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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160021-EI

PETITION FOR RATE INCREASE BY
FLORIDA POWER & LIGHT COMPANY.

_____ /

DOCKET NO. 160061-EI

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

_____ /

DOCKET NO. 160062-EI

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

_____ /

DOCKET NO. 160088-EI

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

_____ /

VOLUME 19
PAGES 2291 - 2381

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING:

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

DATE: Thursday, August 25, 2016

TIME: Commenced at 5:19 p.m.
Concluded at 7:45 p.m.

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

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Court Reporter
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APPEARANCES: (As heretofore noted.)

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I N D E X

WITNESSES

NAME:

PAGE NO.

ROBERT HEVERT

Examination by Mr. Saylor

2295

Examination By Mr. Rappolt

~~2345~~
2344 (CD)

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(CO)

1 P R O C E E D I N G

2 (Transcript follows in sequence from Volume
3 18.) EXAMINATION

4 BY MR. SAYLER:

5 Q Well, now we turn to the large stack of
6 exhibits, Mr. Hevert.

7 And in all of my paper, I lost my key. I
8 apologize, Madam Chair.

9 Ah, I found it. I apologize.

10 As you made an excellent comment earlier,
11 Chairman Brown, we're drowning in paper.

12 MR. LITCHFIELD: I'm sorry, Madam Chair.

13 Just -- if we're going to get into the
14 exhibits, I guess I do not have full copies of
15 these. These are excerpts.

16 CHAIRMAN BROWN: And FPL reminded the parties
17 last night to make sure that they provide -- all
18 intervenors provide them with copies of full and
19 complete exhibits.

20 Mr. Sayler?

21 MR. SAYLER: Madam Chair, I provided a copy on
22 CD-ROM earlier today to Mr. Butler, and I assume
23 that was disseminated to FP&L --

24 CHAIRMAN BROWN: They are -- they look like
25 they're confirming.

1 MR. LITCHFIELD: Well, we received a CD a
2 little bit ago, but we have no access here at
3 counsel table to run a CD. That's my concern.

4 MR. SAYLER: My understanding with talking
5 with one of your support personnel that it was
6 already preloaded on your computer.

7 CHAIRMAN BROWN: Staff.

8 MS. MELTON: I'm sorry, Madam Chairman. I did
9 not hear the issue. Maybe Miss Brownless did.

10 MS. BROWNLESS: I'm sorry, Madam Chair. I did
11 not as well.

12 CHAIRMAN BROWN: Mr. Butler and Mr. Litchfield
13 need help.

14 MR. LITCHFIELD: We -- here's -- thank you.
15 What we will do we'll just have Mr. Butler
16 pull up a chair with his laptop with the CD in it.
17 Mine unfortunately does not have CD capabilities.

18 CHAIRMAN BROWN: Okay. Is this the Staff's --

19 MS. BROWNLESS: No, no --

20 CHAIRMAN BROWN: These are OPC's.

21 Are you -- let me know when you're prepared,
22 FPL.

23 Okay. Mr. Sayler, you may proceed.

24 MR. SAYLER: Yes, ma'am. And I will -- I have
25 a habit of speaking very quickly.

1 CHAIRMAN BROWN: I know.

2 MR. SAYLER: And I am trying to slow down.

3 CHAIRMAN BROWN: It's okay.

4 MR. SAYLER: But I don't want to go too slow
5 because --

6 CHAIRMAN BROWN: I like it when you talk fast
7 at this hour.

8 MR. SAYLER: Okay. Well, I will speak at a
9 pace, and if you need to slow me down, slow me
10 down. How does that sounds, Chairman?

11 CHAIRMAN BROWN: Sounds good.

12 MR. SAYLER: All right.

13 (WHEREUPON Exhibit 659 was marked for
14 identification.)

15 BY MR. SAYLER:

16 Q All right. In your packet, there are excerpts
17 from about -- I think it's about nine or twelve
18 different aspects of your testimony. The first one,
19 which is identified as Exhibit 659, Otter Tail Power
20 Company testimony in South Dakota, are you familiar with
21 this one, Mr. Hevert?

22 A I am, yes.

23 Q All right. And that was from 2008?

24 A It was.

25 Q All right. And if you will turn to the

1 **Schedule 4, which is the last page of that exhibit, are**
2 **you there?**

3 A I am there, yes.

4 **Q Oh, not your testimony. Sorry.**

5 A Oh, I know. I'm looking for my testimony for
6 something else. Go ahead.

7 **Q Oh, okay.**

8 You would agree that this is your CAPM
9 analysis that you performed for -- for South Dakota;
10 correct?

11 A That's correct. Yes.

12 **Q All right. And your risk premium was at that**
13 **time 7.1 percent?**

14 A It was 7.1 percent. Correct.

15 **Q And this was your testimony, and your**
16 **testimony was filed in October 2008 right after the**
17 **market collapsed starting with the so-called Great**
18 **Recession; is that correct?**

19 A Well, my recollection is that the Lehman
20 bankruptcy was September 15th, 2008; so this was two
21 weeks later.

22 **Q Okay. And do you recall how you determined**
23 **the risk premium in 2008 in that South Dakota case?**

24 A I was just looking at that, and in this case,
25 it looks like I relied upon the historical arithmetic

1 average.

2 Q Okay. And you would agree since 2008 your
3 risk premiums have changed over time?

4 A I would think -- I would say that many -- many
5 variables have changed over time including those
6 premium.

7 Q All right. And since 2008 would you agree
8 that the way or the methodology that you determine risk
9 premiums have also changed?

10 A Absolutely.

11 Q All right. Please turn to RBH-2 in this case
12 from your direct testimony.

13 A Yes, I'm there.

14 Q In your direct testimony, just like your
15 testimony in South Dakota, you rely upon Bloomberg and
16 Value Line. Do you see that?

17 A Yes, I see that.

18 MS. BROWNLESS: Excuse me, Your Honor. I
19 can't hear.

20 CHAIRMAN BROWN: Mr. Sayler, could you just
21 speak up and close into the mic?

22 MR. SAYLER: Yes, ma'am.

23 CHAIRMAN BROWN: That's good.

24 MR. SAYLER: Good.

25 CHAIRMAN BROWN: Thank you.

1 MR. SAYLER: All right. I will do my best to
2 project, and if I'm shouting, forgive me in
3 advance.

4 BY MR. SAYLER:

5 Q And isn't it true that if you had used your
6 risk premium results from today, which are roughly
7 9.87 percent for Value Line and 10.68 percent for
8 Bloomberg, your CAPM results would be higher today?

9 A I'm sorry. I don't follow your question at
10 all.

11 Q All right. If you go to your South Dakota
12 exhibit --

13 A Yes.

14 Q -- and you substitute the market risk premium,
15 the 7.1 percent --

16 A Yes.

17 Q -- for your, say, 9.87 percent --

18 A Yes.

19 Q -- you would agree that your CAPM results
20 would have been higher; is that correct?

21 A I --

22 Q Mathematically speaking.

23 A So are you telling me that if I put
24 7.1 percent in Column 4 of my testimony today, that the
25 CAPM result would be higher?

1 **Q No. The reverse, sir.**

2 If you were to use your RBH-1 from your South
3 Dakota testimony --

4 **A Yes.**

5 **Q -- and use -- and substitute 7.10 percent**
6 **market risk premium for 9.87 percent.**

7 MR. LITCHFIELD: Madam Chair, could I ask what
8 the relevance could possibly be of using a data
9 point or a market assumption from a 2008 case in
10 today's methodologies or formulas?

11 CHAIRMAN BROWN: Mr. Sayler?

12 MR. SAYLER: It goes back to the earlier line
13 of questions about just methodologies changing over
14 time and how that goes to the weight of the
15 witness's testimony -- or credibility as they're --
16 how they do their job as they present testimony
17 before commissions.

18 CHAIRMAN BROWN: I'll allow the question, but
19 if you could streamline the process.

20 MR. SAYLER: Certainly.

21 CHAIRMAN BROWN: Thank you.

22 BY MR. SAYLER:

23 **Q Turn to -- in your South Dakota testimony --**

24 **A Yeah --**

25 **Q I mean, backing up to my earlier question,**

1 **mathematically speaking --**

2 A I'm sorry. I'm still confused with what
3 you're talking about.

4 So you're saying that if I were to put
5 7.1 percent in RBH-2 from this case.

6 Q **If you did that in this case, it would be a
7 lower risk premium; correct?**

8 A Correct.

9 Q **And if you reversed that and put 9.78 into the
10 South Dakota case, it would be higher; correct?**

11 A Right. But it also would make no sense to do
12 either of those two things. They're utterly different
13 measures under utterly different markets, and it would
14 make no -- that's to me a meaningless calculation.

15 Q **All right. Please turn in your South Dakota
16 testimony excerpt, Page 25.**

17 A Yes, I'm there.

18 Q **And if you look at Line 11, you rely on
19 Morningstar data; is that correct?**

20 A In the 2008 case, that's correct.

21 Q **And do you rely upon Morningstar data in this
22 case?**

23 A For what purpose?

24 Q **For determining your risk premiums.**

25 A No, I don't for all of the reasons we've

1 talked about earlier.

2 **Q And the data that you're using today is**
3 **different -- or the data sets you're using today are**
4 **different from what you were using in 2008; is that**
5 **correct, for -- for calculating your risk premium?**

6 A When you're saying the data sets --

7 **Q I mean you're not using Morningstar; so who**
8 **are you using?**

9 A I am using -- as we say right here on
10 Exhibit RBH-2 in this case, I'm using data from both
11 Bloomberg and Value Line; so I'm using two sources of
12 data.

13 **Q All right.**

14 A And, again, in this market under these
15 conditions, it just makes more sense to do that.

16 **Q All right. And you would agree that the use**
17 **of your market DCF derived risk premiums in this case**
18 **results in a higher ROE number for your client?**

19 MR. LITCHFIELD: Objection. Higher relative
20 to what? The witness has just indicated that it's
21 a meaningless calculation.

22 BY MR. SAYLER:

23 **Q Than if you used Morningstar data?**

24 CHAIRMAN BROWN: Mr. Sayler, repeat the
25 question.

1 BY MR. SAYLER:

2 Q In 2008 you used one set of data to help
3 calculate your risk premium; correct? And in 2016
4 you're using a different set of data?

5 A Right.

6 Q And the data that you're using now results in
7 a higher market risk premium than if you had kept things
8 all the same and used the same data inputs from 2008; is
9 that correct?

10 A Right. But it would have made zero sense for
11 me to keep things the same in 2016 as they were in 2008.
12 That would make really no sense to me.

13 CHAIRMAN BROWN: Mr. Sayler, move along with
14 your questions, please.

15 MR. SAYLER: I was planning, yes, ma'am.

16 (WHEREUPON Exhibit 660 was marked for
17 identification.)

18 BY MR. SAYLER:

19 Q Please turn to the next exhibit. This one's
20 been identified -- it's the SCEGS testimony in South
21 Carolina, Exhibit 660.

22 A Yes. I'm there.

23 Q And do you recall your testimony in this
24 docket? Take a moment to look through -- take a moment
25 to look through your exhibit.

1 A I'm looking through the exhibit, and I'm
2 pulling up the testimony itself. They're all special to
3 me, but from time to time, I need a refresher.

4 Okay. I'm there.

5 **Q All right. And if you turn to the excerpt**
6 **Page 31 of your testimony.**

7 A Yes.

8 **Q And do you see where you testified in that**
9 **case that you used the DCF model as your initial**
10 **approach?**

11 A I do.

12 **Q And then you considered results from CAPM and**
13 **alternative risk premium approaches for assessing the**
14 **DCF results.**

15 A I see that, yes.

16 **Q All right. And those two approaches that you**
17 **used to assess DCF -- excuse me. The DCF was your**
18 **initial -- was that your primary approach in that case?**

19 A I'm not sure what the distinction would be
20 between initial and primary, but it is the approach that
21 I used. And then as the sentence -- excuse me -- as it
22 goes on to read, I used the CAPM and alternative risk
23 premium to assess the reasonableness of the DCF results
24 at that time and in that market.

25 **Q All right. Thank you.**

1 And in this case, please turn to Page 31 of
2 your direct testimony.

3 A That's just an odd coincidence they're both
4 Page 31.

5 **Q That is interesting.**

6 Look at Table 4, please?

7 A Yes, I'm there.

8 **Q All right.**

9 And these are your DCF results that include
10 flotation costs; correct?

11 A Correct.

12 **Q And your recommended ROE is 11 percent in this**
13 **case, and that is outside the DCF results; correct? The**
14 **range of DCF results?**

15 A I'm sorry. Yes, the range of my recommended
16 range is 10.5 to 11.5. The highest estimate here is
17 10.2, which was 30 basis points below the lower end of
18 my range.

19 **Q All right. And is Table 4 your constant**
20 **growth DCF results? I don't see it labeled, but it**
21 **comes at the end of that section.**

22 A I should have been more clear about that.
23 You're right. That is constant growth results.

24 **Q Okay. Would you turn a few pages to the right**
25 **to Table 7 which is on Page 36 of your testimony?**

1 A Yes. I'm there.

2 Q And you would agree that this is your
3 multistage DCF results showing float costs; correct?

4 A That's right.

5 Q And you would agree that your recommended ROE
6 of 11 percent -- and matter of fact, your range is
7 outside the range of your multistage DCF results;
8 correct?

9 A I would agree -- well, I just want to clarify
10 one thing. You say "outside of the range of results."
11 I do not agree with that.

12 I think if you were to look at the exhibits
13 themselves, you would see many observations where
14 individual estimates are within my range, and individual
15 estimates are actually higher than 10.5 or 11 percent.
16 What we're looking here is the average, and I would
17 agree with you on the average, but there are individual
18 results that are within the range and higher.

19 Q All right. But, again, looking back at
20 Page 31 of your South Carolina testimony, you used CAPM
21 and risk premium as a sanity check on your initial DCF
22 model approach; correct?

23 A Sure. And it goes to what I said earlier this
24 morning; that as markets change, the efficacy of models
25 change and their suitability to market conditions

1 change. You can't use -- not -- excuse me. No one
2 model is the appropriate model under all market
3 circumstances.

4 **Q All right. Let's turn to the next exhibit,**
5 **TECO.**

6 But before we leave South Carolina, our road
7 trip through testimony, did you do -- in your DCF model
8 for South Carolina, did you do a multistage analysis, or
9 was it just a constant growth?

10 A I -- I don't recall offhand.

11 (WHEREUPON Exhibit 661 was marked for
12 identification.)

13 BY MR. SAYLER:

14 **Q Okay. Now let's turn to -- let's come to**
15 **Florida to Tampa Electric, Exhibit 661.**

16 And you prefiled testimony on behalf of Tampa
17 Electric in that case; is that correct?

18 A Yes.

19 **Q Or do you need a minute to get there?**

20 A I'm sorry. I was just pulling that one up as
21 well.

22 Yes. That's right.

23 **Q All right. And because that case settled,**
24 **that's why you didn't have the privilege of being**
25 **cross-examined by all the intervenors today?**

1 A And taking this fun road trip, that's right.

2 Q All right. And in your deposition, there were
3 a number of questions about this particular Tampa
4 Electric, your direct testimony?

5 A Yes, there were.

6 Q All right.

7 Let's turn to Page 19 of your direct
8 testimony.

9 A In this case?

10 Q No. Excuse me. In the Tampa example.

11 A Yes. I'm there.

12 Q All right. And if you look at Lines 14 and
13 15, do you see that?

14 A I do.

15 Q And my copy, they're yellow highlighted.

16 A Yes. Mine as well.

17 Q All right.

18 MR. SAYLER: And I will submit, Madam Chair,
19 that I did the yellow highlighting.

20 CHAIRMAN BROWN: Thank you.

21 MR. SAYLER: All right.

22 BY MR. SAYLER:

23 Q And you would agree that in that case you
24 testified that you primarily relied upon the constant
25 growth DCF model; correct?

1 A Yes. That's correct. Yes.

2 Q And like South Carolina, you used CAPM and
3 risk premium to corroborate -- as corroborating
4 methodologies to arrive at your ROE; correct?

5 A Correct.

6 Q But in your current testimony before this
7 Commission, you are not relying upon constant growth.
8 You're relying on CAPM; is that correct?

9 CHAIRMAN BROWN: That's asked and answered.

10 BY MR. SAYLER:

11 Q So if you're relying upon the CAPM model in
12 the case but you relied upon DCF constant growth in the
13 last case in Florida, you would agree that you changed
14 how you do your recommendation for ROEs; is that
15 correct?

16 A Sure, because the market's changed.

17 Q And so -- and another way of putting it,
18 you're a little bit flexible in how you calculate your
19 ROE recommendations; is that correct?

20 MR. LITCHFIELD: Objection. Characterization.

21 BY MR. SAYLER:

22 Q I could have said flip-flop. I was trying to
23 be gentle.

24 CHAIRMAN BROWN: Rephrase.

25 MR. SAYLER: Certainly.

1 BY MR. SAYLER:

2 Q Creative in the way that you do your ROE --

3 MR. LITCHFIELD: Objection.

4 MR. SAYLER: All right. I will move on.

5 CHAIRMAN BROWN: Thank you.

6 BY MR. SAYLER:

7 Q All right. If you'll turn to the next page in
8 that exhibit, you'll agree that that shows your constant
9 growth DCF results; correct?

10 A Yes. That's right.

11 Q All right. And let's look at the results in
12 that case for the 30-day mean.

13 A Okay.

14 Q And also the median. You would agree that the
15 mean and the median are 10.6 to 10.86 -- excuse me. The
16 range, the upper and lower range of your mean and
17 medians, your low is 10.6 and 10.8 -- or .86.

18 A I see your question. Yes, I agree with that.

19 Q All right. And if that is your -- your DCF
20 results, your bookends, so to speak, how did you end up
21 recommending an 11.25 ROE for Tampa Electric case?

22 A Well, I -- as I sit here right now, I can't
23 reconstruct everything that I did in the Tampa Electric
24 case, but I can give you some data points that might be
25 helpful.

1 I said I used the DCF approach as my primary
2 approach and had others as corroborative approaches. If
3 you look at the range of CAPM results, they go as high
4 as 12.2 percent. Certainly I did not recommend a return
5 that high, but I also understood that that model brings
6 with it some information that the constant growth DCF
7 model does not bring.

8 I also note that if you look at the mean high
9 and the median high constant growth DCF results, they're
10 well in excess of 11.25 percent. When I look at all of
11 that data and I balance it, I think -- as I sit here
12 today, I can't reconstruct exactly what I did, but I can
13 look at this data and see why I would have thought that
14 11.25 was a reasonable result.

15 **Q All right. And for your direct testimony,**
16 **it's true that you did not do a multistage DCF model?**

17 A In the Tampa Electric case?

18 **Q Subject to check, I believe you did one on**
19 **your rebuttal but not on your direct.**

20 A I -- okay. I -- I'm sure you're right.

21 **Q Okay. And since the Tampa Electric case, have**
22 **you included the multistage DCF model in your ROE**
23 **recommendations?**

24 A I've used it frequently, yes, because it's --
25 one thing that we found is as companies have begun and

1 really continue the phase of capital investment, a lot
2 of the assumptions underlying the constant growth model
3 simply don't hold and, in particular, the assumption
4 that the payout ratio will stay constant.

5 As companies spend more money on capital
6 investment, they tend to change their payout ratios.
7 That's a critical assumption in the constant growth
8 model. And so as we've moved ahead as the capital
9 investment cycle has expanded, that's one good reason to
10 move to the multistage form of the model.

11 **Q All right. But in 2013 you didn't express any**
12 **concerns or doubts with the DCF model when deciding to**
13 **primarily rely upon it; did you?**

14 A In the direct testimony. As you said, I used
15 it in my rebuttal testimony.

16 **Q And would you agree that your -- what were**
17 **your projected long-term treasury yields in that case?**

18 A No, it's not on these sheets right here, is
19 it -- oh, wait a minute. One second, please.

20 So the projected long-term treasury yield
21 was -- if this is the same case -- would have been
22 5.1 percent.

23 **Q All right. Thank you.**

24 CHAIRMAN BROWN: You're moving along; aren't
25 you?

1 MR. SAYLER: Yes, ma'am.

2 BY MR. LITCHFIELD:

3 Q Now, if you'll turn to Page 29, the next page
4 in the exhibit, you would agree that your 30-year
5 treasury range was 2.2 to 2. -- or 3.23 percent; is that
6 correct?

7 MR. LITCHFIELD: Madam Chair, again, objection
8 as to relevance. Again we're talking about market
9 conditions that are relevant for this case and
10 market conditions that were relevant for a case two
11 years ago, three years ago, eight years ago. And
12 if this is the way we're going to proceed, we're
13 going to be here a long time and to what end I'm
14 not really quite sure.

15 MR. SAYLER: I'm not sure what the objection
16 is, Madam Chair, but I do have a point with this.

17 BY MR. SAYLER:

18 Q I believe in that case, you testified --

19 CHAIRMAN BROWN: Wait, Mr. Sayler. The reason
20 why I've been allowing you an opportunity to
21 cross-examine the witness on these exhibits is
22 because you're tying it back to his prefiled direct
23 testimony. Without focusing too much on these
24 cases that happened years ago, if you could somehow
25 tie it quickly back to the prefiled direct

1 testimony, that will be helpful, and I'll allow you
2 to continue to question.

3 MR. SAYLER: Yes, ma'am. Some of these
4 exhibits are certainly tied to his prefiled direct
5 testimony. Others go to his credibility as a
6 witness before this tribunal --

7 CHAIRMAN BROWN: I understand what -- I
8 understand what you're trying to do --

9 MR. SAYLER: -- first opportunity to testify
10 before y'all; so --

11 CHAIRMAN BROWN: I understand which is why I'm
12 allowing you the opportunities to cross, but please
13 be cognizant of those requests here. Continue.

14 BY MR. SAYLER:

15 Q And in 2013, were people projecting that
16 interest rates would go up at that time?

17 A Yes.

18 Q And where are interest rates today?

19 A Interest rates today are -- the long-term
20 treasury is about 2.3 percent.

21 Q Okay. So it's below or within that range or
22 below that range from your 2013 testimony; is that
23 correct?

24 A I don't follow your question. Below what
25 range?

1 The point is that at that time that's what the
2 market was expecting. Whether the projections turned
3 out to be correct or not is really not all that
4 relevant. What's relevant is what does the market
5 expect at the time.

6 **Q Now, turning to Page 30 of your TECO**
7 **testimony, you used three different estimates of risk**
8 **free rate for your CAPM analysis?**

9 A That's right.

10 **Q And how many did you use in this case?**

11 A Three.

12 **Q Three.**

13 So similar methodology; is that correct?

14 A You see I am consistent.

15 **Q And -- and I believe, as part of your CAPM**
16 **methodology, you used interest rate forecasts that were**
17 **as high as 5.1 percent; is that correct?**

18 A Yes. That's what it says.

19 **Q All right.**

20 CHAIRMAN BROWN: Mr. Sayler -- and would it
21 help if the witness just stipulated to the facts in
22 this case to speed this along so that you could get
23 to the questions relating to the direct testimony?

24 MR. SAYLER: I would be okay with that, but I
25 would have to look to Florida Power & Light.

1 MR. LITCHFIELD: I would be willing to
2 stipulate admission into the record the full
3 testimony of Mr. Hevert for each of the proceedings
4 on this index of table of contents if you will.

5 CHAIRMAN BROWN: I think that would streamline
6 this cross a lot better.

7 MR. SAYLER: Certainly.

8 I do have one question about a difference
9 between how he calculates CAPM in this case and
10 that he did in TECO, and that will be my last
11 question.

12 CHAIRMAN BROWN: Okay.

13 MR. SAYLER: All right.

14 BY MR. SAYLER:

15 Q Mr. Hevert, would you turn to -- at the bottom
16 of the exhibit, it says Page 77, but it's your Document
17 No. 3.

18 A Oh, I see. Yes.

19 Q And at the top, you have something called the
20 "sharp ratio"?

21 A Yes, I do.

22 Q Okay. And the sharp ratio takes into account
23 the volatility index; is that correct, or the VIX?

24 A Yes. It's the ratio of the historical market
25 risk premium to the historical level of volatility in

1 the market. It is -- again, I don't want to get too
2 long-winded about this. But if you look over time at
3 the historical volatility in the equity market, it's
4 been about 20 percent. The historical long-term average
5 of the VIX likewise is about 20 percent. So
6 historically market volatility has been 20 percent. And
7 if you were to say that -- excuse me, just one second
8 here.

9 So if you were to sort of divide the
10 historical risk premium by the historical level of
11 market volatility, that's what you get with that sharp
12 ratio. It's supposed to be a measure of return per unit
13 of risk.

14 **Q All right. And in 2013 you used the sharp**
15 **ratio, but currently you do not use the sharp ratio?**

16 A Right. And I'll tell you why. I'll try not
17 to be too long-winded about this.

18 As I said in my testimony --

19 **Q Sir --**

20 A As I said in my testimony, one of the effects
21 of federal policy has been to dampen volatility. Each
22 time there seems to be a crisis in the market, each time
23 investors get nervous, the Federal Reserve would step in
24 to both bring down interest rates, and the collateral
25 effect of that is to reduce volatility. What that means

1 is that the VIX, the level of volatility, is not a pure
2 measure of expected risk going forward. It's being
3 artificially held down by what has been called over time
4 the Bernanke put, now the Yellen put; that the Federal
5 Reserve will step in and smooth things over. So it does
6 not make any sense to use the historical sharp ratio in
7 this context.

8 **Q All right.**

9 My next two exhibits, the 30-year treasury,
10 which was 662, and then the VIX, 663, I believe you've
11 already testified to both those two things; so we can
12 pass those over.

13 A Oh, okay.

14 **Q To Exhibit 664. It's an excerpt from your New**
15 **Mexico testimony in 2014. Do you see that?**

16 A I do, yes.

17 MR. LITCHFIELD: And I think we had agreed to
18 stipulate copies, full copies of Mr. Hevert's
19 testimonies listed on the exhibit order and short
20 titles list provided by Mr. Sayler. So this would
21 be one of them.

22 CHAIRMAN BROWN: That's correct.

23 MR. SAYLER: I thought it was just the Tampa
24 Electric case.

25 CHAIRMAN BROWN: He said all of them.

1 MR. SAYLER: Okay. I misheard.

2 MR. LITCHFIELD: Just to be clear then, I'm
3 looking at numerically on your list, as opposed to
4 Exhibits No. 1, 2, 3, 6, 7, 8, 11, 14, and 15.

5 MR. SAYLER: All right.

6 BY MR. SAYLER:

7 Q So let me ask you a few questions then about
8 those testimonies. You -- you agree that those were
9 your testimonies back then?

10 A Back then, yes.

11 Q And in those proceedings, when you prefile
12 testimony, do you have to do an affidavit with them to
13 swear or attest that they're true?

14 A It -- it depends on the jurisdiction whether
15 an affidavit gets filed with the testimony. But when
16 I -- when I show up to testify, I swear to the truth,
17 and I would not provide testimony that I didn't think
18 was true anyway.

19 Q Okay.

20 MR. LITCHFIELD: I think what counsel is just
21 trying to establish is that those were true and
22 correct to the best of Mr. Hevert's knowledge at
23 the time they were filed. And if that's something
24 that Mr. Hevert can agree to, we can probably move
25 on.

1 THE WITNESS: I can agree to that.

2 MR. SAYLER: All right. Let me look through
3 my list of cross.

4 CHAIRMAN BROWN: Okay. Sure.

5 MS. BROWNLESS: And due to the late hour, if I
6 can just understand what's being stipulated to,
7 please.

8 CHAIRMAN BROWN: Yes.

9 Mr. Litchfield, the case -- can you go over
10 the cases again by exhibit number?

11 MR. LITCHFIELD: I'll go the exhibit number
12 this time.

13 CHAIRMAN BROWN: Thank you.

14 MR. LITCHFIELD: Thank you.

15 It would be -- we would stipulate admission
16 into the record of full copies of Mr. Hevert's
17 testimony in -- with regard to the excerpts
18 identified by the following exhibit numbers: 659,
19 660, 661, 664, 665, 666, 669, 672, and 673.

20 CHAIRMAN BROWN: Thank you.

21 MR. LITCHFIELD: Which indicates there are
22 four excerpts attached there; so it would include
23 each of the four full pieces of testimony.

24 Did I miss any, Mr. Sayler?

25 MR. SAYLER: 667, was that on your list?

1 MR. LITCHFIELD: Oh, I omitted that. I didn't
2 know what that represented. It said KCPL
3 operations in Missouri testimony. I wasn't sure
4 whether that was actual testimony.

5 MR. SAYLER: It was a terribly worded short
6 title description that was --

7 CHAIRMAN BROWN: Okay.

8 MR. LITCHFIELD: Okay. It's included then.

9 MR. SAYLER: All right.

10 CHAIRMAN BROWN: Good.

11 MS. MELTON: And, Madam Chairman, I'm sorry to
12 interrupt now, but just to -- just to be clear. So
13 based on the kind of methodology that we have
14 established so far that Mr. Sayler will provide
15 those full copies of those testimonies to the court
16 reporter for the record.

17 CHAIRMAN BROWN: Mr. Sayler, confirm?

18 MR. SAYLER: Yes, Madam Chair. I'm happy to
19 do that, though, with some of the composite
20 exhibits like No. 12, which is a composite of
21 several different of his testimonies. 13 is a
22 composite of 2, and same thing with 15. And then
23 16 is also a composite exhibit of all the
24 testimonies that I looked at from 2008 to 2016.

25 MR. LITCHFIELD: I'm not sure I followed that.

1 MS. MELTON: I'm not sure I followed that
2 either --

3 CHAIRMAN BROWN: I'm confused --

4 MS. MELTON: -- because those are not the
5 exhibits -- I mean the testimonies that
6 Mr. Litchfield had identified.

7 MR. SAYLER: Right. That was my question.

8 CHAIRMAN BROWN: Oh, please, just --
9 Mr. Litchfield needs copies of all -- complete --
10 he's agreeing to stipulate to all of the testimony
11 of this witness --

12 MR. SAYLER: And he has complete copies of all
13 of them.

14 MR. LITCHFIELD: No. I think we're asking
15 that they be submitted to the court reporter --

16 CHAIRMAN BROWN: To the court reporter. Could
17 you please provide those to the court reporter?

18 MR. SAYLER: Yes. My question is does --
19 shall I do complete copies of all the testimonies
20 referenced in all of my exhibits to the court
21 reporter?

22 CHAIRMAN BROWN: No --

23 MR. LITCHFIELD: Yes.

24 CHAIRMAN BROWN: Yes.

25 MR. LITCHFIELD: All right. May I suggest

1 something for ease and clarity of the record
2 because, for example, Exhibit 12, 13 -- or excuse
3 me. 670, 671, 673, and 674 are all composite
4 exhibits. At a later time -- and I can either have
5 it tomorrow or early next week, I can have all of
6 those testimonies separate, and then it might be
7 helpful for the record to give them a new hearing
8 exhibit ID so that you're not having about 13
9 testimonies now under Exhibit 674.

10 CHAIRMAN BROWN: You're making it a little bit
11 more complicated than it needs to be. We're going
12 to keep the same hearing number.

13 MR. SAYLER: Okay.

14 CHAIRMAN BROWN: Just provide the full and
15 complete copies.

16 Mr. Litchfield, are --

17 MR. LITCHFIELD: I think that's fine. Because
18 to the extent that it's going to be part of the
19 brief, it can be identified both by exhibit number
20 and then, more specifically, by the testimony and
21 docket number to which it pertains.

22 CHAIRMAN BROWN: Okay.

23 MR. SAYLER: Okay. I can certainly do that.

24 CHAIRMAN BROWN: Okay. So, Staff, you're
25 clear?

1 MS. MELTON: I think so.

2 CHAIRMAN BROWN: Trying to move this along.

3 Thanks.

4 Please proceed, Mr. Sayler.

5 MR. SAYLER: Yes, ma'am. I'm looking through
6 my testimony to see what questions are still left
7 to ask.

8 CHAIRMAN BROWN: Cool.

9 MR. SAYLER: Or my cross-examination list.

10 MR. LITCHFIELD: Madam Chair, may I approach
11 Mr. Sayler for a minute as well?

12 CHAIRMAN BROWN: Sure.

13 (Pause)

14 CHAIRMAN BROWN: Mr. Sayler, would you like to
15 take a break, a five-minute break? Okay. We'll
16 take a five-minute break.

17 (Whereupon there was a short break.)

18 CHAIRMAN BROWN: Okay. My understanding is
19 Staff wants to address the Commission for clarity,
20 and we're definitely ready to proceed.

21 So, Ms. Brownless.

22 MS. BROWNLESS: Yes, ma'am.

23 CHAIRMAN BROWN: Great.

24 MS. BROWNLESS: Okedoke.

25 The parties, Florida Power & Light, and Public

1 Counsel have agreed to stipulate into the record
2 Exhibit 659, Exhibit 660, Exhibit 661, Exhibit 664,
3 Exhibit 665, Exhibit 666, Exhibit 667, Exhibit 669,
4 Exhibit 671, Exhibit 672, and Exhibit 673, with the
5 caveat that complete -- the complete testimony will
6 be placed in, not just the excerpts that are
7 included in the exhibits that have been handed out
8 today.

9 CHAIRMAN BROWN: Excellent. And I want to
10 thank the parties for working together on this.

11 So with that, any questions or comments?

12 Mr. Saylor, continue, please.

13 (WHEREUPON Exhibit 670 was marked for
14 identification.)

15 BY MR. SAYLER:

16 Q Now, Mr. Hevert, do you have a copy of
17 Exhibit 670 which is Historical Hevert Market Risk
18 Premiums?

19 A Yes, I have that.

20 CHAIRMAN BROWN: And that is 670?

21 MR. SAYLER: Yes, ma'am.

22 BY MR. SAYLER:

23 Q And subject to check, you would agree that for
24 each of those years that's your implied market risk
25 premium?

1 A I could only take that subject to check.

2 MR. SAYLER: Okay. I can move on from this
3 exhibit unless Florida Power & Light wants me to do
4 more of a laying of the foundation for this
5 exhibit.

6 MR. LITCHFIELD: Yeah. I'm opening it, and if
7 I'm -- this is Historical Hevert Market Risk
8 Premiums? That's the description title?

9 CHAIRMAN BROWN: That's correct.

10 MR. SAYLER: Yes.

11 MR. LITCHFIELD: I have here what appear to
12 be, again, excerpts from testimony.

13 MR. SAYLER: You need to look at the actual
14 handout, the paper copy that we passed out that's
15 identified as 670.

16 CHAIRMAN BROWN: 670? He is --

17 MR. LITCHFIELD: I am.

18 CHAIRMAN BROWN: -- looking at that.

19 MR. LITCHFIELD: I am. And there's a first
20 page that has what appears to be a summary of some
21 numbers from 2008 through 2016. Am I looking at
22 the correct version, counsel?

23 CHAIRMAN BROWN: It's -- the first page says
24 "Historical Hevert Market Risk Premiums"?

25 MR. LITCHFIELD: Yes.

1 CHAIRMAN BROWN: Yes.

2 MR. LITCHFIELD: Yes. And that --

3 CHAIRMAN BROWN: Second page says, "South
4 Dakota Public Utilities Commission." Looks like
5 it's testimony.

6 MR. LITCHFIELD: Okay. So, counsel, can you
7 represent that these are your compilations on that
8 first page titled "Historical Hevert Market Risk
9 Premiums" from the excerpts of the testimony that
10 follow --

11 MR. SAYLER: Yes.

12 MR. LITCHFIELD: -- in this exhibit?

13 And then secondly that the full -- that these
14 excerpts of testimony have already been addressed
15 in terms of the testimony that is going to come
16 into the record in full form?

17 MR. SAYLER: Yes.

18 MR. LITCHFIELD: Okay.

19 CHAIRMAN BROWN: Okay? So you agree to
20 stipulate to that?

21 MR. LITCHFIELD: Mm-hmm.

22 CHAIRMAN BROWN: Okay.

23 MR. SAYLER: All right. Thank you.

24

25

1 (WHEREUPON Exhibit 671 was marked for
2 identification.)

3 BY MR. SAYLER:

4 Q Would you turn to the next exhibit, 671,
5 entitled "June 2014 Colorado, December 2014 New Mexico"?

6 A Yes --

7 CHAIRMAN BROWN: And I just want to confirm.
8 I thought that one was one of the exhibits that was
9 stipulated to.

10 MS. BROWNLESS: Yes.

11 CHAIRMAN BROWN: Okay.

12 MR. SAYLER: Yes. Yes, ma'am, it is. There's
13 three questions to ask about this, and I'll move
14 on.

15 CHAIRMAN BROWN: Okay.

16 MR. SAYLER: All right.

17 CHAIRMAN BROWN: You've got it.

18 MR. SAYLER: All right.

19 BY MR. SAYLER:

20 Q Do you have that?

21 A I do.

22 Q All right. At the bottom of the right-hand
23 corner of the page, it says, "Hevert Compare CONN,
24 Page 3 of 12."

25 A Yes. I'm there.

1 **Q All right. Turn to Page 3 of 12 -- or -- back**
2 **up.**

3 This summary of your direct testimony for this
4 Colorado case, did you create that, or was that created
5 for you by your counsel?

6 A I would have drafted this.

7 **Q Okay. And both there and on Page 4 of 12, you**
8 **indicate that you principally relied upon constant**
9 **growth multistage form of the DCF model; is that**
10 **correct? Page 4 of 12, Lines 3 through 4.**

11 A Yes. That's right.

12 **Q All right.**

13 A And I think part of the issue here in Colorado
14 is -- I can't recall the year, but at some point, a
15 decision in Colorado adopted the multistage form of DCF
16 model as the preferred method, and so that likely would
17 be why I gave that some emphasis here.

18 **Q All right. And then turning ahead a few pages**
19 **to your testimony in New Mexico starting at Page 6 of 12**
20 **for the excerpts.**

21 A Yes. I'm there.

22 **Q There you don't rely upon the constant growth**
23 **discounted cash flow model, and --**

24 A Oh, I'm sorry. I didn't mean to interrupt. I
25 apologize.

1 Q Let me point you to Point 8 of 12, Line 6.

2 A Yes. I'm there.

3 Q All right. And there you are giving less
4 weight to the constant growth DCF model results; is that
5 correct?

6 A Right.

7 And if you look at the prior page, what's
8 numbered as Page 7 of 12, you'll see a chart. The chart
9 on the right-hand corner shows the relative price to
10 earnings ratio. That was in large measure part of the
11 reason.

12 Q All right. And what changed in six months
13 between the filing of those two testimonies to cause you
14 to change your emphasis on -- from the DCF to not DCF?

15 A Well, as I mentioned a minute ago, in
16 Colorado, by a series of decisions, the Commission had
17 adopted the multistage form of the model. And so
18 because it was the Commission's preferred method, of
19 course, I was going to use that and look at it.

20 Secondly, when you look at the chart on
21 Page 5, you see that sudden increase in the relative
22 price to earnings ratio, and that is an issue that we've
23 talked about throughout my testimony here. That's a
24 concern that renders, in my view, the constant growth
25 DCF model less reliable.

1 Q Okay. We're now going to skip to what's been
2 identified as four Hevert testimonies which is
3 exhibit --

4 CHAIRMAN BROWN: 673.

5 MR. SAYLER: 673.

6 And I do apologize for backing up. On
7 Exhibit 667, which is entitled "KCPL Operations,"
8 it should be titled GMO. If you strike
9 "operations" and retitle it as "GMO" because that's
10 the accurate description for that utility, for
11 clarity of the record.

12 CHAIRMAN BROWN: Oh, we need to do -- and
13 that's Exhibit 667 you said?

14 MR. SAYLER: 667.

15 CHAIRMAN BROWN: So -- okay.

16 MR. SAYLER: It's KCPL General Missouri
17 Operations testimony or GMO in Missouri testimony.

18 THE WITNESS: To be clear, it's Greater
19 Missouri Operations.

20 CHAIRMAN BROWN: Okay. State it again,
21 please.

22 MR. SAYLER: KCPL Greater Missouri Operations
23 testimony.

24 CHAIRMAN BROWN: Okay. Thank you.

25 So you're on Exhibit 673 right now.

1 MR. SAYLER: 673.

2 CHAIRMAN BROWN: Okay.

3 (WHEREUPON Exhibit 673 was marked for
4 identification.)

5 BY MR. SAYLER:

6 Q Mr. Hevert, you would agree that these are
7 four testimonies that you filed in Missouri, District of
8 Columbia, North Carolina, and Florida in the spring of
9 this year, all within about six weeks of each other?

10 A Take a quick look at them if that's okay?

11 Q Certainly.

12 A Well, I'll take your word. I only saw three
13 right away, but I'm sure the fourth is tucked in here.

14 Oh, there it is. We're good.

15 Q All right. And you would agree that in each
16 of these different testimonies, you're -- other --
17 excuse me.

18 In your three non-Florida Power & Light
19 testimonies, you would agree that your recommended range
20 of ROE is below what you're currently recommending for
21 your range of ROE for Florida Power & Light with the
22 exception of PSNC Gas?

23 A I guess we have -- I guess we're going to need
24 to go through them.

25 Q Okay. The first one, if you turn to Bates

1 stamp Page 4 of 33.

2 A 4 of 33. Yes, I'm there.

3 Q The range is 9.75 to 10.5?

4 A Right. In this case you have to read the
5 paragraph that begins Line 13 and goes through Line 22
6 to put that in context.

7 Q Okay. And if you go to Page 15 of 33, it's 10
8 to 10.5?

9 A For Washington Gas Light Company, yes. That's
10 right.

11 Q All right. And for PSNC Gas, I -- the full
12 exhibit will include that page. But subject to check,
13 that range was 10 to 10.75?

14 A For?

15 Q It's -- it's not included in the exhibit. Do
16 you remember what the range was for --

17 A Yeah. I think that's right again for the gas
18 company. Yes.

19 Q Okay.

20 A Correct.

21 Q All right. And in -- for KCPL, Washington
22 Gas, and PSNC Gas as well as Florida Power & Light, you
23 do all four: constant growth, multistage growth, CAPM,
24 bond yield approaches?

25 A I do. And, of course, for -- the two gas

1 companies will have different proxy groups. And even
2 though they were proximate in times, I think they were
3 slightly different in terms of the analysis period. But
4 if your question is did I apply the same four
5 approaches, I believe that's correct.

6 **Q All right. And you would agree that only for**
7 **Florida Power & Light do you primarily rely upon the**
8 **CAPM methodology for your recommended ROE?**

9 A I don't know about that. I -- I'm -- I don't
10 know about that.

11 **Q Would you agree subject to check?**

12 A Do you -- can you point me to places in the
13 other testimonies where I say that's not the case or
14 where I say what I did primarily rely on?

15 **Q If you would look for your KCP&L GMO**
16 **testimony, Page 11 and 12 of 33.**

17 (Pause)

18 You discuss how is ROE determined?

19 A Yes.

20 **Q All right. And if you go to Page 18 of 33 for**
21 **your D.C. Gas case, you also discuss it there.**

22 A But --

23 **Q Actually, Mr. Hevert, I will just move on. I**
24 **will just --**

25 CHAIRMAN BROWN: Good job.

1 MR. SAYLER: -- your testimony speaks for
2 itself.

3 CHAIRMAN BROWN: Thank you. Good job. Keep
4 it up, Mr. Sayler.

5 MR. SAYLER: And I do have one final exhibit
6 to pass out, and Florida Power & Light already has
7 a copy of it. It is the Missouri PSC's report and
8 order and the 2015 KCP&L Gas case. It's a final
9 order in that case.

10 MR. LITCHFIELD: We're not sure that we do
11 have it; so if there are extra copies, we'd ask to
12 get one.

13 CHAIRMAN BROWN: Absolutely.

14 MR. SAYLER: It was on the disk or that was
15 provided.

16 CHAIRMAN BROWN: If you could provide a paper
17 copy to them though.

18 MR. SAYLER: Certainly.

19 CHAIRMAN BROWN: Thank you.

20 Okay. We will label this 675, and the title,
21 Mr. Sayler?

22 MR. SAYLER: Missouri PSC's Report and Order
23 in the 2015 KCP&L case.

24 CHAIRMAN BROWN: Okay. FPL, do you have a
25 copy of it now?

1 MR. LITCHFIELD: Yes, ma'am.

2 CHAIRMAN BROWN: And the witness, Mr. Hevert,
3 you have a copy of it?

4 THE WITNESS: Yes, ma'am, I do.

5 CHAIRMAN BROWN: Please proceed, Mr. Sayler.

6 MR. SAYLER: All right. And I have a very few
7 questions on this, and then we'll be done.

8 BY MR. SAYLER:

9 Q Before you is an excerpt from the disputed
10 issues of fact -- excuse me -- page 15 of that final
11 order which is a couple of pages in under Subheading A,
12 Cost to Capital. Do you see that, Mr. Hevert?

13 A I do.

14 Q All right. Under Findings of Fact, they
15 discuss how there were four financial analysts that
16 offered recommendations as opposed to the appropriate
17 cost to capital in that case.

18 A I do.

19 Q All right. And the others were Michael
20 Gorman, Maureen Reno, and --

21 A Marivangaypoe (phonetic).

22 Q Say that again.

23 A I believe he pronounces his last name
24 Marivangaypoe.

25 Q All right. Just like you said.

1 A Just like it's spelled.

2 Q All right. And if you will turn to Page 18,
3 Paragraph 30 of that section -- and I will represent
4 that this is the entire section called "Section A. Cost
5 to Capital."

6 If you turn to Page 18, you see the first
7 sentence. Would you read that first sentence?

8 A Of Page 18 --

9 Q Yes, sir.

10 (simultaneous speaking)

11 A Paragraph 30 --

12 Q -- it's highlighted --

13 A It reads, "State public utility commissions in
14 the country are reducing authorized returns on equity to
15 follow the significant decline in capital market costs.
16 A comparison of industry authorized returns on equity
17 indicates that they have been steadily decreasing over
18 the past several years."

19 Q Thank you.

20 And the next page you would agree that it
21 tells you where litigated ROEs ended up; is that
22 correct?

23 A It does. It says the litigated ROEs for the
24 industry -- we're not sure what -- I can't recall here
25 how they defined the industry or whether they included

1 distribution companies. I just can't tell you.

2 **Q All right. And on Page 19, Paragraph 33,**
3 **would you read that entire paragraph for us?**

4 A Sure. Following over to 20?

5 **Q Yes.**

6 A Sure.

7 "KCPL's expert witness, Robert Hevert,
8 supports an increased return on equity at 10.3 percent.
9 The Commission finds that such a return on equity would
10 be excessive. Hevert's return on equity estimate is
11 high because: One. His constant growth DCF results are
12 based on excessive and unsustainable long-term growth
13 rates. Two. His multistage DCF is based on a flawed
14 accelerated dividend cash flow timing and an inflated
15 gross domestic product estimate as a proxy for long-term
16 sustainable growth. Three. His CAPM is based on
17 inflated market risk premiums. And, four, his bond
18 yield plus risk premium is based on inflated utility
19 equity risk premiums."

20 **Q Thank you. And finally turning to Page 22.**

21 A Okay.

22 **Q The -- what is it -- the Missouri Commission**
23 **opined upon the reasonableness of three of the**
24 **witnesses' testimony in that case; is that correct?**

25 A That's right.

1 **Q And then they set a 9.5 percent ROE as a fair**
2 **and reasonable return for this utility?**

3 A Yes. That's right.

4 **Q And they found that this rate of return will**
5 **allow KCP&L to compete in the capital markets for the**
6 **funds needed to maintain its financial health?**

7 A Right. And like other utilities -- excuse
8 me -- other Commissions, that was this case.

9 If you look at Exhibit RBH-1, Page 11 to my
10 direct testimony, you will see a case in Missouri,
11 Liberty Utilities, that was decided in late 2014.
12 There, if you were to read the order, the Commission
13 agreed with me on every point. So if you're suggesting
14 that this one case represents the Commission's view of
15 my work in its entirety, I don't agree with that.

16 **Q All right. What was that other case you cite?**

17 A Liberty Utilities case, GR 2014-0152.

18 **Q Is that a gas or electric case?**

19 A It's a gas case.

20 **Q All right. Thank you. No further questions.**

21 MR. SAYLER: Thank you, Madam Chair.

22 CHAIRMAN BROWN: Thank you, Mr. Sayler.

23 Moving on to Hospitals.

24 MR. LITCHFIELD: Madam Chair, I'm go to
25 propose something a little bit out of order. I

1 just wonder, given the confusion about the
2 exhibits, if it might be appropriate to just nail
3 those down now.

4 CHAIRMAN BROWN: Let's do that.

5 MR. LITCHFIELD: Yeah. Take up just their
6 exhibits for the time being.

7 CHAIRMAN BROWN: Are you talking about
8 entering them into -- yeah, that's a great idea.
9 Okay.

10 So we're going to do that starting with 659.
11 So we've got the ones that you stipulated to, FPL,
12 is 659, 660, 661, 664, 665, 666, 667, 669, 670,
13 671, 672, and 673.

14 So do you see -- no objection to having those
15 entered into the record?

16 MR. LITCHFIELD: Correct.

17 CHAIRMAN BROWN: We will do that at this time.
18 So that leaves 662, 663 --

19 MR. SAYLER: I'm not moving those into the
20 record. I didn't rely upon them.

21 CHAIRMAN BROWN: The ones I've just said, 662,
22 663, 668 --

23 MR. LITCHFIELD: And 674 he withdrew that one
24 as well I believe.

25 CHAIRMAN BROWN: Okay.

1 MR. SAYLER: Yes. Yes, ma'am.

2 CHAIRMAN BROWN: Great. We're done with that.

3 MR. SAYLER: And appreciate your patience with
4 all the paper. I know it was laborious, but this
5 is important.

6 CHAIRMAN BROWN: I appreciate you streamlining
7 it for us. Thank you.

8 MR. SAYLER: Thank you.

9 CHAIRMAN BROWN: Hello. Good evening.

10 UNIDENTIFIED COUNSEL: Madam Chairman, just so
11 I'm clear, I'm trying to keep track. Did all --
12 all the ones that they stipulated to, are those now
13 in the record?

14 CHAIRMAN BROWN: They are officially in the
15 record.

16 UNIDENTIFIED COUNSEL: Thank you, ma'am.

17 CHAIRMAN BROWN: You're welcome.

18 Do you want me to repeat them?

19 MS. BROWNLESS: Yes, please.

20 CHAIRMAN BROWN: Okay. We'll do it one more
21 time.

22 I have entered into the record 659, 660, 661,
23 664, 665, 666, 667, 669, 670, 671, 672, and,

24 finally, 673. Clear?

25 Hospitals.

1 MR. RAPPOLT: Madam Chair, Bill Rappolt for
2 the hospitals.

3 CHAIRMAN BROWN: Nice to see you tonight.

4 MR. RAPPOLT: We also have a bundle of
5 exhibits, but before we hand it out, I just wanted
6 to -- Mr. Hevert hasn't been here. So the protocol
7 we've been using with other witnesses is that we
8 keep it -- he doesn't --

9 CHAIRMAN BROWN: Could you speak louder and
10 clearer?

11 MR. RAPPOLT: Sorry.

12 That the witnesses wouldn't be flipping
13 through the witness's -- through the evidence
14 exhibits before we got to them and entered them on
15 the record.

16 MR. LITCHFIELD: We have discussed that with
17 the witness.

18 MR. RAPPOLT: Okay.

19 CHAIRMAN BROWN: And I do want to remind
20 counsel that repetitive evidence will not be
21 admitted into the record; so I'll remind you when
22 that evidence has been tried to be introduced.

23 MR. RAPPOLT: Absolutely.

24 MS. BROWNLESS: And, Madam Chair, I hate to
25 bring this up, but what did we do with Exhibit 675

1 which was also OPC's? Did they withdraw that one?

2 MR. SAYLER: 675 was the Missouri report and
3 order that -- and at the appropriate time, I will
4 move that into the record as well as a full version
5 of that order.

6 MR. LITCHFIELD: FPL would oppose moving in an
7 order of another Commission in another case for
8 another utility under different market conditions
9 on the grounds of relevance.

10 CHAIRMAN BROWN: Let's just hold that off;
11 okay, until we get to the end of this witness --

12 MS. BROWNLESS: Yes, ma'am.

13 CHAIRMAN BROWN: -- since that's contested.
14 Okay.

15 Okay. So we will be starting at -- we have --
16 all of us have been distributed your exhibits. The
17 next number is 676. So when you'd like to label
18 them, you just let me know. You may do it as you
19 proceed, or you can do it now.

20 MR. RAPPOLT: Okay. I have a few questions
21 before we go to the first exhibit.

22 EXAMINATION

23 BY MR. RAPPOLT:

24 Q Mr. Hevert, you'd agree that you wouldn't want
25 to exclude something from evidence, some information

1 that you knew that was harmful to your position;
2 correct?

3 A I'm sorry? You --

4 Q It would be misleading for you if you had some
5 information for the Commission to review but you didn't
6 give it to them even though you knew it hurt your
7 position.

8 A I think generally I would agree with that,
9 yes.

10 Q Okay. And the reason you provide exhibits is
11 because you find them informative and you want to share
12 that information with the Commission when they're making
13 their determination; correct?

14 A Well, the reason I provide exhibits is to help
15 explain my analyses.

16 Q Okay. And you recently testified in a
17 PEPCO proceeding in Maryland; correct?

18 A Yes. That's correct.

19 Q And you submitted direct and rebuttal
20 testimony?

21 A Correct.

22 Q And you submitted rebuttal testimony just two
23 weeks ago; correct?

24 A That's right.

25 Q Okay. And PEPCO Maryland is a distribution

1 utility; is that correct?

2 A It is.

3 Q Okay. And if you could look at 5 -- Exhibit
4 No. 657?

5 A 5 -- 657?

6 Q It's the first exhibit you were probably
7 given.

8 CHAIRMAN BROWN: It's the ROE 2016 averages.

9 THE WITNESS: Oh.

10 (Pause)

11 Okay. I'm with you.

12 BY MR. RAPPOLT:

13 Q Okay. And you have a column in there
14 designating certain utilities as distribution and
15 vertically integrated; correct?

16 A That's right.

17 Q And you didn't provide this exhibit in either
18 your direct or rebuttal testimony in the
19 PEPCO proceeding; correct?

20 A I don't recall offhand.

21 Q Okay.

22 A You recall that this exhibit, this rebuttal
23 exhibit, was in response to a witness in this case.

24 Q Thank you, Mr. Hevert.

25 Okay. Mr. Hevert, if we could please turn to

1 Page 15, Line 13 to Page 16, Line 10 of your direct
2 testimony.

3 A Yes. I'm there -- oh, I'm sorry. Yes, I'm
4 there.

5 Q Okay. Here you discuss the criteria you use
6 to select a proxy group; correct?

7 A Yes. That's right.

8 Q And certain of these criteria eliminate
9 entities from the proxy group that either don't have
10 adequate data or they have data that would not
11 produce -- produce meaningful results; correct?

12 A I'm sorry. Can you repeat that question?

13 Q Sure.

14 Certain of the criteria here eliminate
15 entities from the proxy group that either don't have
16 adequate data or that have data that would not produce
17 meaningful results.

18 A I'm not sure what you -- what you mean by
19 either --

20 Q Okay. Fair enough.

21 Let's take the first exhibit on your packet.

22 A Okay.

23 MR. RAPPOLT: And if we could have this
24 marked, Madam Chair?

25 CHAIRMAN BROWN: It will be 676, and I have

1 FPL's Response to Hospital's Second Set of
2 Interrogatories No. 72; is that correct?

3 MR. RAPPOLT: That's correct.

4 CHAIRMAN BROWN: All right. That's how we'll
5 label it.

6 MR. SAYLER: Madam Chair, is it 676 or 677?

7 CHAIRMAN BROWN: 676.

8 MR. SAYLER: Okay. Thank you.

9 CHAIRMAN BROWN: Please proceed.

10 (WHEREUPON Exhibit 676 was marked for
11 identification.)

12 BY MR. RAPPOLT:

13 Q Okay. Here if you flip to the first page, you
14 explain that the DCF model requires consistent dividend
15 payments; correct?

16 A So I'm just -- this is Interrogatory 42,
17 Page 1 of 1.

18 Q Interrogatory No. 72 --

19 A 72. I'm sorry. Page 1 of 1.

20 Q The last sentence.

21 A Yes. I'm sorry. Yes. I'm with you.

22 Q So obviously an entity that does not pay
23 dividends has not displayed, as you state in this
24 response, a sufficient history of quarterly dividend
25 payments such that investors' expectations can be based

1 **on consistent quarterly dividend payments; correct?**

2 A I think that's right. Yes.

3 **Q Okay. And how many quarters of dividends**
4 **would be sufficient in your opinion?**

5 A Well, it depends, and let me tell you why I
6 say that.

7 If you look, for example, back at the Empire
8 District Electric, when the tornadoes went through
9 Joplin, they suspended their dividend, and they
10 suspended it for maybe two or three quarters. And
11 perhaps some people might look at that and say, because
12 of the suspension of the dividend, they ought not to be
13 included as a proxy company. But if you look at the
14 long-term history of dividend payments and you
15 understand the circumstances under which they chose to
16 suspend the dividend, I think you reasonably can
17 conclude that going forward a company like that would be
18 likely to reinstate it.

19 **Q So it's a company-by-company analysis?**

20 A I think it has to be.

21 **Q Okay. And the second item you note here is**
22 **that an entity must not have recently decreased its**
23 **quarterly dividend payment.**

24 A And it's the same -- the same type of issue.
25 Again, we can look at Empire. They suspended it. When

1 they reinstated it, they reinstated it at a lower level,
2 but eventually it went back to where it was going to be.
3 So, yes, it's a company-by-company analysis, and it does
4 require some judgment, and people may look at the data
5 and come to a different interpretation.

6 Q Okay. And a DCF analysis on a company that
7 fails that criteria, that wouldn't provide a meaningful
8 result; correct?

9 A I think -- I think that's right.

10 Q Okay. Let's turn to Page 15 again, Line 17.

11 A Yes.

12 Q Do you see that testimony?

13 A I do.

14 Q Okay. So you excluded from your proxy group
15 any company not covered by at least two utility industry
16 equity analysts; correct?

17 A That's correct.

18 Q Okay. And at least two utility industry
19 equity analysts are needed so you can avoid the
20 potential bias that may be associated with relying on a
21 single source; correct?

22 A Right.

23 Q Okay. So to be clear, when we're talking
24 about relying on a single source, you're referring to
25 the sources for growth rates that a firm like Zacks and

1 **Yahoo FirstCall provide; correct?**

2 A That's correct.

3 Q Okay. And to the extent that a Zacks growth
4 rate, for example, was based on a single analyst, the
5 results would be likely to be skewed in one direction or
6 another than a growth rate derived from multiple
7 analysts' estimates; correct?

8 A That may be true. But if that company also
9 has coverage from, say, Value Line -- let's say that
10 company has one analyst covering it as surveyed by
11 Zacks, but it also has Value Line covering it, and in my
12 view, that's two that cover the company.

13 Q All right. If you could pull the next exhibit
14 on your stack, then we could have this marked.

15 CHAIRMAN BROWN: We're going to mark that as
16 677, and that's FPL's Response to Hospital's Second
17 Set of Interrogatories No. 73.

18 (WHEREUPON Exhibit 677 was marked for
19 identification.)

20 BY MR. RAPPOLT:

21 Q Okay. So here you explain that you reviewed
22 data from Zacks and Yahoo FirstCall to decide whether
23 they had the extent of analyst coverage needed; correct?

24 A I'm sorry. Which one were we on?

25 Q Interrogatory No. 73.

1 A Okay. I was one ahead of you. I'm sorry.

2 Yes. That's correct.

3 **Q Okay. So you didn't mention Value Line in**
4 **this data response, and this data response was true and**
5 **correct when given; correct?**

6 A Right. So let's -- let's go back and look at
7 this.

8 What I say is they have to be covered by at
9 least two utility industry analysts to avoid bias. I,
10 therefore, relied on data from Zacks and Yahoo. Those
11 are the consensus services. They're the ones that go
12 out and survey utility analysts. Obviously my exhibits,
13 obviously my testimony also includes Value Line as a
14 source.

15 **Q Fair enough.**

16 But if -- for the screening you used, you
17 looked at Zacks and Yahoo --

18 A Yes --

19 **Q -- to see if there were two analysts covering**
20 **for Zacks and Yahoo; correct?**

21 A I'm sorry. I didn't mean to interrupt you.

22 For the screen that I used, if Zacks or Yahoo
23 has one analyst covering them and Value Line also covers
24 them, then I would consider that to be two analysts
25 covering them.

1 Q So this data response is not correct then?

2 A I don't think it's incorrect. This is the way
3 you've seen the -- you've seen my exhibits. It says I
4 use Value Line as well. These are the two consensus
5 services. Value Line is not a consensus service.

6 Q Is Bloomberg a consensus service?

7 A It is, yes.

8 Q Does Bloomberg provide a number of analysts
9 providing an estimate?

10 A It does, yes.

11 Q Okay. And did you review that data before
12 providing your testimony?

13 A Bloomberg's consensus? No. I don't use
14 Bloomberg for the following reason. Bloomberg is a
15 subscription service. It's not available to everyone.
16 You can get Zacks and Yahoo online. You can get Value
17 Line at the library. Bloomberg is a little bit more
18 difficult, but it's the same type of consensus service
19 that Zacks and Yahoo provide.

20 Q Okay. Very good, Mr. Hevert.

21 If you can turn to Page 16, Lines 9 and 10.
22 You exclude entities if they are known to be a party to
23 a merger or significant transaction; correct?

24 A Yes. That's right.

25 Q And you do so because mergers or significant

1 transactions may affect investors' perceptions and
2 expectations about the company when the transaction
3 affected the study period of the cost of equity
4 analyses; correct?

5 A Yes. That's right.

6 Q Okay. And what you're describing there are
7 situations where a merger or transaction affects the
8 data used in the DCF study; correct?

9 A It could be -- well, let's back up.

10 The data used in the DCF study could be data
11 used in the capital asset pricing model. It could be
12 any transaction, any event that temporarily distorts the
13 price activity of the company.

14 Q Very good.

15 A DCF study of that entity wouldn't provide a
16 meaningful result; correct?

17 A When you say "of that entity," you mean an
18 entity undergoing a significant transaction?

19 Q Absolutely.

20 A Yeah. I think that's part of the concern;
21 that if you were to include in your proxy group a
22 company that was undergoing a significant transaction,
23 two things could happen. One is that the price would
24 reflect the bidding behavior of the transaction and as a
25 consequence may not reflect the fundamental value of the

1 stock. The other is that the growth rates may be -- may
2 be different than they otherwise fundamentally would be.
3 So for those reasons, I think it's not unusual to have a
4 significant transaction screen.

5 Q Okay. You can flip one of the -- the exhibit
6 on top. You don't need to mark that.

7 A I'm sorry. Which exhibit?

8 Q It was Interrogatory No. 78.

9 A Yes, I see.

10 MR. RAPPOLT: We do not need to mark that.

11 CHAIRMAN BROWN: Good.

12 MR. RAPPOLT: Okay. The next one we do need
13 to mark.

14 CHAIRMAN BROWN: Okay. That's 81. So that
15 would be 678, Exhibit 678, and that's FPL's
16 Response to Hospital's Second Set of
17 Interrogatories No. 81; is that correct?

18 MR. RAPPOLT: That's correct.

19 CHAIRMAN BROWN: Okay.

20 WHEREUPON Exhibit 678 was marked for
21 identification.)

22 BY MR. RAPPOLT:

23 Q If you flip to attachment one, Mr. Hevert,
24 you'll see the list of companies that you considered for
25 proxy group inclusion; correct?

1 A Yes. That's right.

2 Q And you put a check mark for each entity that
3 met each of the criteria; correct?

4 A Yes. Correct.

5 Q Okay. So, for example, if we look at the
6 column, Equity Analyst Coverage, and the row, MGE Energy
7 Incorporated, we'll see that MGE Energy Incorporated
8 does not receive a check, and, therefore, you did
9 include that entity in your proxy group; correct?

10 A That's right.

11 Q Okay. And similarly if you look at the
12 history of consistent dividends, we won't see a check
13 for El Paso Electric Company?

14 A Right.

15 Q And if we look at not party to a merger or
16 significant transaction, we see a large handful in these
17 that did not get checks there, and two of them in
18 particular are Duke Energy Corp and Entergy Corp;
19 correct?

20 A Yes. That's right.

21 Q Okay. So even if these companies were
22 comparable to FPL, you did not include them in your DCF
23 analysis because their DCF results wouldn't be
24 meaningful; correct?

25 A When you say -- if your question is if they

1 had met all other screens but not met this screen, would
2 they have been excluded, then, yes, I agree with that.

3 Q Okay. And if you did a DCF on them, it
4 wouldn't provide a meaningful result; correct?

5 A Well, I think there's the threat that it
6 couldn't. Right. And I think that's principally why
7 the people who do this type of work tend to exclude
8 companies for that reason. I think there is the
9 possibility that it could provide biased results one way
10 or the other, and we don't even know which direction
11 that might go.

12 Q And we've already had some testimony that
13 you're CAPM model. So I'll just explain here that you
14 used two measures of the market return. One was
15 Bloomberg, and one was Value Line; right?

16 CHAIRMAN BROWN: That's been asked and
17 answered.

18 MR. RAPPOLT: Fair enough.

19 BY MR. RAPPOLT:

20 Q So if we could turn to Exhibit RBH-6, and
21 Page 1 through 6 contained the Bloomberg DCF model;
22 correct?

23 A I'm sorry. Yes. That's correct.

24 Q And 7 through 12 is the Value Line?

25 A Yes. That's right.

1 Q Okay. So let's see how you applied the DCF
2 **model inside the CAPM approach here.**

3 A Okay.

4 Q If you look down about ten companies down, you
5 **have Adobe, and they're showing a zero percent dividend**
6 **yield; correct?**

7 A Right.

8 Q Okay. So they -- and you didn't remember any
9 **companies that failed to have a history of paying**
10 **consistent dividends from the DCF analysis; correct?**

11 A When you say "the DCF analysis," do you mean
12 for establishing the expected market return as opposed
13 to the return for utilities?

14 Q **Yes. Each line here is a DCF analysis for**
15 **each company; correct?**

16 A In the S & P 500. That's right.

17 Q **That's right.**

18 And you didn't exclude companies that had paid
19 zero dividends; correct?

20 A Sure, for a real good reason. Do you want to
21 know what it is?

22 Q **We'll let you handle that on redirect.**

23 And you also didn't exclude any companies that
24 were subject to merger or transaction?

25 A Right.

1 **Q Significant transactions.**

2 A And I can tell you why if you'd like.

3 **Q You can explain your answer.**

4 A Yes. And the reason is this. What we're
5 doing here is we're looking for the expected return on
6 the market as a whole. When you look at the market as a
7 whole, at any given point in time, there are going to be
8 transactions. It may not be one company, or it may be
9 another company. But the expectation of someone buying
10 the basket of market companies is that there will be
11 transactions going on at that point in time.

12 The other point is there are 500 companies
13 here, and to the extent that there may be a change in
14 the result, it's going to be muted by the fact that
15 there are 500 companies.

16 As to your first point, non-dividend-paying
17 companies, utilities clearly are dividend payers, and
18 that's the reason I think most people look to a dividend
19 screen when looking at utilities. Here we're looking
20 again at the expected return on the market. We know
21 companies like Adobe are not dividend-paying companies.
22 They are growth companies. And so their return comes in
23 the form of capital appreciation as opposed to the
24 dividend yield, and that's why it's entirely appropriate
25 to include those companies in this analysis.

1 CHAIRMAN BROWN: Mr. Rappolt, just trying to
2 guess how many -- estimate how many questions you
3 have for this witness. Trying to decide when we
4 should take a dinner break.

5 MR. RAPPOLT: I do have a significant amount
6 more.

7 CHAIRMAN BROWN: Yes. Okay.
8 Why don't we break until 7:15.

9 MR. MOYLE: Can I ask a process question? I
10 know we agreed to take Mr. Miranda in the morning.
11 If he's going first thing, are we gonna -- is your
12 intention to go tonight through this witness and
13 also take Mr. Dewhurst?

14 CHAIRMAN BROWN: That is my intention. And we
15 will do it.

16 MR. MOYLE: Okay. I was -- if you were not, I
17 was going to ask to be excused, but I'll stay.

18 CHAIRMAN BROWN: Sorry.

19 MR. RAPPOLT: Madam Chair, can I get one more
20 question in before the break that --

21 CHAIRMAN BROWN: No.

22 MR. RAPPOLT: Okay. Thank you.

23 CHAIRMAN BROWN: All right. We'll see you
24 guys in 30 minutes.

25 (Whereupon there was a short break.)

1 CHAIRMAN BROWN: All righty. Good evening.
2 Staff, hope you -- hope you guys got some
3 nourishment. Good, good. Hope the parties did
4 too.

5 We're back on the record.

6 All right. And you have the floor, sir.

7 MR. RAPPOLT: Thank you, Madam Chair.

8 BY MR. RAPPOLT:

9 Q Mr. Hevert, before we left, you were
10 explaining that you believed you could use a company
11 that did not pay dividends in the DCF analysis for
12 nonutility companies. I'd like you to pull out of your
13 stack a clipped exhibit. It should have a black clip on
14 it.

15 A Yes.

16 Q It's Direct Testimony of FPL Witness Hevert
17 before the New Mexico Public Service Commission.

18 MR. RAPPOLT: And if I could get that marked?

19 CHAIRMAN BROWN: That will be marked as
20 Exhibit 679.

21 (WHEREUPON Exhibit 679 was marked for
22 identification.)

23 BY MR. RAPPOLT:

24 Q If you could turn to Page 18, Lines 1 through
25 3.

1 A Yes.

2 Q **And as you stated before, your testimony were**
3 **true and accurate when you provided them; correct?**

4 A That's correct.

5 Q **Okay. If we could turn back to Page 19 of**
6 **your testimony.**

7 A I'm sorry. My direct in this case?

8 Q **In this proceeding in New Mexico.**

9 CHAIRMAN BROWN: In the exhibit, sir.

10 THE WITNESS: Oh, I'm sorry. Thank you.

11 CHAIRMAN BROWN: Page 19?

12 MR. RAPPOLT: Yes.

13 CHAIRMAN BROWN: Are you there?

14 THE WITNESS: I'm sorry. Yes, I'm there.

15 MR. RAPPOLT: Okay.

16 BY MR. RAPPOLT:

17 Q **You had two measures of data. One was from**
18 **Bloomberg; correct?**

19 A I'm sorry. I must be on the wrong page.

20 Q **No --**

21 A I'm on Page -- Page 19 of the New Mexico
22 testimony.

23 Q **No, no. Of your direct testimony.**

24 A In the case?

25 Q **Yes.**

1 A Okay.

2 **Q I apologize. I got confused there.**

3 A I did too actually, Madam Chair. I was
4 looking at the 2008 testimony.

5 CHAIRMAN BROWN: So was I.

6 MR. RAPPOLT: I am sorry.

7 CHAIRMAN BROWN: You did get a chance to have
8 dinner; right?

9 MR. RAPPOLT: I did.

10 CHAIRMAN BROWN: Okay. Good.

11 MR. RAPPOLT: It's not helping.

12 MS. BROWNLESS: Madam Chair, before we go on,
13 just so we don't get messed up, we think that the
14 next exhibit number is 678, and I believe you said
15 679.

16 CHAIRMAN BROWN: It's 679.

17 MS. BROWNLESS: And what is 678, please?

18 CHAIRMAN BROWN: FPL's Response to Hospitals'
19 Interrogatories No. 81.

20 MS. BROWNLESS: Thank you, ma'am.

21 CHAIRMAN BROWN: Please focus. We got it all
22 covered up here.

23 BY MR. RAPPOLT:

24 **Q Okay, Mr. Hevert.**

25 A Yes.

1 Q In contrast to Bloomberg, Value Line uses the
2 New York Stock Exchange Composite Index to measure the
3 overall market return when calculating data; correct?

4 A That's right.

5 Q Okay. And the New York Stock Exchange Index
6 is composed of all common stocks traded on the New York
7 Stock Exchange; correct?

8 A That's my understanding, yes.

9 Q Okay. On your stack of exhibits, you can skip
10 two of them. That would be you can skip Interrogatory
11 No. 83 and Interrogatory No. 82.

12 MR. RAPPOLT: And then if I could have marked
13 as an exhibit -- it's described as Bloomberg
14 Subscription of the New York Stock Exchange Index.

15 CHAIRMAN BROWN: We're at 680, and we will
16 mark that Bloomberg Subscription of New York Stock
17 Exchange Index.

18 (WHEREUPON Exhibit 680 was marked for
19 identification.)

20 CHAIRMAN BROWN: Mr. Hevert, do you have a
21 copy of that in front of you?

22 THE WITNESS: Yes, ma'am, I do.

23 CHAIRMAN BROWN: All right.

24 BY MR. RAPPOLT:

25 Q And if you can turn to the second page at the

1 bottom profile, it says that the New York Stock Exchange
2 Compose Index includes ADRs; correct?

3 A Right.

4 Q And what are ADRs?

5 A American Depository Receipts.

6 Q And that's foreign listings that are on the
7 New York Stock Exchange; correct?

8 A That's correct.

9 Q Okay. And how many foreign listings are there
10 on the New York Stock Exchange?

11 A I could not tell you as I sit here.

12 Q Okay. As you discussed before, you were
13 selecting a proxy group that was composed of entities
14 that faced similar risks as FPL; is that correct?

15 A That's the intent. Correct.

16 Q Okay. Now, the financial information that you
17 provide in your testimony and exhibits that you want the
18 Commission to review, you want it to be as accurate as
19 possible; correct?

20 A That's right.

21 Q And it's important to you to compare apples to
22 apples; right?

23 A I'm not sure of your context there.

24 Q Well, you wouldn't want to give the Commission
25 a mismatched set data.

1 A Again, I'm not sure of your context.

2 MR. LITCHFIELD: I'll object. Could we just
3 get to the point?

4 MR. RAPPOLT: Fair enough.

5 CHAIRMAN BROWN: Sounds good.

6 BY MR. RAPPOLT:

7 Q Okay. Could we turn to your Exhibit RBH-10?

8 A Yes. I'm there.

9 Q Okay. And here you report the capital
10 structures of the proxy group entities and their
11 electric operating companies; correct?

12 A Yes. That's right.

13 Q And you note at the bottom that the source for
14 the data is SNL Financial; correct?

15 A That's right.

16 Q And the percentages state the relationship
17 between two components, long-term debt and common
18 equity; right?

19 A That's right.

20 Q All right. So if we add up the percentages on
21 Page 1 and 2, they add up to 100 percent.

22 A That would be the intent.

23 Q Okay. And short-term debt was not included in
24 your calculation; right?

25 A That's correct.

1 Q And you do that with every single analysis
2 that you do in prior testimony -- well, not every one,
3 but most of them. Just generally speaking, Mr. Hevert.

4 A Oh, that's a very vague question. Maybe you
5 also can give it another shot.

6 Q Fair enough. We have a lot of testimony in
7 the record, so we'll just move on, on that.

8 In your summary, you noted that FPL had a
9 5.9 percent -- 5.9.6 percent -- excuse me --
10 59.6 percent equity ratio on an investor-supplied
11 capital basis.

12 A Correct. On investor-supplied basis.

13 Q Okay. Do you know how that was derived?

14 A 59.6 percent?

15 Q Yes.

16 A Well, I certainly know that it was part of the
17 MFRs, but as to the actual calculation and data
18 underlying it, you'd probably have to talk to
19 Mr. Dewhurst or someone else.

20 Q Okay. Could you -- the next exhibit,
21 Interrogatory Number --

22 CHAIRMAN BROWN: Watch out for that cup in
23 front of you.

24 MR. RAPPOLT: Yeah.

25

1 BY MR. RAPPOLT:

2 Q -- 77, you can skip. Okay?

3 CHAIRMAN BROWN: Okay.

4 MR. RAPPOLT: And I'd like to identify two at
5 this time.

6 CHAIRMAN BROWN: Sure.

7 MR. RAPPOLT: One is MFR Schedule D1-A for the
8 2017 Test Year.

9 CHAIRMAN BROWN: We'll mark that one as 681.
10 (WHEREUPON Exhibit 681 was marked for
11 identification.)

12 CHAIRMAN BROWN: Mr. Hevert, do you have a
13 copy of that in front of you?

14 THE WITNESS: Yes, ma'am, I do.

15 CHAIRMAN BROWN: Okay. And then the next one,
16 sir?

17 MR. RAPPOLT: Is the Demonstrative Exhibit of
18 FPL's Calculation of Its Equity Ratio.

19 CHAIRMAN BROWN: I've got that. Yes. 682
20 then we'll mark that one.

21 (WHEREUPON Exhibit 682 was marked for
22 identification.)

23 MR. LITCHFIELD: May I ask was this
24 demonstrative exhibit --

25 MR. RAPPOLT: It's designed to speed the

1 cross-examination.

2 MR. LITCHFIELD: Right. But was it identified
3 at the prehearing conference? I don't recall that
4 it was?

5 CHAIRMAN BROWN: Staff?

6 MS. BROWNLESS: This is not one of our
7 exhibits in the comprehensive exhibit list. This
8 is an exhibit provided today.

9 (simultaneous speaking)

10 MR. RAPPOLT: We're fine with not putting this
11 into evidence, but I think it will help us get
12 through the cross very quickly.

13 MR. LITCHFIELD: I thought that all
14 demonstrative exhibits were required to be
15 identified.

16 MS. BROWNLESS: I believe at the prehearing
17 conference what was required to be identified was
18 the exhibits that you wanted to put on the posters,
19 not --

20 CHAIRMAN BROWN: Prehearing Officer says --
21 nods and says she agrees.

22 So Mr. Litchfield?

23 MR. LITCHFIELD: I'm sorry. Prehearing
24 Officer says?

25 CHAIRMAN BROWN: Commissioner Edgar?

1 COMMISSIONER EDGAR: When the term "identified
2 demonstrative exhibits" was used prior to and at
3 the prehearing, Ms. Brownless described it
4 correctly. It was if we were going to use the
5 poster boards to kind of put up, et cetera.

6 MR. LITCHFIELD: I see. Thank you.

7 CHAIRMAN BROWN: With that understanding?

8 MR. LITCHFIELD: Yes. No objection.

9 CHAIRMAN BROWN: So we will mark 681 MFR
10 Schedule D1 for the 2017 test. 682 is the
11 demonstrative exhibit of FPL's calculation.

12 And, Mr. Hevert, you have both of those in
13 front of you.

14 THE WITNESS: Yes, ma'am, I do.

15 BY MR. RAPPOLT:

16 **Q Okay. Can you look at the amounts under**
17 **Column 6 on the MFR schedule?**

18 A Right. The system-adjusted amounts?

19 **Q Yes.**

20 A Yes.

21 **Q And can you look at the amounts for long-term**
22 **debt, common equity, and short-term debt?**

23 A Yes, I see those.

24 **Q And then can you look at the demonstrative**
25 **exhibit and look at the totals there and see if they**

1 correspond to your satisfaction?

2 A Yes, they do.

3 Q Okay. At the top of the demonstrative
4 exhibit, we have the calculation of the capital
5 structure including short-term debt; correct?

6 A Yes, that's right.

7 Q And the common equity ratio there is
8 59.6 percent; correct?

9 A It is.

10 Q Okay. And at the bottom we have it including
11 just common equity and long-term debt; correct?

12 A That's right.

13 Q And there it's 61.1 percent; correct?

14 A That's right.

15 Q Okay. So if we're doing an apples-to-apples
16 comparison, Mr. Hevert, we want to look at the bottom;
17 correct?

18 A Look at the bottom -- I'm sorry?

19 Q We want to look at 61.1 percent common equity;
20 correct?

21 A If we were going to compare across companies?

22 Q If we were going to compare to your RBH-10.

23 A Okay. I see -- I'm sorry. I see where you're
24 going now. Yes.

25 Q Okay.

1 (Microphone thumping noise)

2 THE WITNESS: That was me. I'm sorry.

3 CHAIRMAN BROWN: Oh.

4 BY MR. RAPPOLT:

5 Q Okay. Let's turn back to RBH-10. In the
6 proxy group capital structure at the top, the highest
7 average equity ratio there is Westar Energy; correct?

8 A I'm sorry. At the -- the top piece?

9 Q Yes, the top. The proxy group capital
10 structure.

11 A Right. 66 percent.

12 Q Okay. And Westar was recently acquired by
13 Great Plains Energy; correct?

14 A Well, the transaction is not yet closed, but
15 that's been announced. That's right.

16 Q Okay.

17 MR. RAPPOLT: And if I could have marked the
18 next exhibit in the pack, it's Excerpts from Westar
19 Energy SEC Form No. 10-K.

20 CHAIRMAN BROWN: We're going to mark that as
21 Exhibit 683.

22 (WHEREUPON Exhibit 683 was marked for
23 identification.)

24 CHAIRMAN BROWN: Mr. Hevert, do you have a
25 copy of that?

1 THE WITNESS: Yes, ma'am, I do.

2 CHAIRMAN BROWN: Okay.

3 BY MR. RAPPOLT:

4 Q Okay. And you regularly review 10-Ks in your
5 business; correct, Mr. Hevert?

6 A I do.

7 Q Okay. And if you could turn to Page 42 of the
8 10-K.

9 A Yes, I see that.

10 Q And there you provide -- or the exhibit
11 provides the capital structure of Westar Energy;
12 correct?

13 A That's right.

14 Q And it's 49 percent common equity in the end
15 of 2014; correct?

16 A That's what this shows. Correct.

17 Q Okay.

18 A And Westar Energy at the holding company
19 level. That's right.

20 Q Okay. When you're presenting analysis to the
21 Commission, you want to make sure that you adequately
22 explain how the inputs to that analysis are derived;
23 correct?

24 A I try to, yes.

25 Q Okay. And you want to understand how the

1 **timing of the release of data may influence such data;**
2 **correct?**

3 A I think I understand your question, and, yes.

4 Q **Okay. Could we turn to Page 55 of your direct**
5 **testimony?**

6 Actually we could skip that. We've already
7 had discussions about PE ratios; correct, Mr. Hevert?
8 The PE ratio is price to earnings.

9 A I'm not sure we've already had a discussion,
10 but I agree with you that that's what it is.

11 Q **Okay.**

12 MR. RAPPOLT: Sorry. We do need to go to
13 Page 55. I'm sorry, Madam Chair. I was trying to
14 speed this along, but --

15 CHAIRMAN BROWN: I appreciate that though.

16 BY MR. RAPPOLT:

17 Q **Page 55.**

18 A Yes. I'm there.

19 Q **Okay. Now, in the first paragraph, you're**
20 **describing your proposed proxy groups' average PE ratio**
21 **as compared to the market; correct?**

22 A Yes. That's correct.

23 Q **And the market you're referring to is the S&P**
24 **500; correct?**

25 A That's right.

1 Q Okay.

2 MR. RAPPOLT: If I could have marked for
3 identification the next exhibit.

4 CHAIRMAN BROWN: 684?

5 MR. RAPPOLT: Yes.

6 CHAIRMAN BROWN: What would you like marked as
7 684?

8 MR. RAPPOLT: This is Hevert Direct Work
9 Papers Historical PE Ratios.

10 CHAIRMAN BROWN: Okay. We will mark that as
11 such.

12 (WHEREUPON Exhibit 684 was marked for
13 identification.)

14 BY MR. RAPPOLT:

15 Q Mr. Hevert, this is one of the work papers you
16 provided in discovery in this proceeding; correct?

17 A Yes, it is.

18 Q And you provide the PE ratios for your proxy
19 group for each trading day from January 15, 2016,
20 through January 3, 2000; correct?

21 A I'm just going to go back and --

22 Q We can take that subject to check, Mr. Hevert.

23 A January 3, 2000, through January 15, 2016.

24 Q Okay. Now, when selecting the data period to
25 provide an average PE ratio, you wouldn't want to start

1 during an abnormally low point; would you?

2 A An abnormally low point? I'm not sure what
3 your question is.

4 Q Well, if you're doing an average, Mr. Hevert,
5 and you start at what would be an abnormally low point
6 looking at a broader range of data, that would provide a
7 skewed average; correct?

8 A And I think that depends upon your definition
9 of abnormal and the reason something may be abnormal,
10 but as a general proposition, I'd agree with you.

11 Q Okay. For a single publicly traded company,
12 the daily PE ratio is calculated by dividing that
13 entity's stock price on each day by the entity's
14 earnings per share; correct?

15 A There's a couple of different ways of doing
16 it, but the way we've done it here is it's like the --
17 the closing price divided by the trailing twelve months'
18 earnings.

19 Q Okay.

20 A And I -- when I say "we," the only thing I'll
21 say subject to check is that this in all likelihood was
22 data where the PE ratio was calculated by either SNL
23 Financial or Bloomberg.

24 Q And that's the closing daily price?

25 A I think so. I can't speak exactly for how the

1 two would have done it, but it would be a daily price
2 however defined.

3 **Q And the earnings per share portion of the**
4 **equation, it only changes once per quarter; correct?**

5 A It would change quarterly. Correct.

6 **Q Okay.**

7 A It would be -- because it's trailing twelve
8 months, it would be sort of rolling on a quarterly
9 basis.

10 **Q I believe -- let's see.**

11 Okay. When developing this work paper, you
12 used the same proxy group for the entire period;
13 correct?

14 A Yes. That's right. And the reason we note
15 the source as SNL Financial is that SNL gives you the
16 ability to create what they refer to as an index; so it
17 puts all of the companies in one index, and it weights
18 them by their market capitalization at any given point
19 in time. So it's not a simple average. It's a market
20 capitalization weighted average which is calculated by
21 SNL.

22 **Q Okay. And you've testified in numerous**
23 **electric proceedings, and in those proceedings you used**
24 **different proxy groups; correct?**

25 A Yes. That's correct.

1 Q Based on market data at that time; right?

2 A Well, and based on the subject company.

3 Q Okay. Back to page 55 of your direct
4 testimony, on Line 10 you note a historical average PE
5 ratio. Is that the seven percent discount you described
6 in Lines 3 to 6?

7 A So -- I'm sorry. So which line were you
8 asking about?

9 Q Basically I just want to know what the
10 historical average is on Line 10.

11 A Oh, I see. Yes. I think it's sort of a
12 longer-term average.

13 Q Which is what?

14 A I would say it's -- my -- just gonna take a
15 look real quick if you don't mind.

16 That would be -- that would be beginning
17 January 2000.

18 Q So the -- what is the historical average?

19 A Oh, I can't tell you as I sit here right now.
20 I'm sure we can calculate it from the work paper here.

21 Q So you want to adjust the DCF ratio, and you
22 don't know what the historical average is of PE ratio?

23 A Oh, what we know is that it traded at a
24 premium. I mean, it --

25 Q Of what? Compared to what, Mr. Hevert?

1 A Compared to the market. There --

2 Q **What is the historical average?**

3 MR. LITCHFIELD: Objection. The witness is
4 allowed to be heard.

5 CHAIRMAN BROWN: You beat me to the punch.

6 I'll allow the witness to clarify his answer.

7 Mr. Hevert, you can continue.

8 THE WITNESS: Thank you.

9 The -- if you -- if you read page -- excuse
10 me -- Page 55, Lines 5 through 6, what we talk
11 about is the fact that the proxy group traded at an
12 average PE ratio at a seven percent discount. What
13 we're looking at here is the relative PE ratio.
14 Did it trade at a premium to the market? Did it
15 trade at a discount to the market?

16 And so to your question, Mr. Rappolt, is do I
17 know offhand what the average was? I don't. What
18 I know -- although we certainly can calculate it
19 from these works papers. But what we do know is
20 that historically it had traded at a discount and
21 that during the time period in question it began to
22 trade at a premium. And it's that fundamental
23 relationship if historically utilities trade at a
24 discount to the market and now suddenly they're
25 trading at a substantial premium to the market,

1 that would suggest that utility investors have
2 fundamentally changed the way they're looking at
3 the market.

4 So to your question, Mr. Rappolt, I don't know
5 right offhand what the -- what the exact historical
6 average was. We can calculate it. But the purpose
7 of this analysis was a relative valuation.

8 BY MR. RAPPOLT:

9 **Q I don't understand the answer. Relative to**
10 **what?**

11 A If we -- okay. Let's read lines -- begin
12 reading Line 3.

13 From 2000 through the end of August 2012 --
14 and forget the parenthetical -- the proxy group average
15 PE ratio traded at a seven percent discount to the
16 market to the S&P 500.

17 **Q So seven percent?**

18 A Seven percent to the market historically, and
19 it traded at a discount. That's right.

20 **Q Thank you, Mr. Hevert.**

21 (Transcript continues in sequence in Volume
22 20.)

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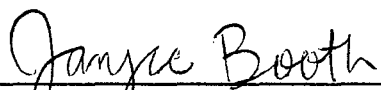
STATE OF FLORIDA)
COUNTY OF LEON)

I, JANYCE W. BOOTH, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED this 26th day of August, 2016.



JANYCE W. BOOTH
NOTARY PUBLIC
COMMISSION #FF 953203
EXPIRES January 20, 2020