requirements of 120.569(2)(g)
21 for admissibility, namely that they are relevant,
22 material, and not unduly repetitious. Staff agrees and
23 will represent that we will not utilize hearsay evidence
24 as the sole support for a finding in our recommendation
25 as required --

1 **COMMISSIONER BRISÉ:** Madam Chairman.

2 **MS. BROWNLESS:** -- and in accord with --

3 **COMMISSIONER BRISÉ:** Madam Chairman.

4 Ms. Brownless.

5 **CHAIRMAN BROWN:** Ms. Brownless, hold on,
6 please.

7 **COMMISSIONER BRISÉ:** Somebody's recorder is
8 running out loud.

9 **MR. SAYLER:** It's a hearing device.

10 **COMMISSIONER BRISÉ:** Understood, but it's
11 running out loud. So if it could be placed where it
12 should be.

13 **CHAIRMAN BROWN:** Thank you, Commissioner
14 Brisé.

15 Ms. Brownless, continue, please.

16 **MS. BROWNLESS:** Okay. Our second point is
17 that staff will represent that we will comply with the
18 requirements of 120.57(1)(c) and not base a recommended
19 finding solely on evidence that is hearsay, that every
20 finding we recommend will be corroborated, if that is
21 necessary. Staff represents at this time that with
22 regard to our exhibits, we believe that they fall within
23 the definition of hearsay. They are either an exempt
24 business record or an exempt public record and,
25 therefore, could be relied upon because they fall within

1 the evidence code exemptions.

2 Staff agrees that to the extent a party
3 disagrees with our representation of a fact, as we have
4 stated in the staff recommendation, to the extent that
5 that is relied upon by the Commission in making its
6 final decision, the parties will have an opportunity to
7 raise that in their briefs. And to the extent relied
8 upon, to take a motion for reconsideration before the
9 full Commission raising that issue, which can then be
10 resolved by the full Commission in their response to the
11 motion for reconsideration. It would be up to the Chair
12 at that time, if they deem that appropriate, to grant
13 oral argument on that motion for reconsideration so that
14 all parties would be heard on that point.

15 We also agree that we will provide a sensitive
16 document lockbox and allow the parties to access those
17 exhibits and hand those out when they wish in order not
18 to interfere with any litigation strategy they may have.

19 **MR. LITCHFIELD:** Madam Chair, if I could add
20 one thing. That was -- we agree with everything that
21 Ms. Brownless just said. We also discussed staff going
22 through the authentication process, the abbreviated but
23 sufficient authentication process, on the front end
24 immediately following the witness's summary, before
25 being tendered for cross-examination, which would then

1 allow full access for cross-examination here among the
2 parties. And then, of course, if staff had additional
3 follow-up questions, they would still reserve their
4 rightful place in the queue to ask those questions.

5 But the authentication process would involve a
6 series of questions to establish that the answers are
7 true and correct, they represent the company's position,
8 proper business records, et cetera, et cetera.

9 **MS. BROWNLESS:** Yes, and we would do that.
10 And we've also passed out an exhibit which shows all of
11 the witnesses and all of the comprehensive staff
12 exhibits associated with those witnesses.

13 **CHAIRMAN BROWN:** I'm going mark that at this
14 time as Exhibit 579.

15 **MS. BROWNLESS:** Thank you, ma'am.

16 (Exhibit 579 marked for identification.)

17 **CHAIRMAN BROWN:** Make sure Mr. Moyle has a
18 copy.

19 So let me make sure I understand,
20 Ms. Brownless, because -- Ms. Brownless, this is the
21 first time hearing about this -- that the process will
22 be a little bit different than as contemplated by staff
23 originally. And at the time after the witness, after
24 FPL direct witness has had an opportunity to give his
25 summary, then staff will go through the comprehensive --

1 the exhibits.

2 **MS. BROWNLESS:** Yes, ma'am. We will --

3 **CHAIRMAN BROWN:** And then tender -- then the
4 witness will be tendered for cross, and then staff still
5 will reserve the right to cross at the conclusion of the
6 intervenors.

7 **MS. BROWNLESS:** Yes, ma'am, to do our
8 substantive questioning.

9 **CHAIRMAN BROWN:** Does everybody understand
10 this process? No?

11 **MR. MOYLE:** No.

12 **CHAIRMAN BROWN:** No. All right. Mary Anne,
13 can you please clarify it a little bit for everyone?

14 **MS. HELTON:** I can try.

15 **CHAIRMAN BROWN:** Could you hold on one quick
16 sec. Commissioner Brisé has a question.

17 **COMMISSIONER BRISÉ:** Thank you. And, Madam
18 Chair, since I won't be chairing, you know, some of it
19 doesn't concern me as much because I don't have to go
20 through all of that, the permutations. Right?

21 **CHAIRMAN BROWN:** Thanks.

22 **COMMISSIONER BRISÉ:** We gave you that honor.
23 I have a question about -- Suzanne, you
24 mentioned that when -- after the recommendations come,
25 if you can go over that part with respect to how each

1 recommendation has to line up with specific testimony
2 and then that can be challenged. I'm just not sure how
3 that process --

4 **MS. BROWNLESS:** That basically is going to be
5 our regular system. In other words, when staff writes
6 their recommendation for each factual finding that we
7 put in our rec, just as if you were writing an appellate
8 brief, you cite to an exhibit.

9 **COMMISSIONER BRISÉ:** Understood.

10 **MS. BROWNLESS:** Okay? We will do that just
11 like we always do. We are very careful when we write
12 those staff recommendations that we are not relying
13 solely on hearsay, which is why we're perfectly willing
14 to stipulate to that at this time. Okay?

15 But to the extent the parties get an
16 opportunity to review our staff recommendation and then
17 we come to the agenda where the parties cannot speak and
18 a decision is made, and when the final order comes out
19 they believe --

20 **COMMISSIONER BRISÉ:** Okay.

21 **MS. BROWNLESS:** -- that a factual finding is
22 based solely on hearsay, then they will have the
23 ability, through their motion for reconsideration, to
24 raise that point, which will then be taken up before the
25 full Commission as a motion for reconsideration where

1 oral argument can be granted and the parties given an
2 opportunity to address that. And then a vote by the
3 Commission taking that objection into consideration can
4 be made.

5 **CHAIRMAN BROWN:** Okay.

6 **COMMISSIONER BRISÉ:** All right. Thank you.

7 **MS. BROWNLESS:** But I do want to go back to an
8 explanation of what we intend to do with each witness
9 because I know that's confusing.

10 When the witness gets put on the stand, we'll
11 just use Florida Power & Light since that's where we are
12 now, Florida Power & Light will ask the witness the
13 preliminary questions: Who are you what? What are you
14 doing? Have you prepared testimony? Have you prepared
15 exhibits? Do you have any amendments to your testimony
16 or exhibits? And then I will ask them have they had an
17 opportunity to review Exhibit 579 that we've just marked
18 into evidence as identification -- for identification,
19 and have they had an opportunity to review each and
20 every of the staff exhibits that are listed there.
21 Okay? And then I'm going to ask them, to the extent
22 that they prepared those exhibits, are they true and
23 correct to the best of their knowledge and belief? Do
24 they have any changes they want to make to those
25 exhibits or are they still accurate? Are those exhibits

1 correctly reflected and recorded on the CD that was
2 presented to everybody? And would they give the same
3 answers today that -- to those interrogatory discovery
4 responses that they originally gave?

5 **CHAIRMAN BROWN:** Okay. Thank you for that,
6 Ms. Brownless.

7 Now, Ms. Helton, can you provide a succinct
8 reason that we are doing it this way, that staff wants
9 to do it this way?

10 **MS. HELTON:** Well, we were asked by the
11 parties to do it this way with respect to authenticating
12 the exhibits upfront. That way all of the parties know
13 what exhibits staff wants to use and have admitted into
14 the record for each witness, and each party will have
15 the opportunity to conduct cross-examination on those
16 exhibits, if they wish to do so.

17 **CHAIRMAN BROWN:** You know, one thing I want to
18 question is why we are doing it at this hour and why
19 this wasn't handled upfront before we got to the
20 hearing? That is a question.

21 **MS. HELTON:** I am sorry that we are doing it
22 at this hour, Madam Chairman. We have through the years
23 had -- have modified the process that we use to get the
24 exhibits in for discovery, and we thought at the time of
25 the hearing when it started that we had a process that

1 would work. It turned out to be more awkward than
2 efficient yesterday. We are attempting to modify the
3 process again so that we can provide an opportunity for
4 all parties to conduct cross-examination on the exhibits
5 and to make the process as efficient as possible.

6 **CHAIRMAN BROWN:** Okay. Now I'm going to turn
7 to OPC and -- Mr. Moyle, can you please silence a little
8 bit? I'm going to turn to OPC and see if they are
9 amenable to the suggestion by staff, and then I'm going
10 to go down -- back to FPL and go through the parties,
11 and then we can proceed.

12 **MR. REHWINKEL:** Thank you, Madam Chair. We
13 generally are. We -- the modifications are consistent
14 with our core requirement that we reserve our
15 opportunity to object if hearsay -- object on the record
16 if hearsay is improperly used.

17 If the staff wants to do the authentication
18 process, that's fine. I was trying to shortcut that and
19 --

20 **CHAIRMAN BROWN:** I was hoping that as well.

21 **MR. REHWINKEL:** That was my goal in this kind
22 of one-time process. If there are needs to do it this
23 way, we appreciate that they're doing it upfront so we
24 can at least cross on it. But I was trying to save more
25 time. But I'm fine either way with it. We support

1 this.

2 **CHAIRMAN BROWN:** Thank you, Mr. Rehwinkel.
3 And I thought that's what your attempt was too, and I
4 was very supportive of those efforts.

5 FPL.

6 **MR. LITCHFIELD:** We agree with the processes
7 laid out by your staff counsel. With respect to the
8 authentication, we think that is important under the
9 circumstances because of the not so subtle signals that
10 some of the intervenors have sent with respect to their
11 intent to challenge potentially some of the evidence
12 that may come in. So we think it's necessary. We think
13 it can be done efficiently and sets the proper framework
14 for the hearing.

15 **CHAIRMAN BROWN:** Okay. Mr. Moyle.

16 **MR. MOYLE:** I'm not sure you're going to want
17 to hear from me.

18 **CHAIRMAN BROWN:** I don't. I'm just joking. I
19 do always.

20 **MR. MOYLE:** I'm sorry. I didn't turn my mike
21 on.

22 **CHAIRMAN BROWN:** Please feel free to voice
23 your concerns.

24 **MR. MOYLE:** Well, I'm a little -- like I said,
25 I'm not sure you want to hear what I have to say, but

1 I'll tell you, I took notes of what staff said. They're
2 going to represent that what is coming in is not
3 irrelevant or repetitious. That's what the law says.
4 You read that yesterday to start the hearing. They said
5 they're going to comply with 120.51 with respect to
6 hearsay. They have to. I mean, that's what the law
7 says. The staff exhibits, they said, "We're going to
8 put them in, but if they're exempt" --

9 **CHAIRMAN BROWN:** Mr. Moyle, please be
10 succinct.

11 **MR. MOYLE:** Okay. "If they're exempt under a
12 business record or a public record exception, then
13 they're going to come in." Who's going to make that
14 call? And let me just take a minute, if I could, and
15 tell you my understanding of the business record, public
16 record exception and why that's a problem. Just because
17 a record has FPL's --

18 **CHAIRMAN BROWN:** This is not the proper place.
19 Thank you. Thank you.

20 **MR. MOYLE:** Okay. All right.

21 **CHAIRMAN BROWN:** Any more?

22 **MR. MOYLE:** The reconsideration piece? I
23 mean, there's a standard for reconsideration that is
24 very, very difficult to meet, and you all very, very
25 rarely grant stuff on reconsideration. So it doesn't

1 sound like it's a real good proposition for my clients,
2 as I understand it. And, respectfully, I don't know
3 that I should come to trial and be required to agree to
4 a stipulation in order, you know, to have the case put
5 on. It's FPL's case.

6 **CHAIRMAN BROWN:** Ms. Helton, can you please
7 respond to some of Mr. Moyle's comments?

8 **MS. HELTON:** You know what's really
9 frustrating to me, Madam Chairman, is this is a process
10 that we, quite frankly, have been using I know since
11 Lisa Bennett was here for, I think, the 2009 Florida
12 Power & Light rate case where we used this process where
13 staff authenticated records that it wanted on the
14 Comprehensive Exhibit List by way of a witness on the
15 witness stand, and it worked really efficiently there.
16 So I'm just really confused, quite frankly, as to why
17 all of the sudden there are problems. I asked one of
18 the parties, "Has staffed relied solely on a hearsay
19 piece of evidence in making a recommendation to you?"
20 And I don't think I got an answer that we have, because
21 that would concern me as well. I think that staff is
22 very good, when it makes a recommendation to you, going
23 through the record, identifying the evidence that
24 supports the factual statements in the recommendation,
25 and I think we don't rely solely on hearsay evidence.

1 I'm -- so it seems like this is a problem that's just
2 becoming a problem when it's not a real problem.

3 **CHAIRMAN BROWN:** Okay. Thank you.

4 Any other parties wish to speak briefly?

5 **MR. SUNDBACK:** Madam Chairman, just briefly.

6 **CHAIRMAN BROWN:** Yes. Briefly, sir.

7 **MR. SUNDBACK:** Yes. We certainly appreciate
8 the efforts of staff and OPC to try to find a workable
9 resolution to this problem. Our concern is a bit of a
10 fine point but still important. To the extent that
11 staff moves into the record these materials, especially
12 the late-filed materials that we've discussed, we
13 believe it's improper for FPL to be able to rely on that
14 to make its direct case. FPL has an obligation under
15 the statute to make its direct case and prove up its
16 position coming out of the gate. And if they don't do
17 that, they can't, certainly at the 12th -- 11th hour
18 before the hearing, be providing materials in discovery
19 responses that might be entered into the record by staff
20 for understandable reasons.

21 **CHAIRMAN BROWN:** I do want to clarify that
22 they're authenticating. We're not entering any of the
23 staff exhibits. So you absolutely have the right to
24 preserve your objections when we get to entering those
25 exhibits, and that will be later in the hearing. So I

1 appreciate your concerns, but that's not where we're at
2 here.

3 **MR. SUNDBACK:** Well, Madam Chairman, we're
4 going to be starting with the next witness shortly
5 presumably and implementing this procedure. So we
6 haven't exactly been operating under it for a long time
7 to be able to understand how it's going to be
8 implemented.

9 If I understand you correctly, you're saying
10 that we don't waive any objection to the extent that
11 it's being identified through this process to the
12 failure, if that's our belief, of FPL to make its direct
13 case in a timely fashion but instead attempt to
14 supplement it through a late-filed discovery response.
15 Is that a fair understanding?

16 **MR. LITCHFIELD:** I object to that
17 characterization completely.

18 **CHAIRMAN BROWN:** No, no, that was not. Thank
19 you. That was not.

20 Staff is going to be authenticating --
21 offering questions to authenticate the exhibits of each
22 witness. We are not -- we are not entering them into
23 the record at this time. That's all I said, sir.

24 **MR. SUNDBACK:** Okay.

25 **CHAIRMAN BROWN:** Does any of the other -- do

1 any of the other parties have any comments before we
2 proceed with other preliminary matters?

3 Okay. Staff, do we have any other preliminary
4 matters?

5 **MS. HELTON:** Would you like me to say
6 something about hearsay objections, Madam Chairman?

7 **CHAIRMAN BROWN:** I think so.

8 **MS. HELTON:** Just so we are all clear, and I
9 think we said this yesterday, but just so that the
10 record is clear, I do not believe that standing hearsay
11 objections are appropriate. If you have an objection to
12 a piece of evidence, either by testimony or by way of an
13 exhibit, that you believe should not be relied on
14 because it is a -- it's hearsay, then I think it's
15 appropriate to make a hearsay objection. Then the party
16 who is offering that testimony or who is offering that
17 exhibit should have the opportunity to state whether
18 there is an exception to the hearsay rule there. Then
19 the Chairman can acknowledge the hearsay objection or
20 make a ruling on whether there is an exception to the
21 hearsay rule there, and then we can move on.

22 **CHAIRMAN BROWN:** Thank you. We are in the
23 middle of taking Mr. Reed's testimony. We have no other
24 preliminary matters, so we're going to proceed. And I
25 believe Office of Public Counsel has the floor of cross.

1 And, Mr. Reed, you were sworn in yesterday.

2 **MS. BROWNLESS:** Excuse me.

3 **MS. MONCADA:** Madam Chair, I tendered Mr. Reed
4 for cross-examination yesterday evening, and staff did
5 not have an opportunity to authenticate. Should they do
6 so at this time?

7 **CHAIRMAN BROWN:** Staff.

8 **MS. BROWNLESS:** To authenticate his exhibits,
9 and then we turn it over to the intervenors to do their
10 questioning.

11 **CHAIRMAN BROWN:** Would you like to do that at
12 this time?

13 **MS. BROWNLESS:** Yes, ma'am. Please.

14 **CHAIRMAN BROWN:** Okay. Please proceed.

15 **MS. BROWNLESS:** Thank you.

16 **EXAMINATION**

17 **BY MS. BROWNLESS:**

18 **Q** Mr. Reed, do you have a copy of what's been
19 identified as Exhibit 579?

20 **A** Yes, I do.

21 **Q** Okay. And can you look at the staff exhibits
22 that have been identified as being sponsored by you?

23 **MR. MOYLE:** Madam Chairman, I hate to do this,
24 but the exhibit they just handed out for Reed says
25 "479." And I pulled up 479. Is it 479 or 579?

1 **CHAIRMAN BROWN:** Five seven -- oh, you mean
2 under Mr. Reed, 479?

3 **MS. BROWNLESS:** It's Exhibit 479 on the
4 Comprehensive Exhibit List and Exhibit 515 on the
5 Comprehensive Exhibit List.

6 **MR. MOYLE:** Okay.

7 **MS. BROWNLESS:** This is Exhibit 579 that lists
8 exactly what we're talking about.

9 **CHAIRMAN BROWN:** You got it, Mr. Moyle?

10 **MR. MOYLE:** Yeah. I'm just trying to find it
11 on the computer.

12 **CHAIRMAN BROWN:** Okay. Proceed.

13 **MS. BROWNLESS:** Thank you.

14 **BY MS. BROWNLESS:**

15 **Q** Have you had an opportunity to review those
16 two staff exhibits, sir?

17 **A** Yes, I have.

18 **Q** Okay. Are those staff and exhibits true and
19 correct to the best of your knowledge and belief?

20 **A** Yes, they are.

21 **Q** Okay. Would your answers be the same with
22 regard to those staff exhibits today as they were at the
23 time you prepared them?

24 **A** Yes, they would.

25 **Q** Okay. And have you had an opportunity to

1 review the CD prepared by staff?

2 **A** Yes, I have.

3 **Q** And are the answers on the CD the same as the
4 answers that you gave? Does the CD correctly reflect
5 your responses?

6 **A** Yes, with one caveat, which is that a portion
7 of our material supplied under 479 was marked
8 confidential, and I believe that confidential
9 information is not on the CD.

10 **Q** Okay. But with that exception, is the CD
11 correct?

12 **A** Yes.

13 **MS. BROWNLESS:** Thank you.

14 **CHAIRMAN BROWN:** FPL.

15 **MS. MONCADA:** He is available for cross.

16 Thank you.

17 **CHAIRMAN BROWN:** Thank you. Going back to
18 Mr. Sayler.

19 And good morning, Mr. Reed, and thank you for
20 your patience with our process.

21 **THE WITNESS:** Good morning.

22 **MR. SAYLER:** Good morning, Madam Chairman.

23 Just for clarification, Exhibit 479 relates to OPC's
24 request for production 1, 2, and 3, which we discussed
25 yesterday. That's essentially the work papers and Excel

1 spreadsheets that relate to FPL's testimonies; is that
2 correct?

3 **CHAIRMAN BROWN:** I'm not sure. Say that
4 again.

5 **MR. SAYLER:** The responses to PODs 1, 2,
6 and 3 that I believe Mr. Reed just authenticated, those
7 are the work papers?

8 **CHAIRMAN BROWN:** I would have to ask staff.
9 And staff?

10 **THE WITNESS:** I can speak to that, if you'd
11 like.

12 **CHAIRMAN BROWN:** No.

13 Mr. Sayler asked that the papers that you just
14 crossed the witness with, are they with the work papers
15 to authenticate?

16 **MS. BROWNLESS:** They are -- the first set,
17 479, are the work papers, OPC's POD request 1 through 3.

18 **CHAIRMAN BROWN:** Okay. There you go,
19 Mr. Sayler.

20 **MR. SAYLER:** All right. And on staff's
21 exhibit there's also Exhibit No. 515. Did you -- was
22 that authenticated or are you going to do that at a
23 later point?

24 **CHAIRMAN BROWN:** Staff.

25 **MS. BROWNLESS:** Okay. Exhibit 515 is the

1 South Florida Hospital's 7th set of interrogatory
2 responses number 160. And I can read that, if
3 Mr. Sayler wishes.

4 **MR. SAYLER:** My question was I think your
5 questions to him were related to Exhibit 479, and I
6 don't recall questions about Exhibit 515. I'm not
7 trying to make this more difficult. I'm just --

8 **MS. BROWNLESS:** Mr. Sayler, I asked him to
9 look at our Exhibit 579, which we just handed out, which
10 includes exhibits -- staff exhibits 479 and 515.

11 **MR. SAYLER:** Okay.

12 **MS. BROWNLESS:** So it should cover both
13 479 and 515, his authentication.

14 **MR. SAYLER:** All right.

15 **CHAIRMAN BROWN:** Got it, Mr. Sayler?

16 **MR. SAYLER:** I do.

17 **CHAIRMAN BROWN:** All right.

18 **MR. SAYLER:** With regard to Exhibit 515, which
19 is their response to South Florida Hospital's request
20 No. 160, what is staff exactly moving into the record
21 here? Because it's a one-page document that --

22 **CHAIRMAN BROWN:** Nothing is being moved into
23 the record, Mr. Sayler, right now.

24 **MR. SAYLER:** Okay.

25 **MS. BROWNLESS:** All we're doing is identifying

1 it, and we have authenticated that he prepared this
2 response, and that the response is true and correct to
3 the best of his belief, and that the CD which was
4 provided to all the parties last week correctly contains
5 that information.

6 **MR. SAYLER:** Okay.

7 **CHAIRMAN BROWN:** Please proceed with your
8 cross.

9 **MR. SAYLER:** Certainly.

10 Just one last question of process. When it
11 comes to moving this into the record, if we have
12 objections, you would like us to raise those at that
13 time.

14 **CHAIRMAN BROWN:** That's correct.

15 **MR. SAYLER:** So he has authenticated those two
16 exhibits. But when we go to the record to move in 479,
17 if we have objections, make those. If we objections to
18 579, make those.

19 **CHAIRMAN BROWN:** Absolutely.

20 **MR. SAYLER:** Okay. Thank you very much.

21 **CHAIRMAN BROWN:** You're welcome. Proceed.

22 **EXAMINATION**

23 **BY MR. SAYLER:**

24 **Q** Well, good morning, Mr. Reed. How are you?

25 **A** Good morning. I'm fine.

1 **Q** With regard to my questions yesterday about
2 your -- the rate case expense being incurred in this
3 docket, my question is as it relates to your fees, are
4 those going to be recovered from the customers or from
5 the shareholders?

6 **A** I believe the fees for our services are
7 included in the revenue requirements by which rates will
8 be established.

9 **Q** All right. And those fees or that number, as
10 I understand it from discussions yesterday, are
11 confidential?

12 **A** No. The billing rate information was
13 confidential.

14 **Q** All right. Now your billing rate for FP&L in
15 this case, is that the same billing rate you charge all
16 your clients?

17 **A** Yes.

18 **MR. SAYLER:** All right. All right. I have no
19 further questions. Thank you.

20 **CHAIRMAN BROWN:** Thank you.

21 FIPUG.

22 **MR. MOYLE:** Thank you, Madam Chairman.

23 **EXAMINATION**

24 **BY MR. MOYLE:**

25 **Q** Good morning, Mr. Reed.

1 **A** Good morning, Mr. Moyle.

2 **Q** Just a couple of questions on the hourly rate.
3 And I'm not going to ask you what it is, but I just want
4 to understand if you consider it as confidential.

5 **A** Yes, I consider it to be commercially
6 sensitive.

7 **Q** And when you take the stand, have you ever --
8 have you ever testified as to your hourly rate in any
9 proceeding? A lawyer ever asked you what it is and you
10 ever told them the answer?

11 **A** I would expect that it has come up in
12 cross-examination.

13 **Q** And there was a little bit of -- maybe an
14 accusation is too strong, but about clever lawyer
15 questions. You would agree there's clever witness
16 answer questions too; right?

17 **A** I suppose.

18 **Q** And you answered a question from OPC. They
19 asked you how much you had been paid, and you said, "In
20 excess of \$50,000." Was that a clever witness answer?

21 **A** No. I truly don't know the number. I wanted
22 to make the point that it's not a trivial amount of
23 cost. It's more than 50,000.

24 **Q** Right. But do you have any information --
25 because my inference when you said that was it's in the

1 \$50,000 neighborhood. Should I not draw that inference
2 from your answer?

3 **A** I don't think you can. I would tell you the
4 number, if I know it, but I certainly do not know the
5 number to what the billings have been.

6 **Q** Okay. So the 50 could have been a dollar?

7 **A** No.

8 **Q** In terms of, you know, just to make a point.
9 You don't have any information about what the fee is; is
10 that fair?

11 **A** No.

12 **MS. MONCADA:** Madam Chair, he's answered that
13 question already.

14 **CHAIRMAN BROWN:** Yes.

15 **MR. MOYLE:** I'll move on.

16 **BY MR. MOYLE:**

17 **Q** So, Mr. Reed, I want to understand what your
18 testimony is about, and it's benchmarking services
19 largely; correct?

20 **A** Yes.

21 **Q** And your company in the last five years has
22 only done two benchmarking assignments; isn't that
23 correct?

24 **A** No, sir.

25 **Q** That's not correct? Didn't you tell me in

1 your deposition that in the last five years you've only
2 done two benchmarking assignments, both for FPL?

3 **A** No. You asked where we had done testimony on
4 benchmarking, and I responded that we've done a lot of
5 benching work, only two related to testimony in the past
6 five years.

7 **Q** I didn't ask you the right question. So the
8 times you have done benchmarking and you've provided
9 testimony, it's been for FP&L; is that right?

10 **A** In the last five years.

11 **Q** Okay. And I want to make sure I understand
12 what -- you are an expert; correct?

13 **A** Yes.

14 **Q** And so you're offering opinions.

15 **A** Yes.

16 **Q** You're not testifying as to facts; is that
17 fair?

18 **A** That's fair.

19 **Q** And FPL has not asked you to provide an
20 opinion about the reasonableness of FPL's request for
21 more than a \$1.3 billion in new rates, with higher rates
22 going into effect in 2017, 2018, and 2019; is that
23 correct?

24 **A** It's correct that I was not asked to address
25 that question.

1 **Q** And you weren't asked to address any questions
2 about individual rate impacts to individual classes of
3 customers like my clients, industrials, receiving an
4 83 percent increase. You don't have any opinion -- you
5 weren't asked to provide any opinions on that; correct?

6 **A** That's correct. I was not asked to address
7 that.

8 **Q** Same question with respect to testimony filed
9 by the Hospitals and OPC about a rate decrease in order.
10 You didn't look at that or weren't asked to express an
11 opinion on that; is that right?

12 **A** That's correct. That's not within my scope.

13 **Q** Okay. So what is within your scope is, as I
14 understand it, two issues. One relates to quality of
15 FPL's service; is that right?

16 **A** That's one of the issues, yes.

17 **Q** And then the other relates to FPL's requested
18 50-basis-point adder; is that right?

19 **A** Yes. I gather you're taking this from the
20 issue list in the case. Those are the issues as
21 enumerated on the issues list that I am speaking to.

22 **Q** Okay. And you've read the issues list, I take
23 it?

24 **A** I have.

25 **Q** Okay. So you know about the Commission's

1 practice of yes, no answers.

2 **A** Yes.

3 **Q** Do you want to explain that?

4 **A** I don't see a need to.

5 **Q** Let me refer you to page 8, line 17. And tell
6 me when you're there.

7 **A** I'm there.

8 **Q** Okay. And you state on line 17, "For 2014
9 alone, if FP&L had been merely an average performer
10 among the 27 straight electric companies, it's non-fuel
11 operation and maintenance cost charged to customers
12 would have been approximately 1.91 billion higher than
13 its actual cost." Is that your testimony?

14 **A** Yes.

15 **Q** Okay. And do you stand by that testimony
16 today as stated?

17 **A** I do.

18 **Q** Okay. Could I hand out an exhibit? I only
19 have one.

20 **CHAIRMAN BROWN:** Okay, Mr. Moyle.

21 Mr. Moyle, you do know the process, though,
22 with regard to exhibits.

23 **MR. MOYLE:** I do.

24 **CHAIRMAN BROWN:** Thank you.

25 **MR. MOYLE:** Sorry.

1 **CHAIRMAN BROWN:** We are going to label that as
2 580. Thank you.

3 (Exhibit 580 marked for identification.)

4 All right, Mr. Moyle. You can proceed.

5 **MR. MOYLE:** Thank you.

6 **BY MR. MOYLE:**

7 **Q** So your testimony that you just said you're
8 standing by, I mean, that -- you're not suggesting that
9 ratepayers in 2014 saved \$1.9 billion, are you?

10 **A** I'm suggesting that --

11 **Q** If you'd yes, no, and then explain.

12 **A** No, I'm not suggesting that they, quote, saved
13 1.9 million. My point was the 1.9 million is the
14 difference in cost between what FPL did achieve and what
15 it would have achieved if it had been an average
16 performer.

17 **Q** Okay. So that's important for FPL's
18 shareholders and on FPL's side of the ledger; correct?

19 **A** Yes. I think it's important for shareholders
20 and for, most importantly, for customers.

21 **Q** Does it have any financial, direct financial
22 impact on customers in 2014?

23 **A** Yes.

24 **Q** How?

25 **A** The savings that existed in non-fuel O&M cost

1 as of the time of the last rate case, 2012, were
2 reflected in the revenue requirements used to establish
3 rates. At that time, as I recall, the difference was
4 about 1.5, a little more than 1.5 billion, and that
5 level of savings was a savings that customers benefited
6 from directly.

7 **Q** But with respect to -- you understand that
8 O&M, there's not an O&M fuel, there's not an O&M
9 recovery clause in Florida practice. Do you understand
10 that?

11 **A** It's through base rates. Yes, I understand
12 that.

13 **Q** Okay. So I handed out an exhibit and had it
14 marked as 580. And it says in the first sentence, "The
15 term 'generate savings' is intended to capture savings
16 for both FPL and customers. Although during a
17 fixed-rate agreement FPL may benefit from reduced costs,
18 these cost savings also benefit customers both in the
19 short and in the mid to long term." Do you agree with
20 that statement?

21 **MS. MONCADA:** Before you answer, Mr. Reed.
22 What he's handed out here is an interrogatory, staff's
23 fourth set of interrogatories, No. 142. And it does not
24 appear that Mr. Reed actually sponsored this
25 interrogatory, so you may want to lay some sort of

1 foundation.

2 **CHAIRMAN BROWN:** Mr. Moyle.

3 **MR. MOYLE:** Well, I -- as I -- I don't know
4 how things are going to unwind, but this is from staff's
5 list. And if staff -- all that stuff gets authenticated
6 and it comes in, it'll be in. So I'm just curious as to
7 whether he agrees with that statement. I mean, I don't
8 know if I need to --

9 **CHAIRMAN BROWN:** Well, that's a pretty general
10 question. I'll allow it.

11 **MS. MONCADA:** Sure. And my only point, Madam
12 Chair, was to point out that he did not sponsor this and
13 so that it would be clear for the record.

14 **CHAIRMAN BROWN:** Thank you.

15 Go ahead, Mr. Moyle.

16 **BY MR. MOYLE:**

17 **Q** Okay. So, Mr. Reed, you didn't sponsor this
18 interrogatory?

19 **A** That's correct.

20 **Q** Have you ever seen it before today?

21 **A** No.

22 **Q** The topic of it you are familiar with, are you
23 not?

24 **A** Generally, yes.

25 **Q** I mean, under number -- bullet point 2 it

1 says, "For example, FPL's customers are saving
2 approximately 1.9 billion a year in non-fuel O&M."
3 Isn't that the same testimony you have?

4 **A** It's the same figure, yes.

5 **Q** All right. So you would agree that the --
6 that at least with respect to how FPL answered this
7 interrogatory, this represents FPL's position at the
8 time they answered the interrogatory?

9 **A** I believe it does represent FPL's position,
10 yes.

11 **Q** And with -- I want to focus on the phrase,
12 "Although during a fixed-rate agreement, FPL may benefit
13 from reduced costs." Is this, in your view and in your
14 opinion, making the point that during a fixed-rate
15 agreement, to the extent that there are savings
16 undertaken by FPL, that it really doesn't necessarily
17 flow directly during that time period to the ratepayers
18 because they're operating under a fixed-rate agreement?

19 **A** I believe that's partially correct. To the
20 extent savings are generated above and beyond the level
21 baked into the base revenue requirement, then during the
22 term of the rate moratorium or the rate freeze, then
23 those savings can accrue to investors. But the base
24 level of savings, in this case the 1.5 in 2012, do flow
25 through to customers.

1 **Q** And so you also make this same point later in
2 your testimony on page 24, line 22. If I asked you
3 these same questions related to your comment there, I
4 assume your answers would be the same?

5 **A** And you said this was at page 24?

6 **Q** I have it at 24, 22?

7 **CHAIRMAN BROWN:** Line 22.

8 **MR. MOYLE:** Right.

9 **THE WITNESS:** Yes. My point is that the level
10 baked into the base period flows directly to customers.
11 And between rate cases I can accept that any incremental
12 savings above that may flow to investors until rates are
13 reset.

14 **BY MR. MOYLE:**

15 **Q** So as part of your preparation to testify
16 about the quality of service, did you review the
17 complaints that have been filed at the Public Service
18 Commission related to FPL's quality of service?

19 **A** No.

20 **Q** You are aware that the Public Service
21 Commission does have a complaint call line and tracks
22 quality of service complaints?

23 **A** Yes.

24 **Q** Tell me about your Florida review group. What
25 is that?

1 **A** The investor-owned utilities in Florida.

2 **Q** And did you --

3 **A** I should say the investor-owned electric
4 utilities.

5 **Q** And who are they?

6 **A** Duke Energy Florida, Tampa Electric, Gulf
7 Power, and FPL.

8 **Q** And what was the purpose of coming up with a
9 Florida review group?

10 **A** The four companies there, I wanted to be sure
11 we covered them because they are, of course,
12 jurisdictional to this Commission, and I felt that that
13 information, along with the other two peer groups for
14 the straight electric companies and for the large
15 electric companies, provided the broadest base of
16 comparisons that we could achieve.

17 **Q** And you were comparing a number of metrics; is
18 that right?

19 **A** Yes.

20 **Q** Did you reach a conclusion with respect to how
21 those four utilities compared and ranked in your view?

22 **A** Yes, on each metric, we did.

23 **Q** How about an overall opinion?

24 **A** Yes, we did.

25 **Q** Okay. So could you tell us what that overall

1 opinion was? Who was first? Who was second? Who was
2 third? Who was fourth?

3 **A** Yes. The results for 2014 -- and, of course,
4 there are results for each of ten years in my analysis.
5 But the results for 2014 are shown on Exhibit JJR-7,
6 page 1 of 1. And you see a column there labeled Rank in
7 Regional Group, and you see that for each metric and for
8 the overall rank what FPL's position was. The overall
9 rank was first out of four in 2014.

10 **Q** Okay. So who was second?

11 **A** Is your question in overall rank?

12 **Q** Yes, sir.

13 **A** As I recall, it was Duke Florida.

14 **Q** Who was third?

15 **A** I'd have to go back and check that from the
16 work papers.

17 **Q** Please do.

18 (Pause.)

19 **A** Mr. Moyle, we don't have that information in
20 the exhibits as to what the overall ranking was for the
21 four. We have the rank order for FPL. We don't have it
22 for the other three.

23 **Q** So you don't have -- your study, you didn't
24 look at that?

25 **A** We didn't calculate the -- and present in the

1 exhibits the rank order for the other three.

2 Q When I took your deposition, I asked you that.
3 Did you answer the question then with respect to who was
4 first, second, and third?

5 A I think my answer is the same as I gave you
6 today.

7 Q Did you talk to FPL about the results of your
8 study? Like, when you looked at some data, would you
9 engage and talk to FPL about the results?

10 A Yes.

11 Q Did you do that with the other utility
12 companies that you compared FPL to in Florida?

13 A Did I talk -- as I understand your question,
14 did I talk to the other Florida utilities? No.

15 Q That's right. Okay. So help me out with
16 this. On your Exhibit JJR-4, page 10 of 10 -- tell me
17 when you're there.

18 A Yes, I'm there.

19 Q What's this document?

20 A It is the productive efficiency rankings for
21 2014 for each of the companies and each of the peer
22 groups.

23 Q So what do the columns across the top
24 represent? Those are the things you measured?

25 A Those are the 11 groups of productive

1 efficiency metrics.

2 Q And then what's the column to the right after
3 those 11?

4 A It is the overall rank for 2014.

5 Q So under the Florida group for 2014, is that
6 your rank?

7 A Yes. I stand corrected. You can determine
8 from that page who was second, third, and fourth in the
9 Florida group in the overall rank for that year.

10 Q So you ranked Tampa Electric third and you
11 ranked Gulf Power fourth; is that right?

12 A I believe that's correct.

13 Q Did you talk to any of those utilities about
14 the data that you measured?

15 A No. Just to FPL, my client.

16 Q Do you think it gives a company, when you're
17 doing your analysis, an advantage to be able to discuss
18 the data with you as compared to not, all other things
19 being equal?

20 A It may give them an advantage in being able to
21 respond and use the benchmarking information that we've
22 prepared for them. Again, the discussion wasn't about
23 selecting the data or the metrics.

24 Q How did you gather this data? I assume it's
25 from public sources, or no?

1 **A** Not entirely. Most of the information, in
2 fact, all of the cost information are from public
3 sources reported by SNL using the FERC Form 1s. In
4 addition, we had data from the North American Electric
5 Reliability Council, from the Institute of Nuclear Power
6 Operators, and from the Florida PSC.

7 **Q** I assume these organizations that you named,
8 that they make an effort to provide timely data; is that
9 fair?

10 **A** Yes.

11 **Q** So the last ranking you did was for 2014?

12 **A** That's correct.

13 **Q** And we're in August of 2016; correct?

14 **A** We are.

15 **Q** You didn't do any analysis or ranking with
16 respect to 2015; is that true?

17 **A** That's correct. The 2015 data were not
18 available when we prepared the testimony.

19 **Q** Did you get the data from the PSC? Did you
20 check to see whether the data was available from the
21 PSC?

22 **A** I'm not sure which data you're referring to.

23 **Q** Well, in response to one of my questions, you
24 said that you got data from the PSC, you got it from
25 FERC. You named a whole bunch of sources. And I just

1 am curious as to why no 2015 data. You said, "Well, it
2 wasn't available." Was the PSC data not available?

3 **A** The PSC data that we used were the reliability
4 indices, SAIDI, SAIFI, CAIDI, CAIFI. They were not
5 available as of the date of my testimony being prepared
6 for 2015.

7 **Q** Same thing with FERC?

8 **A** Yes.

9 **Q** Same thing with all of them? None of them had
10 any data available in March of 2016 for 2015?

11 **A** I won't say none of them had any data
12 available. They did not have the data that we needed to
13 prepare the study.

14 **Q** You would agree that no two utilities are the
15 same.

16 **A** No two utilities are identical. I agree.

17 **Q** And part of the reason you conducted what you
18 termed a "situational assessment" was to try to look at
19 different characteristics and economic factors in
20 service areas; fair?

21 **A** Yes.

22 **Q** On page 15, you're asked at the top about the
23 national economic trend. Do you see that?

24 **A** Yes.

25 **Q** And then you cite some consumer price indexes.

1 Why do you do that?

2 **A** We wanted to put the benchmarking data in the
3 context of macroeconomic trends within Florida.

4 **Q** You would agree that to the extent that
5 something is tied to cost, that it would be appropriate
6 to, all things being equal, to make adjustments based on
7 things like the Consumer Price Index or the
8 Handy-Whitman Index if you were trying to link something
9 to cost, all other things being equal?

10 **A** I'm sorry. I don't understand your question
11 with regard to adjustments was in your question.

12 **Q** You're going to change. I mean, you've seen a
13 contract with an adjustment to a consumer price index in
14 it at some point, I assume.

15 **A** Yes.

16 **Q** Okay. So if there was something like a
17 contract that you said we want to make periodic
18 adjustments to take into account -- you know, for
19 example, you used the Handy-Whitman Index. What's the
20 Handy-Whitman Index?

21 **A** It's an index of construction costs for the
22 utility industry.

23 **Q** Okay. So if you wanted to peg something to
24 the construction cost for the industry, would it be
25 appropriate to consider the Handy-Whitman Index?

1 **A** Again, it depends on the purpose for which you
2 were talking about pegging. If you want to consider
3 again industry trends are regional trends in cost as
4 opposed to a utility's trend in cost, yes, it would be
5 appropriate to look at the Handy-Whitman Index.

6 **Q** You were here in the room for Mr. Silagy's
7 testimony yesterday?

8 **A** Yes.

9 **Q** He was asked some questions about the CILC
10 credits, and I think he indicated that they were a
11 resource that was available that could operate like
12 peaking plants. Do you recall that?

13 **A** Yes, generally.

14 **Q** And so to the extent that the cost of peaking
15 plants has increased, if the Commission had a policy of
16 saying, "Well, we should recognize what the cost of
17 construction is for the purposes of determining
18 credits," wouldn't something like the Handy-Whitman
19 Index give you a sense of what construction pricing has
20 done?

21 **A** Yes. If your concern is what has happened to
22 construction prices, the Handy-Whitman Index would give
23 you a sense of that.

24 **Q** You also, on page 15, have some testimony
25 about the cost of utility labor. Do you see that?

1 **A** Yes.

2 **Q** You say, "Since December 2012, average weekly
3 earnings have increased from approximately 1,471 to
4 approximately 1,517, or 3.1 percent in nominal growth."
5 Is that your testimony?

6 **A** Yes.

7 **Q** So what is -- is the average weekly earnings,
8 I mean, is that from around the country? Where did you
9 get that information?

10 **A** Yes. These are from the Bureau of Labor and
11 Statistics, and they are average weekly earnings for
12 utility industry employees across the country.

13 **Q** And so the time period that the 3.1 percent
14 references is from when to when?

15 **A** It is -- if we can go to Exhibit JJR-12, it's
16 shown there. The data presented on Exhibit 12, JJR-12
17 range from 2006 to the end of 2014. The 3.1 percent
18 figure is for December 2012 to year end 2014.

19 **Q** So that would pick up '12, '13, and '14; is
20 that right?

21 **A** It would pick up the change since
22 December 2012. So basically all of '13 and '14.

23 **Q** How about -- did you factor in '14 and '15, or
24 no?

25 **A** Yes on '14. No on '15.

1 Q So '14 is included in your testimony?

2 A Yes.

3 Q Okay. Do you know how this compares to the
4 rate of increase with respect to FPL employees?

5 A The rate of increase here, if you look at all
6 of the data, is 2.81 percent over the eight years of
7 data shown on this chart. So 2.81 percent per year for
8 wages only.

9 In our benchmarking, we benchmarked total
10 compensation, which is benefits, pensions, and salaries,
11 so we don't have a direct comparison to just wages.

12 Q So that would be a no?

13 A I don't know how just the wages compare.
14 That's correct.

15 Q If FPL had an average wage increase of
16 3 percent per year, that would be much higher than the
17 average that you testify about on page 15, lines 13 to
18 15; correct?

19 A If it was for the same period. As I said, the
20 longer term trend in the industry is 2.8 percent per
21 year.

22 Q Did you benchmark -- if I did math on this to
23 come up with the annual wage, you would agree the annual
24 wage would be approximately 79,000?

25 A I can accept that, subject to check. I assume

1 you're multiplying the weekly by 52?

2 Q Isn't that what you do to come up with the
3 annual?

4 A That is the appropriate annual number, yes.

5 Q Okay. Did you do any comparison of the annual
6 average wage of FPL employees compared to any other
7 sectors, you know, teachers, state workers, police
8 officers, or it was limited just to the utility context?

9 A Our benchmarking was to other utilities, not
10 to other industries.

11 Q Do you have any information -- do you know how
12 that compares to other -- the average wage of all
13 sectors?

14 A No, I can't look -- I can't tell you how it
15 compares to other sectors.

16 Q One of the areas where FPL did not meet the
17 average industry standard was in nuclear capacity
18 factor; is that right?

19 A That depends on which year we're talking
20 about. The operating statistics show that in some years
21 it fell below the industry average.

22 Q So where are you referencing?

23 A Our operational statistics, if we go to that
24 exhibit.

25 Q And just so everyone is clear, what exhibit

1 are you taking us to? Are you still looking?

2 **A** It's Exhibit JJR-5. There's ten pages there.
3 But if we were to look -- for example, your question, I
4 think, was about nuclear capacity factor, and that's on
5 page 4 of 10. And that shows the industry average and
6 FPL's average for each year.

7 (Pause.)

8 **CHAIRMAN BROWN:** Mr. Moyle.

9 **BY MR. MOYLE:**

10 **Q** And that shows that FPL is below the industry
11 average in certain years; correct?

12 **A** Yes, on that metric.

13 **Q** You're also -- you're not -- your testimony
14 doesn't say that -- say anything with respect to this
15 Commission about what they should do with respect to the
16 adder. That's Mr. Dewhurst; is that right?

17 **A** Mr. Dewhurst quantifies the recommendation
18 with regard to the adder. That's correct.

19 **Q** Right. So you're not testifying with respect
20 to the quantification of the adder; is that right?

21 **A** That's correct.

22 **Q** And you didn't delve into any of the details
23 of the FPL rate request on things like healthcare cost
24 or cost of peaker replacement; that's correct?

25 **A** No. My purpose was benchmarking, not looking

1 at individual elements of the rate request.

2 Q Okay. Staff put in front of you Exhibit
3 479 and asked you to authenticate it.

4 A That's correct.

5 Q Do you have access to that?

6 A I believe we do on the computer.

7 Q You do?

8 A I believe so, yes.

9 Q How many pages is 479?

10 A I don't think it can be counted in pages. For
11 example, one of the documents in 479 that I produced was
12 a very large Excel spreadsheet, which I'm not sure how
13 you measure pages when you have a very large Excel
14 spreadsheet.

15 Q As I understood what's in 479, it's the work
16 papers of all the witnesses and all the exhibits; is
17 that right?

18 A That's correct.

19 Q So you have authenticated and said that you
20 looked at all the exhibits and all the witnesses and all
21 the work papers relied on by those witnesses?

22 **MS. MONCADA:** Objection. Those were not the
23 questions posed by staff.

24 **CHAIRMAN BROWN:** I do not believe they were,
25 Mr. Moyle.

1 **MR. MOYLE:** Okay. Well, let me --

2 **CHAIRMAN BROWN:** Why don't you rephrase it,
3 ask him what he looked at.

4 **BY MR. MOYLE:**

5 **Q** Sir, if I pulled out some work papers -- well,
6 no, that's not a good question.

7 Did you look at all the work papers for all of
8 the witnesses in this case?

9 **A** No. I looked at the ones I supplied.

10 **Q** Okay. So did you look at all the exhibits for
11 all the witnesses in this case?

12 **A** No. Again, I looked at the ones I supplied.

13 **Q** Okay. So you can testify as to what you
14 supplied; is that right?

15 **A** Yes. My authentication was for the portions
16 of 479 that I supplied.

17 **MR. MOYLE:** Okay. Thank you. That's all I
18 have?

19 **CHAIRMAN BROWN:** Okay. Thank you.
20 Next is Hospitals.

21 **MR. SUNDBACK:** Thank you, Madam Chairman.

22 **EXAMINATION**

23 **BY MR. SUNDBACK:**

24 **Q** Good morning, sir.

25 **A** Good morning.

1 **Q** Let's start with page 3, lines 13 through 23,
2 of your testimony, please.

3 **CHAIRMAN BROWN:** Mr. Sundback, do you have any
4 exhibits that you wish to hand out to cross this witness
5 on?

6 **MR. SUNDBACK:** Thank you for reminding me of
7 that.

8 **CHAIRMAN BROWN:** You're welcome.

9 **MR. SUNDBACK:** They are now with staff. And
10 what we have done to expedite the process is to mark
11 them with letters such that --

12 **CHAIRMAN BROWN:** Thank you.

13 **MR. SUNDBACK:** -- we'll ask staff to
14 distribute the lettered exhibit at that time. Obviously
15 not in derogation of marking them properly with an
16 exhibit number, but simply to identify which exhibit
17 we're on.

18 **CHAIRMAN BROWN:** Okay.

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

20 **BY MR. SUNDBACK:**

21 **Q** Mr. Reed, have you had a chance to look at
22 page 3, lines 13 through 23, yet?

23 **A** Yes.

24 **Q** Okay. So you've worked on -- apparently over
25 100 -- you've worked for 100 energy and utility clients

1 in your career; correct?

2 **A** Yes.

3 **Q** Generally speaking, your testimony represents
4 a comparison of FPL to three other groups of utilities
5 based on a variety of factors; right?

6 **A** Yes.

7 **Q** FPL didn't tell you which factors to use in
8 that comparison, did it?

9 **A** That's correct.

10 **Q** The factors that you used were the result of
11 your decisions and choices; right?

12 **A** Yes.

13 **Q** Okay. The factors that we use for any
14 assessment may affect the results of that assessment;
15 correct?

16 **A** Yes, I think by definition.

17 **Q** Okay. Very good. And to that extent, you're
18 asking the Commission to rely on your judgment regarding
19 which factors should be selected to assess FPL's
20 performance; correct?

21 **A** Yes. I think I am asking the Commission to
22 reach the same conclusion I did with regard to overall
23 benchmarking, which is a product of the metrics that I
24 selected.

25 **Q** And to that extent then, they are -- you're

1 asking them to rely at least in part on your judgment,
2 albeit you're describing some of the bases for your
3 judgments in your testimony; is that fair?

4 **A** I think that's fair.

5 **Q** Okay. The factors that are selected for an
6 assessment or comparison ultimately determine whether
7 the analysis is robust or lacking in persuasive power;
8 right?

9 **A** I'll accept the first part. It will determine
10 whether the analysis is robust. Persuasion is going to
11 be determined by somebody else.

12 **Q** Sure. Fair enough. Let's look at page
13 4 briefly, lines 6 through 19, of your testimony,
14 please. In particular, let's look at line 11. You
15 reference valuation assignments. Do you see that?

16 **A** Yes.

17 **Q** That often involves finding comparable
18 companies or assets on which to base a valuation; is
19 that correct?

20 **A** Yes, it can.

21 **Q** Okay. Let's look at lines 15 through 19 in
22 that passage. You reference the benchmarking studies
23 there, and you had discussion this morning with
24 Mr. Moyle about the scope of some of your benchmarking
25 services. That also involves a comparison of companies'

1 services or policies; right?

2 **A** Was your last word "policies"?

3 **Q** Yes.

4 **A** The benchmarking work that we do compares
5 companies on metrics. Policies don't really come into
6 benchmarking, as we perform it.

7 **Q** Okay. Let's look at lines 9 through 12 of
8 this passage. You're discussing your merger and
9 acquisition experience. Do some merger and acquisition
10 services involve making assessments of a target company
11 relative to the attractiveness of other potential
12 targets?

13 **A** Yes.

14 **Q** Okay. Let's briefly look at your CV, if we
15 could, JJR -- I'm sorry, JJR-1. Let us know when you're
16 there, please.

17 **A** I'm there. Go ahead.

18 **Q** Okay. The last line of the first page you
19 describe your testimony regarding, among other things,
20 accepted energy industry practices. That involves
21 potentially a comparison of an entity's ability to
22 achieve or actual achievement of different standards; is
23 that correct?

24 **A** Can I have your question again?

25 **Q** Sure. That assessment of accepted industry --

1 energy industry practices involves some comparison of
2 different standards and the entity's compliance or
3 achievement of those standards; is that correct?

4 **A** Yes.

5 **Q** Okay. And that might be a standard set by
6 regulatory agencies?

7 **A** It can, yes.

8 **Q** Or it could constitute something like good
9 utility practice.

10 **A** Yes.

11 **Q** Just to shorthand it, can you give me your
12 understanding of the notion of good utility practice?

13 **A** Practices that a utility that was acting in a
14 reasonable and prudent matter would follow.

15 **Q** Okay. When you have testified that it's your
16 opinion that FPL is performing at an exceptional level,
17 we should conclude from that that it's your opinion that
18 they're substantially exceeding good utility practice;
19 is that fair?

20 **A** I think good utility practice is a range. I
21 would say that they are performing at the top end of
22 that range.

23 **Q** Fair enough. In the last paragraph still of
24 JJR-1, you reference that you've testified on over
25 200 occasions, and then you list testimonies behind this

1 CV. You'd like us to take into account your background
2 in assessing the weight that should be given your
3 testimony in this case; is that fair?

4 **A** I'll leave that to the Commission. I
5 presented the information for its review.

6 **Q** Okay. Let's look at page 10, lines 8 through
7 10, of your testimony, please.

8 **CHAIRMAN BROWN:** Sir, you said lines -- page
9 10, lines --

10 **MR. SUNDBACK:** 8 through 10, Madam Chairman.

11 **CHAIRMAN BROWN:** Okay.

12 **THE WITNESS:** I have that.

13 **BY MR. SUNDBACK:**

14 **Q** Okay. You state the third step in
15 constructing your benchmarking study is to define the
16 metrics -- operational, financial, and so forth -- and
17 that goes -- that ties into our earlier conversation
18 about the importance of picking the right factors to
19 look at; is that fair?

20 **A** Yes.

21 **Q** Okay. Let's look at page 6 of your testimony,
22 please, lines 7 through 8. There you refer to FPL's
23 requested rate increase. Do you see that?

24 **A** Yes.

25 **Q** Okay. Can you give us -- maybe it's faster to

1 do it this way. See if you're comfortable with this.
2 Does this represent roughly your understanding of the
3 FPL requested rate increase? There is a request to
4 increase base rates by about 826 million in 2017, a
5 request to increase base rates by something over
6 200 million in 2018 based on a projected year in 2018,
7 and a request to increase rates again on an annualized
8 basis in 2019 by over \$200 million based on the addition
9 of circumstances associated with Okeechobee.

10 **A** In general terms, I think that captures the
11 request.

12 **Q** Okay. And it's your understanding that that
13 last request, the Okeechobee change, is not based on a
14 full estimated test year for either '19 or '20; is that
15 right?

16 **A** I believe that's referred to as a limited
17 scope adjustment, so that's correct.

18 **Q** Okay. As an expert, do you agree that those,
19 especially that adjustment in 2019 and 2020, would be
20 contrary to general regulatory practice?

21 **A** No.

22 **Q** Okay. You had briefly discussed with
23 Mr. Moyle the 50-basis-point adder. Do you understand
24 that FPL is arguing that if regulators award it the
25 50-basis-point adder, that will incent greater

1 efficiencies by FPL or other Florida utilities?

2 **A** I think that's generally correct, yes.

3 **Q** And so your testimony would potentially
4 determine -- help determine the overall ROE awarded by
5 this Commission to FPL?

6 **A** I don't want to quibble with semantics. I
7 don't think technically that's the ROE. The return on
8 equity is the cost of equity. This would be the allowed
9 return, which includes the ROE plus the adder.

10 **Q** Okay. And that would potentially be used in
11 other regulatory determinations to the extent the
12 Commission wanted to apply that policy to other
13 utilities in Florida; correct?

14 **A** Could you be more specific? When you say,
15 "that" would apply to other determinations, what do you
16 mean by "that"?

17 **Q** To the extent that this Commission determines
18 it's appropriate to grant some incentive reward to FPL
19 based on your testimony, for instance, and that is in
20 part justified based on inducing other Florida utilities
21 to become more efficient or otherwise emulate what you
22 characterize to be FPL's performance, that might in turn
23 be the subject of a decision by this Commission
24 involving another utility. Do you understand that
25 circumstance?

1 **A** In general, yes. The Commission can use the
2 same framework to make determinations with regard to
3 management performance for other companies. It has done
4 so in the past. I think it's a sound policy.

5 **Q** Okay. Fair enough. Turning back to JJR-1,
6 your list of testimonies, let's see if we can do this on
7 a fairly expeditious basis.

8 Would you accept, subject to check, that on
9 pages 5 and 6 of JJR, you've listed approximately
10 24 testimonies filed on behalf of NextEra over the last
11 ten years?

12 **A** Just for clarification, I think meant
13 JJR-2 rather than 1?

14 **Q** Yes. I'm sorry. Thank you.

15 **A** And what page were you on?

16 **Q** Pages 5 and 6. Probably should have thrown in
17 page 7 too for the Hawaii matters.

18 **A** I have testified several times before this
19 Commission on behalf of Florida Power & Light.

20 **Q** Sir, that wasn't my question. Would you
21 agree, subject to check, that you've testified 24 times
22 on behalf of NextEra as shown in your exhibit?

23 **MS. MONCADA:** Mr. Sundback, are you counting
24 rebuttal and direct as separate testimonies?

25 **MR. SUNDBACK:** Apparently, since they're

1 listed in the exhibit separately, yes, we're counting
2 them as separate.

3 **CHAIRMAN BROWN:** Please proceed, Mr. Reed.

4 **THE WITNESS:** I can accept that, subject to
5 check, based upon your enumeration.

6 **BY MR. SUNDBACK:**

7 **Q** And this testimony isn't listed in that list;
8 right? So that would make it 25.

9 **A** I think that's correct.

10 **Q** Would you accept, subject to check, that over
11 the last year -- nine years, that's at least twice as
12 many testimonies as you've filed on behalf of any other
13 client based on this list?

14 **A** I haven't made that comparison, but I can
15 accept that, subject to check.

16 **Q** Okay. Based on your testimonies, for
17 instance, listed here, you haven't made a career out of
18 advocating that utilities take actions or positions
19 inconsistent with good utility practice; is that right?

20 **A** I think I heard your question that I have not
21 made recommendations that are -- that a utility should
22 act inconsistently with good utility practice. That's
23 correct.

24 **Q** Okay. Now would you accept that your
25 testimony represents, at least at one level, an attempt

1 to measure FPL's productive efficiency?

2 **A** Yes.

3 **Q** Okay. You don't modify the definition of
4 productive efficiency from case to case, making your
5 client look better because of a different definition
6 between cases, do you?

7 **A** No, I do not modify the definition for that
8 purpose.

9 **MR. SUNDBACK:** Madam Chair, we'd like to have
10 marked with the next available exhibit number --

11 **CHAIRMAN BROWN:** 581.

12 **MR. SUNDBACK:** 581. Thank you. Excerpts of
13 Mr. Reed's testimony in a proceeding before the FERC.

14 **CHAIRMAN BROWN:** Thanks.

15 (Exhibit 581 marked for identification.)

16 All right. Please proceed.

17 **MR. SUNDBACK:** Thank you.

18 **BY MR. SUNDBACK:**

19 **Q** Let's look, if we could, at the third page,
20 counting the cover, of Exhibit 581, okay, and it's
21 marked in the upper right-hand corner, JJR-1, page 21 of
22 46. Do you have that?

23 **A** I do.

24 **Q** Okay. On lines 24 and 25, you provide a
25 definition of productive efficiency; is that correct?

1 **CHAIRMAN BROWN:** That was lines, excuse me,
2 lines 21?

3 **MR. SUNDBACK:** 24 and 25.

4 **CHAIRMAN BROWN:** Thank you.

5 **MR. SUNDBACK:** Thank you.

6 **THE WITNESS:** Yes.

7 **BY MR. SUNDBACK:**

8 **Q** Okay. And you define it there as providing
9 products and services at the least possible unit cost;
10 right?

11 **A** Yes.

12 **Q** Okay. Is that the same definition that you
13 articulated in your testimony here?

14 **A** I think it is consistent but probably not word
15 for word the same.

16 **Q** Okay. Okay. Let's look briefly at your
17 testimony at page 11, line 18, through page 12, line 9.
18 Let us know when you've had a chance to review that,
19 please.

20 **A** I have that.

21 **Q** Okay. Would it be fair to conclude that
22 you're attempting, at least from a very high level
23 perspective, to establish three different peer groups
24 for comparison purposes?

25 **A** Yes.

1 **Q** Okay. And your JJR-6 represents an
2 enumeration of the individual utilities in each of those
3 utility groups; is that correct?

4 **A** Page 1 of Exhibit 6 does, yes.

5 **Q** Okay. Let's just take a quick look at some of
6 the companies on JJR-6. Do you happen to recall what
7 FPL's total retail electric revenues were in 2014?

8 **A** No.

9 **Q** Okay. Let's look at Alabama Power. Why don't
10 we start with that one.

11 **A** And you're on Exhibit JJR-6, page 1 of 10; is
12 that correct?

13 **Q** Yes.

14 **A** I have that page, page 1 of 34.

15 **Q** Okay. Alabama Power, would you accept,
16 subject to check, that Alabama Power has about
17 1.4 million customers?

18 **A** I can accept that, subject to check.

19 **Q** How many customers does FPL have?

20 **A** Approximately 4.8 million.

21 **Q** Okay. So based on those numbers, Alabama
22 Power has about 29 percent of the customers that FPL
23 does; right?

24 **A** Do you want me to make that calculation?

25 **Q** Could you accept it, subject to check?

1 **A** Yes.

2 **Q** You seem to be pretty good with numbers, but
3 I'm happy to have you check it, if you want to.

4 How about -- let's skip down to Arizona Public
5 Service Company also on JJR-6. What do you believe the
6 total number of customers Arizona Public Service has?

7 **A** I don't have that information here.

8 **Q** Okay. And if we were to do that kind of
9 inquiry for the other entities listed on JJR-6, I
10 presume your answer would generally be the same right
11 now.

12 **A** That I don't have the customer count for each
13 of the 30-something companies on the list. That's
14 correct.

15 **MR. SUNDBACK:** Okay. All right. Madam Chair,
16 we'd like to have identified with the next available --

17 **CHAIRMAN BROWN:** Mr. Sundback, how many more
18 exhibits do you have for this witness?

19 **MR. SUNDBACK:** Oh, we probably have -- we
20 could have 15. It depends, of course, on the course of
21 the -- to the extent we can expedite it --

22 **CHAIRMAN BROWN:** Yes.

23 **MR. SUNDBACK:** -- and ask him subject to check
24 and accept that, then we'll move through that. To the
25 extent that there's resistance, then --

1 **CHAIRMAN BROWN:** All right. Every time that
2 you hand out an exhibit, it adds more time to the
3 process rather than handing them in bulk to us for
4 review here. So go ahead, but, if possible, please
5 provide us all the exhibits you intend to use, if you
6 can do that.

7 **MR. SUNDBACK:** Thank you, Madam Chairman.
8 We'll attempt to do that with regard to exhibits that
9 don't -- consistent with the outlines that were
10 discussed this morning.

11 **CHAIRMAN BROWN:** Okay. We're at 582 now.

12 **MR. SUNDBACK:** Yes, thank you.

13 (Exhibit 582 marked for identification.)

14 And that's an excerpt of Mr. Reed's testimony
15 on behalf of Questar Gas Company.

16 **CHAIRMAN BROWN:** Again, we're just trying to
17 run an efficient process here, so to the extent you can
18 expedite these and these exhibits, it would be helpful
19 for us.

20 **MR. SUNDBACK:** We will do so, Madam Chairman.

21 **BY MR. SUNDBACK:**

22 **Q** Mr. Reed, let us know when you're prepared to
23 proceed.

24 **A** I'm ready.

25 **Q** Okay. Would you agree that in the Questar

1 proceeding you indicated at page 3, lines 57 through 58,
2 that an element to consider included the company's
3 responsiveness to regulatory policy objectives in the
4 states in which it operates?

5 **A** Yes, I see that statement appearing on
6 page 3 at line 57.

7 **Q** Okay. Let's look at page 6, please, lines 147
8 through 152, and there you, in assembling your
9 benchmarking group, screened the universe of companies
10 to eliminate those that had plus or minus 35 percent of
11 the surveyed companies' customers; right?

12 **A** That's correct.

13 **Q** You didn't apply a 35 percent bandwidth in
14 this proceeding; right?

15 **A** No. We applied different bandwidths for the
16 three different peer groups, but a similar construct, a
17 different percentage.

18 **Q** Okay. Let's look at page 7 briefly, lines
19 173 through 175. You stated there that efficiencies and
20 economies of scale available to one company are simply
21 not available -- are not the same as those of a company
22 that's either half its size or twice its size; right?

23 **A** That's correct.

24 **Q** Okay. So when you were doing your screening
25 for the utility companies in your various proxy groups,

1 you didn't knock out companies that were below half the
2 size of FPL, did you?

3 **A** You're talking now about when I did that
4 screening in this case as opposed to the Questar case?

5 **Q** That's correct.

6 **A** That's correct. We selected three different
7 peer groups in the Florida case, including one that was
8 exclusively large utilities defined as customers of
9 2 million or more, one which was broader to get the
10 broadest possible group of 27 companies and one which
11 was just Florida. So size can be relevant, which is why
12 we selected one peer group in Florida that was just
13 large utilities.

14 **Q** Okay. Well, let's see if we can do this this
15 way.

16 Would you agree that the age of a generation
17 facility is a general indication of its technological
18 vintage?

19 **A** Yes.

20 **Q** Newer generation facilities have a competitive
21 edge as compared to older counterparts; correct?

22 **A** By competitive edge, newer generating units
23 have typically greater efficiency, lower heat rates.
24 And if you're in a competitive market, then, yes, they
25 can have a competitive edge.

1 Q And they have lower operating costs; right?

2 A All other things being held equal, meaning
3 across the same technology, yes.

4 Q Okay. And they tend to have an enhanced
5 operating flexibility; right?

6 A Not always. Is your question are newer units
7 by themselves going to be more flexible? Not always.

8 MR. SUNDBACK: All right, Mr. Reed -- well,
9 I -- we'd ask, Madam Chair, that we have assigned
10 Exhibit Number 583 excerpts from Mr. Reed's testimony in
11 Northern Indiana Public Service Company.

12 CHAIRMAN BROWN: Okay.

13 (Exhibit 583 marked for identification.)

14 All right. You may proceed.

15 MR. SUNDBACK: Thank you.

16 BY MR. SUNDBACK:

17 Q Let's look at page 24, Mr. Reed. We've got
18 some language in lines 14 through 22. Let's look at
19 that, please. Let us know when you're done reviewing
20 it.

21 A I have that.

22 Q Okay. On lines 19 through 22, you'll see some
23 propositions in it. It doesn't look like any of the
24 qualifiers are affixed to it that you just tried to
25 affix to your answers you gave us verbally; isn't that

1 right?

2 **A** No, Mr. Sundback, that's not correct. Let's
3 begin at line 13 of that document. The age of a
4 generation facility provides a general indication of the
5 technological vintage of the generation facility as
6 compared to its competitors. It then goes on to talk
7 about advancements over the past 50 years in operating
8 efficiency, cost, and flexibility. Those statements are
9 correct. It's not the case where always that newer
10 units are more flexible.

11 **Q** Generally it's the case. That's your
12 testimony?

13 **A** Yes.

14 **Q** Okay. Did you reproduce this kind of
15 statement in your testimony in this case?

16 **A** No, I don't think any aspect of that testimony
17 from Indiana from 15 years ago would have been relevant
18 to my benchmarking here.

19 **Q** Do you believe that these trends have
20 continued since you provided this testimony in Indiana?

21 **A** Yes, to a lesser degree. Generation
22 technology trends have continued.

23 **Q** Okay. Would you agree that it's true that
24 many utilities in the U.S. are now facing stagnant
25 demand overall?

1 **A** Is your question directed to electric
2 utilities?

3 **Q** Yes. Thank you.

4 **A** There are a large number that are facing
5 stagnant demand.

6 **Q** Okay. FPL is not facing stagnant overall
7 demand; correct?

8 **A** It has more of a challenge because it does
9 have to meet growth. And so, yes, its demand is not
10 stagnant.

11 **Q** Okay. Let's look at your direct testimony,
12 page 29, lines 13 through 20, for just a moment, please.

13 **CHAIRMAN BROWN:** Again, Mr. Sundback, that is
14 page 29, lines what?

15 **MR. SUNDBACK:** 13 through 20. I'm sorry,
16 Madam Chairman.

17 **CHAIRMAN BROWN:** Thanks.

18 **MR. SUNDBACK:** I'm trying to scoot along here.

19 **CHAIRMAN BROWN:** Mr. Reed, are you prepared?

20 **THE WITNESS:** Yes, I have that.

21 **BY MR. SUNDBACK:**

22 **Q** Thank you. How much of the improvement in the
23 heat rate for the fossil generation fleet since 2005 has
24 been associated with growth in demand on FPL's system?

25 **A** That question can't be answered. There is no

1 way to isolate the effects of growth as opposed to the
2 effects of reinvestment in the technology. Whenever you
3 choose to replace an older generator with a newer
4 generator, you do so based on the entirety of the
5 circumstances, considering growth, considering the
6 payback in terms of greater efficiency, and also
7 considering the environmental benefits. So you can't
8 isolate one factor and say what portion is attributable
9 to that factor.

10 **Q** Well, while we're on the emissions point,
11 since you raised it, you haven't done any calculation of
12 what would have happened with regard to emissions on FPL
13 if the Glade County coal-fired units had been built as
14 FPL proposed, have you?

15 **A** We did not try and posit a counterfactual
16 world like that, no.

17 **Q** And those would have come into service in 2013
18 and 2014; right?

19 **A** I don't recall.

20 **Q** Among your comparison group members, you
21 didn't directly rank the proportion of each entity's
22 generation that's fired by a particular fossil fuel; is
23 that correct?

24 **A** I think that's generally correct. Your
25 question was did we rank them by what percentage each

1 one -- each company had with regard to each fossil fuel,
2 gas or coal? No.

3 Q Thank you. Similarly, you didn't -- I'm
4 sorry. Let's look at page 30, lines 1 through 5.
5 They're you're talking about the plant equivalent
6 availability factor. Do you see that?

7 A For fossil plants, yes.

8 Q Yes. You didn't, in your testimony,
9 explicitly compare the age of FPL's fossil generation
10 fleet to the age of the peers in your various comparison
11 groups; right?

12 A Not exclusively for generation. We did an age
13 comparison for aggregate plant, but not limiting it to
14 fossil generation.

15 Q Okay. Thank you. With regard to your Florida
16 utility comparison group, so TECO, Duke, Gulf Power,
17 FPL, you'd agree that FPL has by far the largest sales;
18 is that fair?

19 A It is the largest of those four, yes.

20 Q By a substantial margin.

21 A Yes.

22 Q And if you counted it by the number of
23 customers, that would be true as well; right?

24 A Yes.

25 Q And the largest generation fleet by far.

1 **A** Of those four, is that your question?

2 **Q** Yes.

3 **A** Yes.

4 **Q** On a dollar-weighted basis, FPL has by far the
5 newest gas-fired generation fleet, is that correct,
6 compared to those other utility -- Florida utilities?

7 **A** I'm not quite sure what you mean by "on a
8 dollar-weighted basis."

9 **Q** Let's just strike the question and keep going.
10 Would you agree that attempts to capture
11 increased scope and scale are major drivers in utility
12 mergers?

13 **A** Yes. In some mergers, they are.

14 **Q** Okay. And that's a desirable attribute that
15 utilities generally want to have; is that correct?

16 **A** Can you be more specific? What is the
17 attribute you're talking about?

18 **Q** Scale, increased scope and scale.

19 **A** I don't want to generalize too much, but, yes,
20 there are certainly some acquisitions that are driven by
21 increases in scale and increases in scope, and that has
22 been a motivation for some utility mergers.

23 **Q** Okay. And FPL's scope and scale dwarfs that
24 of most other individual utilities either in your
25 Florida utility group or your straight electric utility

1 group; right?

2 **A** Again, I don't want to say dwarfs. It is
3 bigger than the other three in the Florida group. It's
4 bigger than most in the straight electric group.

5 **Q** You've testified that larger and more
6 efficient utilities should be expected to lead to lower
7 energy costs; right?

8 **A** I think I've testified that the combination of
9 utilities into larger groups should result in lower
10 costs.

11 **CHAIRMAN BROWN:** It will be 584.

12 **MR. SUNDBACK:** I'm sorry?

13 **CHAIRMAN BROWN:** 584.

14 (Exhibit 584 marked for identification.)

15 **MR. SUNDBACK:** 584. Thank you, Madam Chair.

16 And for reference purpose, this represents an excerpt of
17 Mr. Reed's testimony involving Wisconsin Energy.

18 **CHAIRMAN BROWN:** Okay. Thank you.

19 **BY MR. SUNDBACK:**

20 **Q** Let me know when you have that testimony,
21 Mr. Reed.

22 **A** Do you have a page I should refer to?

23 **Q** Yes. Let's take a look at 39. Okay. Let's
24 look at what's labeled lines number 787 through 789,
25 please.

1 **CHAIRMAN BROWN:** Where would that be? What --

2 **MR. SUNDBACK:** On page 39, lines 787 through
3 789.

4 **CHAIRMAN BROWN:** Thank you.

5 **MR. SUNDBACK:** That would help us if we get to
6 four-digit line numbers.

7 **CHAIRMAN BROWN:** All right, Mr. Reed?

8 **THE WITNESS:** Yes, I have that.

9 **BY MR. SUNDBACK:**

10 **Q** Okay. So larger and more efficient utilities
11 would describe not only merger candidates but entities
12 on a standalone basis that have scope and scale; is that
13 correct?

14 **A** Not necessarily. The question I'm answering
15 here appearing at line 781 is, "What are the strategic
16 benefits of the transaction," which was a merger of a
17 combination gas/electric company with another gas and
18 electric combination company.

19 **Q** Okay. So you said, "Not necessarily." The
20 flip side of that is it's possible that that is the
21 case; is that fair?

22 **A** Let's be clear on what we mean by "that is the
23 case." Can larger companies achieve efficiencies? Yes,
24 that can be the case.

25 **Q** Okay. You recall in the past year you've

1 submitted testimony on behalf of NextEra in the Hawaiian
2 proceedings; right?

3 **A** Yes.

4 **Q** Did you testify there that you estimated the
5 synergy savings could approximate 15 percent of the
6 non-fuel O&M?

7 **A** I think I gave a range of 10 to 15 percent.
8 That's my recollection sitting here now.

9 **Q** Okay. And you quantified that as a reduction
10 or a merger savings of maybe 100 million. Does that
11 sound like a fair number?

12 **A** I can accept that, subject to check.

13 **Q** Okay. Your list of testimonies on JJR-2 list
14 several testimonies filed on behalf of Oncor. Let's see
15 if we can expedite this.

16 Would you agree that in Oncor you testified
17 that transmission and distribution utilities have a
18 materially different level of flexibility which is more
19 limited than integrated utilities?

20 **A** I think you may be referring to investment
21 flexibility. If that's your reference, then I would
22 agree that T&D only companies are limited relative to
23 fully integrated companies.

24 **CHAIRMAN BROWN:** 585.

25 **MR. SUNDBACK:** Thank you, Madam Chair. Could

1 we have marked as Exhibit No. 585 excerpts of Mr. Reed's
2 testimony in Oncor proceeding Docket No. 38929 before
3 the Texas Public Utility Commission.

4 (Exhibit 585 marked for identification.)

5 And just to move things along, if you'd look

6 --

7 **CHAIRMAN BROWN:** Please do.

8 **BY MR. SUNDBACK:**

9 **Q** If you'd look at page 24 at the bottom
10 starting at line 30 through page 25, rolling through
11 about line 10 --

12 **A** I'm sorry. I need the page number again.

13 **Q** Sure. Page 24, line 30, through page 25,
14 line 10.

15 **MS. MONCADA:** Madam Chair, before he answers
16 that question, this is about the fifth or maybe the
17 sixth exhibit that's been passed out that's an excerpt
18 from testimony that Mr. Reed has provided sometimes even
19 as far back as 1994, and we're just having trouble
20 understanding why these are sensitive exhibits that
21 couldn't be passed out all at once. It's really
22 impossible for Mr. Reed to get a head start on any of
23 these.

24 **CHAIRMAN BROWN:** Thank you, and I agree.
25 Counselor?

1 **MR. SUNDBACK:** Madam Chair, the exact point is
2 that we're engaged in cross-examination, and this is
3 your opportunity to hear candid responses, not prepared
4 materials that have been massaged in advance.

5 **CHAIRMAN BROWN:** How many more excerpts do you
6 have from different state commissions?

7 **MR. SUNDBACK:** We are at --

8 **CHAIRMAN BROWN:** We're at the fifth one right
9 now.

10 **MR. SUNDBACK:** Yes.

11 **CHAIRMAN BROWN:** I don't think it's
12 prejudicial to anybody to have all of the exhibits
13 passed out at this time.

14 **MR. SUNDBACK:** Well, Madam Chairman, the
15 witness then is going to piece through them and
16 construct various explanations for why that factor which
17 was mentioned in a proceeding doesn't apply here and the
18 other factor doesn't apply here. It's all completely
19 different. And the fact of the matter is he's utilized
20 a method and a series of factors and a benchmarking
21 study he wants this Commission to rely on, but,
22 nonetheless, when he's in front of other commissions,
23 he's looking at different factors and saying they have
24 to be taken into account.

25 **CHAIRMAN BROWN:** The question that we're

1 answering here isn't about the substance. It's about
2 passing the material out to all of the parties at -- in
3 bulk so that you don't have to delay the process any
4 more. How many more excerpts do you have from state
5 commissions, sir?

6 **MR. SUNDBACK:** Could I beg your indulgence for
7 one second, please?

8 **CHAIRMAN BROWN:** Yes.

9 (Pause.)

10 Sir?

11 **MR. SUNDBACK:** Thank you, Madam Chair. Would
12 it be acceptable from your perspective if we took a
13 break now, and then at the conclusion of the break, we
14 would have organized the balance of the state
15 testimonies and hand them out once the witness comes
16 back and takes the stand?

17 **CHAIRMAN BROWN:** That sounds good. How much
18 time do you need to do that?

19 (Pause.)

20 **MR. SUNDBACK:** Madam Chair, we also have some
21 other publicly materials -- available materials in
22 addition to the state --

23 **CHAIRMAN BROWN:** Okay.

24 **MR. SUNDBACK:** So if it would be acceptable,
25 and we realize it's an imposition on you, if we took our

1 lunch break now, we'd organize all the rest.

2 **CHAIRMAN BROWN:** No, sir. No, sir. Would you
3 be opposed to proceeding to the next intervenor while
4 you -- and then we'll get back to you after lunch?

5 **MR. SUNDBACK:** No, we wouldn't oppose that at
6 all. Just we don't want to disrupt the proceeding, so
7 we would organize the materials during the lunch break.

8 **CHAIRMAN BROWN:** Okay. That's fine, as long
9 as -- would you welcome, though, the Chair entertaining
10 the next party to cross-examine this witness, and then
11 we'll come back to you after the lunch break?

12 **MR. SUNDBACK:** That would be fine, Madam
13 Chair. Or alternatively if we can do it in a reasonable
14 amount of time while someone else is crossing and then
15 return, we'd be happy to do that before the lunch break,
16 if that moves things along.

17 **CHAIRMAN BROWN:** Okay. That would be helpful.

18 **MR. SUNDBACK:** I appreciate your indulgence.

19 **CHAIRMAN BROWN:** Okay. So we're going to move
20 on right now to FRF, Retail Federation.

21 **MR. WRIGHT:** Thank you, Madam Chairman. Just
22 one moment. I need to mark my last exhibit.

23 **CHAIRMAN BROWN:** We were at 585, so --

24 **MR. WRIGHT:** Yes, ma'am. It was on my desk,
25 and I was trying to help the process along and didn't

1 get it marked. I'm ready to go. Thank you.

2 **EXAMINATION**

3 **BY MR. WRIGHT:**

4 **Q** It is still morning. Good morning, Mr. Reed.

5 **A** Good morning.

6 **Q** We've encountered each other before. I'm
7 Schef Wright. I represent the Florida Retail
8 Federation. And you know who we are; a big organization
9 of a lot of large and small retail customers.

10 I'd like to start by resuming a theme that I
11 touched on briefly with Mr. Silagy yesterday.

12 Do you like Triscuits?

13 **A** Do I like Triscuits? Yes.

14 **Q** Good. Do you agree that if you're able to buy
15 Triscuits on a buy-one-get-one-free basis, it's a better
16 deal than to buy one for the regular price?

17 **A** In economic terms, yes.

18 **Q** I can show you FPL's MFRs, but would you agree
19 that for 2017 FPL's projected total retail revenues are
20 right at 10 cents a kilowatt hour?

21 **A** I can accept that generally, subject to check.

22 **Q** Okay. I'll aver to you that the numbers shown
23 on FPL's MFR C-1 for total retail revenues, there's a
24 couple hundred million left off, is \$10.7 billion, and
25 that according to FPL's Ten-Year Site Plan, their

1 projected sales for 2017 is -- are 107,000 GWh or
2 107 million MWh. And if you divide those two numbers,
3 you get right at 10 cents. Does that sound right to
4 you?

5 **A** Generally, yes.

6 **Q** Okay. And Florida Power & Light is asking for
7 total rate increases of roughly \$1.3 billion per year in
8 this case?

9 **A** I don't accept "per year." In aggregate
10 across the four years, I believe that's the right order
11 of magnitude.

12 **Q** Well, there may be some ambiguity in my use of
13 the phrase "per year." Would you agree that FPL
14 proposes an increase of \$826 million per year to take
15 affect January 1st of 2017?

16 **A** Generally, yes.

17 **Q** And roughly 270 million to take effect
18 January 1st of January 2018?

19 **A** Yes.

20 **Q** And 209 million per year to take effect
21 approximately, according to Florida Power & Light,
22 June 1st of 2019?

23 **A** Again, subject to check on the exact numbers,
24 yes.

25 **Q** So that when we get to July of 2019, adding

1 all three of those revenue requirements increases
2 together, that's about \$1.3 billion per year.

3 **A** On a cumulative basis, yes.

4 **Q** Cumulative. Thank you.

5 Okay. So if you add 1.3 billion cumulatively
6 per year to the 10.7 billion per year projected for
7 2017, that gets you up to about \$12 billion; correct?

8 **A** Yes. Again, subject to check.

9 **Q** On an annual basis in the latter half of 2019.

10 **A** That's correct.

11 **Q** And in 2020 -- I can show you their Ten-Year
12 Site Plan, if you want to see it -- but will you accept
13 that Florida Power & Light's projected total sales to
14 ultimate consumers is about 109,000 gigawatt hours?

15 **A** Again, I have no basis for knowing if that's
16 accurate or not.

17 **Q** Would you like to see the Ten-Year Site Plan?

18 **A** No, sir. I can accept your numbers, subject
19 to check.

20 **Q** Okay.

21 **A** I'm just saying it's not in my testimony.
22 It's not something I've looked at.

23 **Q** Really? You didn't look at average total cost
24 per retail megawatt hour in your studies?

25 **A** Your specific question was about the projected

1 level of sales in 2019, as I recall.

2 Q Okay.

3 A That is not something I looked at.

4 Q Did you look at it for 2017?

5 A At the projected level of sales? No.

6 My testimony is on benchmarking of FPL's
7 performance over the last ten years.

8 Q Okay. Back to my line. Will you agree,
9 subject to check, that \$12 billion a year divided by
10 109,000 GWh per year comes out right on top of 11 cents
11 per kilowatt hour.

12 A In round numbers, yes.

13 Q Okay. And will you agree that holding
14 value -- holding reliability constant, electricity
15 purchased at 10 cents per kilowatt hour represents
16 greater value to a customer than the same electricity
17 purchased at 11 cents a kilowatt hour?

18 A All other things being equal, yes.

19 Q Thank you. I just have a quick follow up to
20 one question asked you by Mr. Sundback. You were
21 talking about flexibility of generating units.
22 Specifically with respect to Florida Power & Light
23 Company's newer generating units, and by those I would
24 include Turkey Point, the West County units, Riviera,
25 Canaveral, Port Everglades, and Okeechobee, will you

1 agree that those units are generally newer than other
2 combined cycle units around the country?

3 **A** There are many of that vintage as well, but
4 it's newer than the average obviously across the
5 country.

6 **Q** And those units are increasingly efficient,
7 are they not?

8 **A** Newer combined cycle units tend to be more
9 efficient, yes.

10 **Q** Will you generally agree that FPL's combined
11 cycle units are more flexible in their operating
12 characteristics than the average for other utilities'
13 units?

14 **A** Than other utilities' gas-fired combined cycle
15 units or are you talking about different technologies?

16 **Q** Let's ask both questions. Generally --
17 compared to all existing generating fleets, are FPL's --
18 is FPL's fleet more flexible than the average fleet for
19 other utilities?

20 **A** Yes. If we're operating on the same basis of
21 the definition of flexible. Gas-fired combined cycle
22 units which involve aeroderivative or large-scale
23 combustion turbines have more flexible ramp rates, they
24 have more flexible start/stop performance
25 characteristics and response times. So operational

1 flexibility to respond to changes in load, yes.

2 Gas-fired combined cycles tend to be more flexible than
3 steam turbines, which, for example, are the oil-fired
4 units that have been replaced, and also more flexible
5 than coal units or any other type of steam turbine-based
6 unit.

7 **Q** Included in the flexibility benefits of newer
8 combined cycle units, isn't it true that they also are
9 more flexible in terms of their operating range?

10 **A** By "operating range," you're talking about
11 minimum --

12 **Q** Minimum load. Sorry. I didn't mean to
13 interrupt you.

14 **A** Minimum load characteristics. Yes, they can
15 operate across a wider range of load characteristics.

16 (Transcript continues in sequence in Volume
17 6.)

18
19
20
21
22
23
24
25

1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED THIS 24th day of August, 2016.

19
20
21
22
23
24
25


LINDA BOLES, CRR, RPR
FPSC Official Hearings Reporter
(850) 413-6734