BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Proposal to extend plan )<br>for recording of certain expenses )<br>for years 1998 and 1999 for )<br>Florida Power & Light Company ) | DOCKET NO. 970410-EI<br>ORDER NO.<br>ISSUED:<br>November 14, 1997 |

EVENING SESSION

VOLUME III

Pages 234 through 425

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA JOHNSON

COMMISSIONER J. TERRY DEASON

COMMISSIONER SUSAN F. CLARK

DATE: Tuesday, November 25, 1997

TIME: Commenced at 5:00 p.m.

PLACE: Betty Easley Conference Center

4075 Esplanade Way, Room 148

Tallahassee, Florida

REPORTED BY: RAY D. CONVERY, Court Reporter

(904) 224-0728

APPEARANCES: (As heretofore noted.)

WITNESSES - VOLUME III

MARK A. CICCHETTI



HUGH GOWER



EXHIBITS

PROCEEDINGS

(Transcript follows in sequence from Volume II.)

Whereupon,

MARK A. CICCHETTI

was called as a witness, having been previously sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BREW:

Q Mr. Cicchetti, are you ready?

A Yes.

Q Mr. Cicchetti, did you prefile direct testimony of Mark A. Cicchetti in the form of 30 pages of questions and answers in this docket?

A Yes.

Q If I asked you the same questions today would your answers be the same?

A Except for some corrections I'd like to --

Q Would you please give us those corrections now?

A On page 9, line 20, after the word "forecast," there should be quotation marks. On page 12, line 15, the words, "mentioned above and" should be stricken.

MR. CHILDS: Wait a minute.

Can you go just a little slower?

THE WITNESS: Yes.

MR. CHILDS: Page 12, line 15?

MR. CRUZ-BUSTILLO: And for Staff, could you go back to the first one, page 20?

THE WITNESS: Page 9, line 20.

MR. CRUZ-BUSTILLO: Page 9, line 20?

THE WITNESS: Yes.

MR. CRUZ-BUSTILLO: Thank you.

THE WITNESS: After the word "forecast," there should be quotation marks.

On page 12, line 15, the words, "mentioned above and" should be stricken.

On page 22, line 18, "1990" should be "1993."

On page 23, line 19, the comma after the word "practice" should be stricken, and the word "and" inserted. On line 20, there should be a period after the word "requirement" and the rest of the sentence should be stricken.

On page 24, starting on line 14, and ending on line 21 with the word "reporting," that should be stricken.

MR. CHILDS: Wait a minute, I'm not -- page 24, line 14?

THE WITNESS: On page 24, starting on line 14 and ending on line 21 with the word "reporting," that should be stricken.

MR. CHILDS: The whole sentence?

THE WITNESS: Yes. And those are the corrections I have.

MR. BREW: And as corrected, your answers otherwise would be the same today?

THE WITNESS: Yes.

MR. BREW: Commissioners, I ask that the prefiled testimony of Mark Cicchetti be incorporated into the record.

CHAIRMAN JOHNSON: It will be so inserted.

Q (By Mr. Brew) Mr. Cicchetti, did you also prefile exhibits with your direct testimony?

A Yes.

Q And were the first exhibits a one-page -- a two-page document, the first of which is labeled, "Florida Power & Light 1997 Base Rate Revenue Forecast"?

A Yes.

Q And the second page of that is a document entitled "Docket No. 950359-EI, Accruals to Date"?

A Yes.

MR. BREW: Your Honor, I would ask that document be marked as Exhibit 13 for identification.

CHAIRMAN JOHNSON: I'll identify it as Exhibit 13, and it included all three of those --

MR. BREW: No, it's two pages.

CHAIRMAN JOHNSON: Okay. Do you want to go separately then?

MR. BREW: Yes, I thought it might be easier.

CHAIRMAN JOHNSON: Okay. That's fine. Exhibit 13.

(Exhibit No. 13 marked for identification.)

Q (By Mr. Brew) The next document is labeled your Exhibit 2, which is entitled, "Florida Power & Light Write-Off Activity Summary" --

A Yes.

Q -- which is a one-page document?

A Yes.

Q And where did you obtain that document?

A I obtained that document through AmeriSteel request for production of documents from staff.

MR. BREW: Commissioner, I'd ask that this document be marked as Exhibit No. 14 for identification.

CHAIRMAN JOHNSON: I'll mark it as 14.

(Exhibit No. 14 marked for identification.)

Q (By Mr. Brew) Mr. Cicchetti, do you have in front of you the next exhibit, which consists of three pages of charts labeled the FPL Group, the first page of which shows book value of fossil units?

A Yes.

MR BREW: Your Honor, I'd ask that those three pages be marked as Exhibit 15 for identification.

CHAIRMAN JOHNSON: It starts with -- it says FPL Group?

MR. BREW: Yes, that's the one, and there are three pages.

CHAIRMAN JOHNSON: Okay.

(Exhibit No. 15 marked for identification.)

Q (By Mr. Brew) And then finally, the fourth exhibit is entitled, "Standard & Poors Financial Benchmarks for AA Rating." Do you see that?

A Yes.

MR. BREW: Your Honor, I'd ask that that document be marked as Exhibit No. 16 for identification.

CHAIRMAN JOHNSON: It will be marked as 16.

(Exhibit No. 16 marked for identification.)

Q (By Mr. Brew) Mr. Cicchetti, do you also have prefiled rebuttal testimony that you filed in this docket?

A Yes.

Q And is that the rebuttal testimony of Mark A. Cicchetti, consisting of 19 pages?

A Yes.

Q And do you have any corrections to offer to that rebuttal testimony?

A No.

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

A Yes.

Q Mr. Cicchetti, do you have any preliminary statement that you wish to make as to either your direct or rebuttal testimony?

A Yes, would you like me to give both summaries for rebuttal and direct at this time?

Q Yeah, please, let's do both at the same time.

A Madam Chairman, Commissioners, the proposal to extend the plan for reporting certain expenses in the years 1998 and 1999 is not in the public interest and should be denied. The plan allows FPL to accelerate over a two-year period expenses that are appropriately attributable to future periods, namely $292 million in costs associated with the reacquisition of debt.

Such treatment deviates from the Uniform System of Accounts guidelines and standard Commission practice, and results in intergenerational inequity. Additionally, there is no indication that the normal practice for treating unamortized loss on reacquired debt is in any way inadequate.

The proposal to extend the plan allows FPL to write-off over $500 million of additional expenses associated with fossil dismantlement and nuclear decommissioning reserve deficiencies; however, there is no demonstrated need to allow the write-of: of these amounts in 1998 and 1999.

The Commission authorized an increase in FPL's accrual for nuclear decommissioning expense in 1995. The revised annual accrual was designed to correct over the remaining life of the nuclear units the deficiencies identified in 1995. The comprehensive studies to be filed for both fossil dismantlement and nuclear decommissioning in 1998 will allow the Commission to determine if any further changes in the annual accruals are necessary.

With regard to depreciation reserve deficiencies, the previously identified amounts have been written off. Absent the additional expenses allowed by the plan, FPL would have significant over-earnings. Rates that generate excess earnings, absent additional allowed expenses, remove the incentives for management efficiency associated with traditional rate-making practices.

In conclusion, the plan is not in the public interest because it allows FPL to write-off additional expenses without considering certain decreased costs, such as the cost of equity and certain imprudent costs such as the excessive amount of equity. It allows FPL to write-off costs that are appropriately attributable to future periods and the plan removes incentives for managerial efficiency.

Finally, there is no indication that the normal practice for treating unamortized loss on reacquired debt is in any way inadequate, or that periodically adjusting the annual accrual for nuclear decommissioning and fossil dismantlement or depreciation will not adequately ensure recovery of authorized funding for decommissioning, dismantlement or depreciation over the remaining lives of the units.

This concludes my summary.

Q Thank you. The witness is available for cross-examination.

A Well, that is for the direct.

Q Oh, the rebuttal. Excuse me.

A With regard to Mr. Gower's testimony, the basic premise of Mr. Gower's testimony is that the plan is reasonable because it corrects prior period under-recoveries of capital and other costs without raising rates; however, there is no demonstrated need for the alteration of cost recovery proposed in the plan extension. The previously identified reserve deficiencies have been corrected. Concerns related to prior under-recoveries do not apply to accelerated recovery of regulatory assets, and a one-time recovery of perceived underfunding of nuclear decommissioning and fossil dismantlement costs is unfair to current rate payers.

Estimates of future decommissioning and dismantlement costs are subject to periodic revision.

Established Commission practice is to accrue such costs in equal annual amounts. Experience has shown that long-term projections of costs are subject to significant risk of error, the longer the range of the forecast.

Requiring a one-time correction of over $500 million for perceived deficiencies places all of the risk associated with forecasting errors on rate payers in 1998 and 1999. The amount of additional expense the plan would authorize to be charged in 1998 and 1999 far exceed any corrective or accelerated recovery the Commission has previously allowed.

The sheer magnitude of the amounts to be recovered, over $1.1 billion, brings into question the fairness of charging such a large amount to current rate payers over such a short period of time. Moreover, under normal rate-making treatment, the company will recover its prudent costs over time and remain whole.

There is no evidence FPL is in danger of not earning its authorized rate of return and no evidence that recovery of the costs identified in the plan are in jeopardy. Absent such a showing, the Commission should reassess the reasonableness of aggregating added charges as expense in 1998 and 1999. Aggregating such charges postpones a reduction in FPL's rates.

The presumption in this docket should be that the normal rate-making treatment for the identified expenses is reasonable and there should be a demonstrated need for changing the established cost recovery mechanisms.

Mr. Gower's testimony fails to give any reasons that demonstrate a need to take the additional charges the plan would authorize for 1998 and 1999. There is no indication that the normal practice for treating unamortized loss on reacquired debt is in any way inadequate, and Mr. Gower has not attempted to show that periodically adjusting the annual accrual for nuclear decommissioning, as the Commission did for FPL in 1995, will not adequately ensure recovery of authorized funding for decommissioning over the operating lives of FPL's nuclear units.

This concludes my summary of my rebuttal testimony.

MR. BREW: Thank you.

Chairman Johnson, I ask that the direct and rebuttal testimony of Mr. Cicchetti with its exhibits be inserted into the record.

CHAIRMAN JOHNSON: It will be inserted into the record as though read.

DIRECT TESTIMONY OF MARK A. CICCHETTI

Q Please state your name and address.

A My name is Mark Anthony Cicchetti and my business address is 2947 N. Umberland Drive, Tallahassee, Florida 32308.

Q By whom are you employed and in what capacity?

A I am President of Cicchetti & Company, a financial research and consulting firm. I am also employed by the Division of Bond Finance, Florida State Board of Administration, where I am the Manager of Arbitrage Compliance.

Q Please outline your educational qualifications and experience.

A I received a Bachelor of Science degree in Business Administration in 1980 and a Master of Business Administration degree in Finance in 1981, both from Florida State University.

Upon graduation I accepted a planning analyst position with Flagship Banks, Inc., a bank holding company. As a planning analyst my duties included merger and acquisition analysis, lease-buy analysis, branch feasibility analysis, and special projects.

In 1983, I accepted a regulatory analyst position with the Florida Public Service Commission. As a regulatory analyst, I provided in-depth analysis of the cost of equity and required overall rate of return in numerous major and minor rate cases. I reviewed and analyzed the current and forecasted economic conditions surrounding those rate cases and applied financial integrity tests to determine the impacts of various regulatory treatments. I also co-developed an integrated spreadsheet model which links all elements of a rate case and calculates revenue requirements. I received a meritorious service award from the Florida Public Service Commission for my contributions to the development of that model.

In February 1987, I was promoted to Chief of the Bureau of Finance. In that capacity I provided expert testimony on the cost of common equity, risk and return, corporate structure, capital structure, and industry structure. I provided technical guidance to the Office of

General Counsel regarding the development of financial rules and regulations. In addition, I authored the Commission's rules regarding diversification and affiliated transactions, chaired the Commission's Committee on Leveraged Buyouts, supervised the finance bureau's regulatory analysts, co-developed and presented a seminar on public utility regulation to help educate the Florida Public Service Commission attorneys, and provided technical expertise to the Commission in all areas of public utility finance for all industries.

In February 1990 I accepted the position of Chief of Arbitrage Compliance in the Division of Bond Finance, Department of General Services. The Division of Bond Finance is now under the Florida State Board of Administration, and my title is Manager, Arbitrage Compliance. As Manager of the Arbitrage Compliance Section, I am responsible for assuring that over $14 billion of State of Florida tax-exempt securities remain in compliance with the federal arbitrage requirements enacted by the Tax Reform Act of 1986. I provide investment advice to trust fund managers on how to maximize yields while remaining in compliance with the federal arbitrage regulations. I designed and implemented the first statewide arbitrage compliance system which includes data gathering, financial reporting, and computation and analysis subsystems.

In July 1990 I founded Cicchetti & Company. Through Cicchetti & Company I provide financial research and consulting services, including the provision of expert testimony, in the areas of public utility finance and economics.

Topics I have testified on include cost of equity, capital structure, corporate structure, regulatory theory, cross-subsidization, industry structure, the overall cost of capital, incentive regulation, the establishment of the leverage formula for the water and wastewater industry, reconciling rate base and capital structure, risk and return, and the appropriate regulatory treatment of construction work in progress, used and useful property, construction cost recovery charges, and the tax gross-up associated with contributions-in-aid-of-construction.

In 1985, I was certified by the Florida Public Service Commission as a Class B Practitioner in the areas of finance and accounting.

In June, 1985, I published an article in *Public Utilities Fortnightly* titled "Reconciling Rate Base and Capital Structure: The Balance Sheet Method." In September, 1986, I was awarded third place in the annual, national, Competitive Papers Session sponsored by Public Utilities Reports, Inc., in conjunction with the University of Georgia and Georgia State University, for my paper titled "The Quarterly Discounted Cash Flow Model, the Ratemaking Rate of Return, and the Determination of Revenue Requirements for Regulated Public Utilities." An updated version of that paper was published in the June, 1989 edition of the *National Regulatory Research Institute Quarterly Bulletin*. I have since served twice as a referee for the Competitive Papers Sessions. On June 15, 1993, I published an article on incentive regulation in *Public Utilities Fortnightly* titled "Irregular Incentives."

I am a past President and past member of the Board of Directors of the Society of Utility and Regulatory Financial Analysts (SURFA). I was awarded the designation Certified Rate of Return Analyst by the SURFA in 1992. I am a member of the Financial Management Association International and I am listed in *Who's Who in the World* and *Who's Who in America*.

I have made public utility and finance related presentations to various groups such as the Southeastern Public Utilities Conference, the Society of Utility and Regulatory Financial Analysts, the National Association of State Treasurers, and the Government Finance Officers Association.

Q Have you previously testified before this Commission?

A Yes, I have.

Q For whom are you testifying in this proceeding?

A I am testifying on behalf of AmeriSteel Corporation ("AmeriSteel").

DIRECT TESTIMONY OF MARK A. CICCHETTI

Q What is the purpose of your testimony?

A The purpose of my testimony is to address the issues in this docket listed in Order No. PSC-97-1035-PCO-EI.

Q Please summarize your conclusions.

A The proposal to extend the Plan for recording certain expenses for the years 1998 and 1999 for Florida Power & Light Company ("FPL") as set forth in Order No. PSC-97-0499-FOF-EI is not in the public interest and should be denied.

The Plan allows FPL to accelerate expenses that are appropriately attributable to future periods, removes incentives for management efficiency inherent in traditional ratemaking practices, and allows additional charges without addressing decreased costs and imprudently incurred costs. The Plan results in unreasonable rates, excessive compensation, and intergenerational inequity.

Absent the expenses allowed in the Plan, FPL will be in a significant overearnings situation given existing base rates. Absent the expenses allowed in the Plan, FPL's return on common equity will likely approach 16.00% in 1997. Based on staff's estimates, FPL could write-off up to $841.2 million in 1998 and 1999 under the sales-related portion of the Plan alone.

The proposed extension of the Plan allows additional expenses that deviate from Uniform System of Accounts guidelines and the Commission's normal accounting practices. However, the record in this docket provides no evidence to support deviating from the Uniform System of Accounts or normal Commission practice.

Q Should the Plan be extended for 1998 and 1999 as set forth in Order No. PSC-97-0499-FOF-EI? (Issue 6).

A No. To put this issue in the proper perspective, I believe it would be helpful to provide some case background.

On March 31, 1995, FPL petitioned the Commission to allow FPL to increase its expenses, effective January 1, 1995, to address the potential for stranded investment (Petition to establish amortization schedule for nuclear generating units to address potential for stranded investment by Florida Power & Light Company, Docket No. 950359-EI). In response to FPL's petition, the Commission approved a proposal by FPL that resolved the issues identified in FPL's petition. By Order No. PSC-96-0461-FOF-EI, FPL was required to book additional amortization expense including an annual $30 million for its nuclear generating units. According to the Plan approved by the Commission in Order No. PSC-96-0461-FOF-EI, the final accounting for the annual $30 million for the nuclear generating units remains "*subject to determination by the Commission in a future proceeding such as a generic stranded cost docket.*" (emphasis added)

The Plan approved in 1996 also required FPL to "record an additional expense in 1996 and 1997 equal to 100% of base revenues produced by retail sales between its "low band" and "most likely sales forecast" for 1996 and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" for 1996 as filed in this docket. Any additional expense recorded as a result of this provision will be first applied to correct the remaining reserve deficiency existing in nuclear production; second, to correct the reserve deficiency existing in FPL's other production facilities, which was calculated to be $60,338,330 as of January 1, 1994; third, to write off the net amount of book-tax timing differences that were flowed through in prior years and remain to be turned around in future periods; and, fourth, to write off the unamortized loss on reacquired debt."

In April 1997, the Commission approved a staff proposal to extend the Plan, with modifications, for an additional two years through 1999. The modifications included adding items to the list of additional expenses and changing the priority of the items on the list. The items added to the list included correction of fossil dismantlement and nuclear decommissioning reserve deficiencies, if any, and an unspecified depreciation reserve account for production plant to be used in the event any revenues associated with the difference between actual and forecasted revenues remain to be disposed of.

In the PAA in this docket, Order No. PSC-97-0499-FOF-EI, the Commission stated, "We believe this plan is appropriate because it mitigates past deficiencies with prescribed depreciation, dismantlement, and nuclear decommissioning accruals. *The plan also brings FPL's accounting in line with non-regulated companies by eliminating regulatory assets such as deferred refinancing costs and the assets associated with previously flowed through taxes. These accounting adjustments will facilitate the establishment of a level "accounting" playing field between FPL and possible non-regulated competitors.*" (emphasis added)

On May 20, 1997, AmeriSteel protested the the Commission's Proposed Agency Action. Staff, in its recommendation dated August 14, 1997 addressing AmeriSteel's protest and petition to intervene stated, "*Staff believes, absent an extension of the plan, overearnings will exist on a prospective basis. For this reason, some action is necessary to protect ratepayer interests.* Staff believes it may be necessary to attach jurisdiction to overearnings effective January 1, 1998 or take some other action to protect ratepayer interests. Since the interim statute is based on historic (sic) earnings, it will not adequately protect against 1998 overearnings." (Emphasis added)

As of June 30, 1997, the amounts allowed in Order Nos. PSC-96-0461-FOF-EI and PSC-97-0499-FOF-EI associated with correction of any depreciation reserve deficiency resulting from an approved depreciation study order ($235.6 million), and the net amounts of book-tax timing differences that were flowed through in prior years and remained to be turned around in future periods ($79.5 million) (Items 1 and 2 in Order No. PSC-97-0499-FOF-EI) have been written-off and their treatment is a moot issue.

As ~~mentioned above and~~ shown on Exhibit 1, page 1 of 2, and on Exhibit 2, page 1 of 1, it is estimated that FPL could write-off approximately $273 million in 1997 under the Plan. FPL has written-off $130.6 million through July 31, 1997 and earned approximately 40 basis points above the mid-point of its allowed return (100 basis points is equal to approximately $70 million dollars). Assuming FPL earns only the midpoint of its allowed return after writing-off the estimated amount of additional expenses, FPL's earned return on common equity, absent the additional expenses, would approach 16.00% ($273/$70= 3.9, 12.00 + 3.9 = 15.9).

Further, as shown on Exhibit 1, page 2 of 2, which is FPL's 1997 Base Rate Revenue Forecast (exclusive of revenue taxes) and Accruals of Additional Amortization Expense (obtained through a Production of Public Documents Request by AmeriSteel), as of July 31, 1997, $54.4 million of loss on reacquired debt has been written-off in 1997 with $227.6 million remaining to be written-off in 1997 and 1998. Through July 31, 1997, total sales-related (variable) accruals of $113.1 million have been written-off in 1997. The expected maximum amount of total accruals to be written-off in 1997 under the Plan is $272.5 million (Exhibit 1, Page 1 of 2).

As shown on Exhibit 2, which is a staff workpaper (also obtained through a Production of Public Documents Request by AmeriSteel; the annotations on the document are staff annotations), staff estimates that $841.2 million could be written-off in 1998 and 1999 in addition to the amounts previously written-off under the Plan. The identified amounts to be written-off against the listed Plan items in 1998 and 1999 total $619.1 million, as shown on Exhibit 2, and is comprised of $101 million of remaining loss on debt, $33.5 million of fossil dismantlement deficiency, and $484.4 million of nuclear decommissioning reserve deficiency. The remaining difference ($222.1 million) between the total amount to be written-off against specific items ($619.1 million) and the total amount expected to be available ($841.2 million), would be applied to the unspecified depreciation reserve to be allocated at a later date, if FPL so chooses.

Q How does the plan deviate from traditional ratemaking?

A The Plan proposes to correct reserve deficiencies and to accelerate the write-off of regulatory assets. Normally, reserve deficiencies are corrected over the remaining life of the associated facilities. Likewise, the generally accepted ratemaking treatment for recovery of regulatory assets, such as the unamortized loss on reacquired debt, is to spread the cost over a period of years to match the costs and benefits over time. The Commission has routinely followed this approach when setting electric utility rates. Extension of the plan proposes significant departures from accepted ratemaking and established Commission practice for which there is no record evidence. As noted previously, the identified depreciation reserve deficiencies that were addressed in the Plan approved for 1995-1997 have been corrected.

Q Please continue.

A The Plan should not be extended for 1998 and 1999 because it is not in the public interest. Given the write-offs that have already occurred, extension of the Plan now addresses accelerated regulatory asset recovery, claimed deficiencies for fossil dismantlement, nuclear decommissioning accruals, and an unspecified depreciation reserve for which there is no record justification. The Plan allows FPL to accelerate expenses that are appropriately attributable to future periods, removes incentives for management efficiency inherent in traditional ratemaking practices, and addresses additional charges without addressing decreased costs and imprudently incurred costs. The Plan results in unreasonable rates, excessive compensation, and intergenerational inequity. There is no record evidence in this docket to support additional expenses for FPL for the purpose of eliminating potential stranded costs.

As shown on Exhibit 3, which is from FPL Group's August 1997 Presentation to Security Analysts (also obtained through the Production of Public Documents Request by AmeriSteel), the book value of FPL's fossil units and nuclear units are, respectively, 51% and 62% below industry averages — one of several indications that FPL is comparatively well-suited to meet competition, even though retail competition in the electric utility industry in Florida is not expected in the near term. Furthermore, there is evidence that FPL's assets will be worth more in a deregulated environment, and not less. A Resource Data International, Inc. ("RDI") study titled "Power Markets in the U. S." estimated that FPL assets are undervalued by nearly $900 million compared to their expected value in a competitive generation market ("Power Markets in the U.S.," Resource Data International, Inc., 1994). For purposes of the study, RDI defined stranded costs as the net of any stranded generation assets, regulatory assets, purchased power contracts, and wholesale sales contracts. Furthermore, recent auctions of generating assets help establish proxies for the value of such assets. New England Electric System recently announced the sale of 4,000 MW of fossil and hydro generation assets for approximately \$400/kw. FPL owns about 13,500 MWs of fossil generation that, as shown on Exhibit 3, is on the books at \$180/kw. At an average market value of \$400/kw, FPL's fossil generating assets have an indicated market value of almost \$3 billion over their book value. Additionally, FPL's regulatory assets represent only 8% of common equity while the industry average is 19% (See Exhibit 3, Page 3 of 3).

Other factors that strengthen FPL's competitive position include low residential rates relative to Florida and the southeast region, low industrial load, high residential load, geographic isolation from the continental U.S., lack of excess capacity, and cross-state transmission capacity limitations, especially to FPL's major load centers in South Florida. Furthermore, Florida's sensitive environment is likely to hamper attempts to increase transmission capacity into and within the state.

The marketplace is well aware of the threat of competition in the electric utility industry. Yet, FPL Group's stock price has increased approximately 40% over the last five years and FPL's bond ratings were increased by Standard and Poor's to AA- in 1995 and to Aa3 by Moody's in 1996.

Q Why is it inappropriate to allow FPL to write-off costs that are attributable to future periods?

A The concept of intergenerational equity, that lies at the core of traditional ratemaking, holds that each generation of customers should pay its share of the costs related to the service from which they are benefitting. For example, the costs associated with reacquired debt should be distributed over appropriate future periods. It is inappropriate, under the concept of intergenerational equity, to force current ratepayers to bear the costs of reacquired debt so that future ratepayers can enjoy a cost of debt below the "net" cost of debt. I will address FPL's unamortized loss on reacquired debt in greater detail in Issue 4.

Q How does the Plan remove incentives for management efficiency inherent in traditional ratemaking practices?

A Under traditional ratemaking, regulated utilities are not guaranteed recovery of costs but instead are given the *opportunity* to recover their costs including a return on their investment commensurate with the risk of their investment. This is accomplished by setting rates that are expected to recover the utilities expected costs. Under this approach, a utility has an incentive to keep expenses at a level that will allow it to recover its costs including its allowed return on common equity. The utility has a further incentive to lower costs to take advantage of the regulatory lag related to the time necessary to reset rates to recognize lowered costs. In Florida, regulated utilities have the additional incentive to lower costs because they can earn up to 100 basis points over their allowed return on common equity without being subject to overearnings, all other things being equal.

However, in this docket FPL's rates are set at a point that will generate overearnings absent additional allowed expenses. Consequently, the management incentives for efficiency associated with traditional ratemaking practices are removed. Under the Plan, FPL can manipulate its earnings and achieved return.

It has been over ten years since FPL's last rate case and, absent additional allowed expenses, FPL will overearn by hundreds of millions of dollars. Under the Plan, FPL has complete discretion with regard to 50% of the base revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996. Because the revenue level is based on 1996 revenues, the Plan gives FPL discretion over tens of millions of dollars of expenses. This provides the opportunity to "manage" the earned return. For example, FPL could forego writing-off certain expenses allowed under the Plan and instead incur an expense the Commission might not normally allow. The result being that there is still a "legitimate" expense that can be claimed and the earned return is the same as if the "legitimate" expense had been taken.

Q Does the Plan allow for additional costs to be charged while ignoring decreased costs and imprudently incurred costs?

A Yes. In my opinion, FPL's allowed return on equity (See staff's Quarterly Report on Equity Cost Rates) and FPL's equity ratio used to monitor earnings are seriously outdated and should be reduced because they are excessive and are adding substantially and unnecessarily to the revenue requirement being borne by ratepayers.

Q Please explain.

A By reacquiring substantial amounts of debt, FPL replaced a tax deductible source of financing with a higher cost, non-tax deductible source of financing that increases FPL's after-tax overall cost of capital relative to what it would be otherwise, increases the dollar return to investors, and reduces the amount of potential overearnings. Furthermore, as noted above, the Plan allows the unamortized loss on the reacquired debt ($283 million) to be written-off against earnings in 1997 and 1998.

FPL's equity ratio has increased substantially since the last time rates were set. The equity ratio used in the 1985 test year in the last rate case was 42.3% of investor capital. FPL's average equity ratio for the period ending July 31, 1997, per the July 1997 Surveillance Report, was 61.1% of investor capital. Generally, increasing the amount of equity in the capital structure, all other things being equal, decreases the required return on common equity. However, FPL's allowed return on common equity has not changed since ~~1990~~ 1993 while, over the same period, its equity ratio has significantly increased. Additionally, FPL's equity ratio has risen to a level much greater than that required for a AA-rated electric utility with FPL's business position, per Standard and Poor's guidelines (See Exhibit 4). FPL's Business Position is rated 1, above average (See Standard and Poor's, Utility Credit Report, June 1996). FPL significantly exceeds the equity ratio benchmark for a AA rated electric utility with a Business Position of 1, 61.1% versus 53%. By not addressing these factors, the Plan is allowing FPL to increase allowed expenses while disregarding decreased costs and imprudently incurred costs.

Q Should FPL be authorized to accelerate the write-Off of Unamortized Loss on Reacquired Debt? (Issue 4)

A No. The amount of unamortized loss on reacquired debt that the Commission believes was prudently incurred should be amortized over the remaining life of the original debt if there was not a refunding, or if there was a refunding, amortized over the remaining life of the original debt or spread over the life of the new issue. This is the Commission's normal practice AND the Uniform System of Accounts requirement. ~~and the way FPL must account for these costs for financial reporting purposes~~. There is no evidence in this docket to support accelerated recovery for any other purpose.

Ratepayers in the future will enjoy the benefits of reduced interest expense associated with the prudently reacquired debt. Under the concept of intergenerational equity, it is inappropriate to force current ratepayers to bear the costs of reacquiring the debt so that future ratepayers can enjoy a cost of debt below the "net" cost of debt. Ratepayers bear the cost to the extent that the expenses taken under the Plan reduce overearnings. For other than insignificant amounts, the Uniform System of Accounts requires the unamortized loss on reacquired debt to be amortized in the manner I am recommending. ~~Moreover, for financial reporting purposes, the amortization of the loss on reacquired debt will continue as if there is no write-off per the Plan. In other words, even though the Commission has allowed FPL to accelerate the write-off of $203 million of unamortized loss, the Uniform System of Accounts does not allow this treatment to be used for financial reporting.~~ These Uniform System Of Accounts' requirements support the conclusion that, to achieve intergenerational equity, the loss on reacquired debt should be amortized as I am recommending.

Recovery of regulatory assets, such as the unamortized loss on reacquired debt, that are considered potential stranded costs, should be addressed through established means such as a request for increased rates, a generic Commission ruling on stranded costs, or a request for a limited proceeding to allow for additional costs. Such proceedings provide the opportunity to examine both increased and decreased costs as well as generally applicable Commission policy on stranded costs. This would provide all parties due process and preserve the public interest. This is particularly true when the utility is in an overearnings situation.

Q What is the appropriate revenue forecast to be used to determine the level of additional expenses allocated to this Plan? (Issue 1)

A Allowance of accelerated amortization should be based on need and should not be a function of FPL's growth in revenue. If the Commission allows recovery of the expenses allocated to the Plan, the Commission should simply direct FPL to write-off those amounts over an appropriate period. The Commission should not allow FPL to manipulate its earnings and achieved return for the reasons previously stated regarding appropriate management incentives for efficiency.

Q Should the Commission defer a decision to allow any additional decommissioning or dismantlement expense until there has been a full examination of FPL's nuclear decommissioning and fossil plant dismantlement studies? (Issue 2)

A Yes. There is no demonstrated need to allow the write-off of these claimed theoretical reserve deficiencies in 1998 and 1999. FPL's annual allowance for decommissioning costs was increased as recently as 1995 from $38 million to $85 million. The magnitude of the additional expenses to be allowed under the Plan ($33.5 million for fossil dismantlement and $484.4 million for nuclear decommissioning) and the potential to address offsetting and decreased costs that have been identified or that may be identified in the upcoming studies (for example, possible decreased inflation expectations) indicate the comprehensive dismantlement and decommissioning studies, due to be filed by October 1, 1998, need to be reviewed to determine if there actually is a need to book additional amortization expense. There is no record evidence indicating whether or not the claimed reserve deficiencies are life-related and if there are intergenerational equity concerns relating to accelerated amortization of these expenses.

By any measure, the amounts associated with the claimed fossil and nuclear decommissioning reserve deficiencies are tremendous. In my opinion, it would be prudent to have comprehensive studies, in hand, that demonstrate that a significant theoretical reserve deficiency exists before overearnings are reduced to offset the claimed deficiency.

Q Should the Commission consider whether FPL has reserve depreciation surplus balances for any of its plant accounts to offset depreciation reserve deficiencies? (Issue 3)

A Yes. Where applicable, the Commission should apply any depreciation reserve surplus balances for plant accounts against depreciation reserve deficiencies.

Q Should FPL be authorized to record, in an unspecified depreciation reserve, an expense amount greater than the amounts to correct any depreciation reserve deficiency, write-off the unamortized loss on reacquired debt, correct any fossil dismantlement reserve deficiency, and correct any nuclear decommissioning reserve deficiency? (Issue 5)

A No. There is no identified depreciation reserve deficiency. Consequently, there is no sound regulatory reason (other than for potential stranded costs for which there is no record evidence in this docket) to create an unspecified depreciation reserve rather than providing rate relief.

Q Please summarize your testimony.

A The Plan should not be extended because it is not in the public interest. It allows FPL to accelerate expenses that should be attributed to future periods, it removes incentives for management efficiency inherent in traditional ratemaking practices, and it allows additional charges without addressing decreased costs and imprudently incurred costs. The Plan results in unreasonable rates, excessive compensation, and intergenerational inequity.

Recovery of regulatory assets, such as the unamortized loss on reacquired debt, that could be considered potential stranded costs, should be addressed through established means such as a request for increased rates, a generic Commission ruling on stranded costs, or a request for a limited proceeding to allow for additional costs. Such proceedings provide the opportunity to examine both increased and decreased costs. This would provide all parties due process and preserve the public interest.

The additional amortization expense allowed under the Plan for fossil dismantlement and decommissioning reserve deficiencies should be delayed until the upcoming comprehensive studies can be reviewed to determine if there actually is a need to book additional amortization expense.

Finally, it appears a major element of the Plan is to permit FPL to offset growth in revenues and earnings by accelerating the recovery of regulatory assets to minimize FPL's potential stranded costs. There is no basis in the record to allow accelerated asset recovery in contemplation of competition or to mitigate the potential for stranded costs.

The Commission approved Plan cited in Order No. PSC-96-0461-FOF-EI indicated the Commission would address the final determination of the fixed $30 million of additional nuclear amortization in a future proceeding such as a generic stranded cost docket. I believe the Commission should establish a defined regulatory policy in such a docket or in a rulemaking proceeding before authorizing further accelerated amortization of, potentially, over $840 million.

Q Does this conclude your testimony?

A Yes, it does.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

AMERISTEEL CORPORATION

REBUTTAL TESTIMONY OF MARK A. CICCHETTI

DOCKET NO. 970410-EI

NOVEMBER 3, 1997

Q Please state your name and address.

A My name is Mark Anthony Cicchetti and my business address is 2947 N. Umberland Drive, Tallahassee, Florida 32308.

Q Are you the same Mark Anthony Cicchetti who previously filed direct testimony in this proceeding?

A Yes, I am.

Q What is the purpose of your rebuttal testimony?

A The purpose of my rebuttal testimony is to rebut certain presumptions and statements proffered in the direct testimony of Mr. H. A. Gower.

Q Do you agree with Mr. Gower that extending the Plan to record additional expenses in 1998 and 1999 is reasonable and appropriate and represents good regulatory policy?

A No, I do not. The basic premise of Mr. Gower's testimony is that the Plan is reasonable because it corrects prior under-recoveries of capital and other costs without raising rates. That reasoning does not justify approval of the proposed plan extension for 1998 and 1999 for the following reasons:

First, aggregating cost recovery of prior period under-recoveries and accelerated recovery of future costs into a two year period creates intergenerational equity concerns that undermine accepted ratemaking conventions that seek to spread cost responsibility evenly among the customers that receive the benefits associated with those costs. Those concerns should not be disregarded without good cause. In this case, there is no demonstrated need for the alteration of cost recovery proposed in the Plan extension. Equally important, the amount of additional expense the Plan would authorize to be charged in those two years is staggering. These amounts, estimated to be as much as $842 million for 1998 and 1999, far exceed any corrective or accelerated recovery the Commission has previously allowed.

Second, there is no basis for approving extension of the Plan to correct prior under-recoveries of depreciation because all depreciation reserve deficiencies previously identified have been recovered.

Third, concerns relating to prior under-recoveries simply do not apply to accelerated recovery of regulatory assets. The current ratemaking treatment for regulatory assets is appropriate and there is no evidence that justifies accelerating the recovery of those costs.

Fourth, one time recovery of perceived underfunding of nuclear decommissioning and fossil dismantlement costs (for which the cash outlays will be incurred a dozen or more years in the future) is unfair to current ratepayers. The Commission should not base full recovery of a perceived reserve deficiency on a single snapshot estimate because those estimates are subject to periodic revisions, particularly as the industry gains more experience with decommissioning. In fact, in Docket No. 810100-EU, the Commission concluded: decommissioning costs should be accrued in equal annual amounts; decommissioning costs should be accounted for separately; and decommissioning costs should be reviewed and, if necessary, changed no less often than every five years.

Experience has shown utility regulators that long-term projections of costs, such as the rate of inflation (or the price of oil; one of the reasons for the Public Utility Regulatory Policy Act of 1978 (PURPA) was the fear that the cost of a barrel of oil would rise, by som estimates, to as much as $100 by the year 2000) are subject to significant risk of error the longer the range of the forecast. Requiring a one-time "correction" of $484 million for a perceived deficiency for the funding of nuclear decommissioning places all of the risk associated with forecasting errors on ratepayers in 1998 and 1999.

Furthermore, the Commission authorized an increase in FPL's accrual for nuclear decommissioning expense from $38 million to $85 million in 1995. This revised annual accrual should correct, over the remaining life of the nuclear units, any deficiencies identified in 1995 (Order No. PSC-95-1531-FOF-EI, page 15). The comprehensive studies to be filed for both fossil dismantlement and nuclear decommissioning in 1998 should allow the Commission to determine if any further change in the annual accrual is necessary.

Q Mr. Gower equates the Plan's accounting requirements to prior Commission actions that allowed accelerated recovery of invested capital over relatively short periods of time without affecting rates (Gower direct, Page 7, lines 10-25). Is the action proposed by the Plan for 1998 and 1999 comparable to the prior Commission actions cited in his testimony?

A No. There are basic differences between the Plan proposed for 1998 and 1999 and those prior Commission actions.

First, none of the prior Commission

actions imposed costs over such a short period of time in the magnitude allowed under the Plan. Under the proposed Plan, over $840 million could be written-off in 1998 and 1999. The sheer magnitude of the amounts to be recovered under the Plan (over $1.1 billion over 4 years) brings into question the fairness and intergenerational equity of charging such a large amount to current ratepayers over such a short period of time. Moreover, under normal ratemaking treatment, the Company will recover its prudently incurred costs over time and remain whole.

Second, in the cases cited by Mr. Gower on pages 7 and 8 of his direct testimony, the Commission addressed early or accelerated recovery of known and verified costs (e.g., major overhaul and asbestos abatement cost)(Gower deposition, page 60, lines 1-10). In each case, the amounts to be recovered were not subject to revisions, re-estimation, or changed assumptions. However, in this case, the amounts are either appropriately attributable to future periods or are subject to revision, reestimation, or changed assumptions.

The proposed extension of the Plan addresses three basic categories of expenses:

1.) Depreciation reserve deficiencies (i.e., an inadequacy in the reserve)

2.) Accelerated recovery of regulatory assets (book-tax timing differences, unamortized losses on reacquired debt); and

3.) Correction of theoretical reserve deficiencies "if any," relating to funding for the expected future cost of nuclear decommissioning and fossil dismantlement.

Q Please address the correction of the depreciation reserve deficiencies.

A Identified depreciation reserve deficiencies were corrected over the period 1995-1997. Thus, there are no identified under-recoveries of known depreciation costs to justify continuation of the Plan 1998 and 1999 for this purpose.

Q Please address accelerated recovery of regulatory assets as the basis for approving extension of the plan for 1998 and 1999.

A The justification of correcting prior

period under-recoveries simply does not apply to accelerated recovery of regulatory assets. There is no identified historical under-recovery of these costs and no evidence that their eventual recovery is threatened by potential competitors. Normal Commission practice is to have FPL recover these costs from ratepayers over time. To allow FPL to charge these costs to current ratepayers, in addition to the costs allowed in rates, is not justified by the reasons given by Mr. Gower and is unfair to current ratepayers, particularly when decreased costs are not taken into consideration.

Q Please address the correction of the fossil dismantlement and nuclear decommissioning reserve deficiencies.

A The Plan proposes to allow nearly $500 million of expense to correct a perceived deficiency in FPL's nuclear decommissioning reserve. However, as acknowledged by Mr. Gower, engineering estimates, inflation rates, and other escalators and input assumptions regularly are revised as the industry gains experience with actual decommissioning projects and as circumstances change (Gower deposition, page 64, lines 9-15).

A reasonable way of dealing with the changing conditions while ensuring proper funding of nuclear decommissioning reserves is to require periodic examination of decommissioning cost estimates and adjust annual accrual rates where warranted. This, of course, is the Commission's current practice. The Commission increased FPL's annual accrual of decommissioning costs from $38 million to $85 million for that purpose in 1995. This increase in the annual accrual, based on the most recent assumptions and estimates used in the Company's last comprehensive nuclear decommissioning study, was intended to correct the identified deficiency over the life of the assets. The comprehensive studies to be filed in 1998 should allow the commission to determine if any further change in the annual accrual is necessary.

Requiring FPL's customers in 1998 and 1999 to bear the full brunt of the current $484 million theoretical deficiency for nuclear decommissioning, along with the hundreds of millions of dollars associated with the other items in the Plan, is unreasonable from an intergenerational equity perspective, and places those customers alone, at risk if the comprehensive studies indicate the perceived deficiencies were overstated.

Q Mr. Gower states that "an additional purpose of the proposed agency action is to facilitate establishing "...a level "accounting" playing field between FPL and possible non-regulated competitors" (Gower direct, Page 5, lines 20-22). Does this "additional purpose" justify the accelerated recovery of regulatory assets such as the unamortized loss on reacquired debt?

A No. Mr. Gower has presented no evidence to suggest that FPL's recovery of the unamortized loss on reacquired debt is threatened by potential unregulated competitors. There are many ramifications that should be considered with regard to establishing a level accounting playing field with potential non-regulated competitors.

For example, there are considerable differences in the economics underlying the pricing practices of regulated and unregulated firms that should be considered before changing the method of cost recovery for a regulated utility. Unregulated companies do not set their prices based on cost of service as do regulated companies. Unregulated companies charge prices that the market will bear and their prices are constrained by the forces of competition. If an unregulated company writes-off losses on reacquired debt when those costs are incurred, there are, essentially, no pricing implications.

However, customers of regulated utilities do not have the benefit of competitive forces to keep a regulated utility's prices in check. Consequently, regulators rely on cost based pricing to match the costs and benefits of the services provided. There is no justification to place the full loss on reacquired debt on ratepayers in 1998 and 1999. The loss on reacquired debt is not a deficiency associated with previously unrecovered costs similar to a depreciation reserve deficiency. To allow FPL to charge almost $300 million of unamortized loss an reacquired debt to ratepayers over a two year period places an unfair burden on ratepayers in those years.

REBUTTAL TESTIMONY OF MARK A. CICCHETTI

Recovering approximately $300 million of unamortized loss on reacquired debt from ratepayers over a two year period results in significant intergenerational inequity. Ratepayers in the future will enjoy the benefits of reduced interest expense associated with the reacquired debt. Under the concept of intergenerational equity, it is inappropriate to force current ratepayers to bear the costs of reacquiring the debt so that future ratepayers can enjoy a cost of debt below the "net" cost of debt. If FPL's charges for 1997 are broken down into cost of service components, the cost of debt for 1997 ratepayers, as a result of the Plan, will be significantly higher (possibly over $200 million higher) than the cost of debt for both past and future ratepayers. There is no valid justification for this discrepancy.

The treatment of unamortized loss on reacquired debt should be no different than the treatment of debt issuance expense. It is Commission practice, and standard practice in the industry, to amortize debt issuance expense over the life of the debt. The cost of debt for ratemaking purposes is the interest expense plus the amortization of the issuance costs divided by the principal amount of the debt less the unamortized issuance cost. The result being that issuance costs are spread over time, intergenerational equity is achieved, and the company remains whole. I am not aware of any theory of regulation that suggests issuance expense should be charged to ratepayers at the time it is incurred while a cost of debt below the net cost of debt is charged to ratepayers in the future. Yet, that is what is allowed by the Plan with regard to the unamortized loss on reacquired debt.

Finally, the Uniform System of Accounts requires the unamortized loss on reacquired debt to be amortized over the remaining life of the original debt if there was not a refunding. If there was a refunding, and the amount is significant, the loss must be amortized over the remaining life of the original debt or spread over the life of the new issue. The Uniform System of Accounts' requirements support the conclusion that, to achieve intergenerational equity, the loss on reacquired debt should be amortized as I am recommending.

The Commission has not initiated a rulemaking or other proceeding on competition in the electric industry, but it has indicated there may be a generic proceeding on potential stranded costs at some point. Accelerated recovery of regulatory assets to offset potential stranded costs should be considered in such a proceeding.

Q Mr. Gower claims on pages 5 and 6 of his direct testimony that the accounting directives contained in the PAA do not represent a departure from the Commission's normal exercise of its authority. Do you agree with that characterization?

A No. Although authorization of the Plan is within the Commission's jurisdiction, the Plan represents a departure from the Commission's normal exercise of its authority. In fact, Commission approval of the accounting directives for 1998 and 1999 is required because they constitute a change from normal practice. The plan, particularly in the magnitude proposed in this docket, is far from standard operating procedure. The Commission has allowed corrections of unrecovered costs and reserve deficiencies in the past where the costs were known and verified. As acknowledged by Mr. Gower (Gower deposition, page 42 lines 14-17), the Commission has not previously authorized expenses of this magnitude to be charged over a short period of time.

Q Do you agree with the statement made by Mr. Gower that the items addressed in the Plan represent "prudently incurred costs which FPL is entitled to recover by inclusion in its regulated cost of service and the accounting directives contained in the Commission's proposed agency action deal only with the timing of the recovery of these costs." (Gower Direct, page 5, lines 15-18)

A No, I do not. FPL has reacquired significant amounts of debt resulting in an excessive amount of equity in its capital structure. By reacquiring substantial amounts of debt, FPL replaced a tax deductible source of financing with a higher cost, non-tax deductible source of financing that: 1.) Increased FPL's after-tax overall cost of capital relative to what it would have been otherwise; 2.) Increased the dollar return to investors, and; 3.) Reduced the amount of potential overearnings. The Plan allows FPL to charge ratepayers almost $300 million over a two year period for the costs associated with reacquiring this debt, thereby allowing imprudently incurred costs and creating significant intergenerational inequity.

In my opinion, it does not represent good regulatory policy to allow a utility to charge such a large amount above and beyond its authorized rates, particularly over such a short period of time, without thoroughly investigating the prudence of the costs involved and the associated impacts.

Furthermore, Mr. Gower's contention that recovery of the items addressed in the Plan only relate to the timing of recovery assumes the upcoming fossil dismantlement and nuclear decommissioning reserve studies will not reduce the estimated amount of future dismantlement and decommissioning expense. However, as noted above, Mr. Gower offers no evidence to this effect. In fact, Mr. Gower admitted at his deposition that future studies may include changes to basic assumptions such as engineering analyses and inflation rates (Gower deposition, page 64, line 14).

Consequently, the Plan does not simply address the timing of the recovery of prudently incurred costs as stated by Mr. Gower. The Plan allows imprudent costs and significant perceived costs (over $500 million) that are subject to revision and reestimation. With regard to the timing of the recovery of the items listed in the Plan, it is important to note that, even without the Plan, FPL has no reason to believe it will not recover the costs listed in the Plan that were prudently incurred (Gower deposition, page 82, lines 4 -9). Furthermore, the available evidence indicates these costs would be recovered without a rate increase.

Q Do you have any further response to Mr. Gower's testimony?

A Yes. Mr. Gower failed to offer adequate justification for the proposed Plan. There is no evidence FPL is in danger of not earning its authorized rate of return and no evidence that recovery of the costs identified in the Plan are in jeopardy. Unlike Docket No. 950359-EI, there is no petition from FPL and Mr. Gower's testimony fails to give any reasons that demonstrate a need to take the additional charges that the Plan would authorize for 1998 and 1999. There is no indication that the normal practice for treating unamortized loss on reacquired debt is in any way inadequate and Mr. Gower has not attempted to show that periodically adjusting the annual accrual for nuclear decommissioning, as the commission did for FPL in 1995, will not adequately ensure recovery of authorized funding for decommissioning over the operating lives of FPL's nuclear units.

Absent such a demonstrated need, the Commission should reassess the reasonableness of aggregating added charges as expense in 1998 and 1999. Aggregating such charges postpones a reduction in FPL's rates. The presumption in this docket should be that the normal ratemaking treatment for the identified expenses is reasonable and there should be a demonstrated need for changing the established cost recovery mechanisms. Mr. Gower's testimony begins with the conclusions in the PAA, but offers no showing that FPL needs the accounting treatment proposed in the Plan. Further, there is no indication FPL has any plans to seek a base rate increase in the foreseeable future. Mr. Gower's general reference--that the long-term benefits of the Plan are that rates will not increase in the future to recover these costs--seems altogether inapt under the circumstances. Absent the additional allowed expenses, FPL would be in a significant overearnings situation. The added expenses alone, under the Plan, could approach 7 percentage points on equity by 1999 (the estimated maximum additional expenses (MAC Exhibit 2)divided by the dollar equivalent revenue requirement impact for one percentage point on equity is 480 million/70 million = 6.85). Overall, FPL's revenues (rising) and costs of service (falling) indicate base rates should be declining. This fact is reflected in staff's acknowledgment that absent the enormous additional expenses authorized by the Plan for 1998 and 1999, FPL would experience excess earnings.

Q Does this conclude your rebuttal testimony?

A Yes, it does.

MR. BREW: And Mr. Cicchetti is available for cross-examination.

CHAIRMAN JOHNSON: Okay. Mr. Childs?

CROSS EXAMINATION

BY MR. CHILDS:

Q Good afternoon, Mr. Cicchetti.

A Good afternoon.

Q You testify as to the application of the Uniform System of Account guidelines to the matters addressed by the Commission in this docket, do you not?

A With regard to the unamortized loss on reacquired debt, that's correct.

Q Okay. Now, you offer this opinion as to the application of the Uniform System of Accounts to the premium or loss on reacquired debt, but you're not a certified public accountant, are you?

A No, I'm not.

Q And you've not provided expert testimony on the Uniform System of Accounts anywhere, have you?

A No, I haven't.

Q And you have no recollection of providing expert testimony on generally accepted accounting practices, do you?

A No, I don't.

Q And would you -- do you acknowledge that, despite what you call the general requirements of the Uniform System of Accounts with regard to unamortized loss, this commission, that is, the Florida Public Service Commission, can authorize what it wants to authorize under it's broad discretion in that regard?

A Yes. It's true that the Commission can vary regulatory treatment from the Uniform System of Accounts, but I would hope that it would have a good reason to do that. The last order that the Commission issued with regard to this subject specified that the primary method, that is, amortizing the amounts over either the life of a new issue or the remaining life of the original issue is what was most recently provided by the Commission in that regard.

Q That was the 1983 order that was referred to earlier?

A Yes.

Q On page 14 of your testimony, you make reference to your Document No. 2. I think that's 14 at about line 6. Can you reference that? I just want to get you to that page, and then on line 4 and line 11, you use the words, quote, "to be written off," end quote. Then on line 14, you state that a certain amount, quote, "would be applied." Do you see those references?

A Yes.

Q Would you agree that the dollar amounts to which you are referring in your document are not amounts to be written off but, instead, are amounts which -- to which the actions of the Commission in this docket apply?

A I think that's just a matter of semantics. The items are the identified items to be written off under the plan.

Q Well, it's not the items. I'm talking about the dollars and I think you are, too, aren't you --

A That's correct.

Q -- the dollars?

A Yes, it says what it says.

Q Pardon?

A It says what it says.

Q Right. And wouldn't you agree that the plan does not say what dollars will be written off? In fact, it says provides a methodology for determining what might be written off.

A Yes, that's correct. And I reviewed some documents that the Staff had requested from FPL with regard to those amounts, and that's what I'm identifying.

Q I beg your pardon?

A And that's what I'm identifying on that page --

Q This is the document that is attached to your testimony, No. 2?

A Yes.

Q Well, let's look at that.

This is the estimate of the total amount, is it not, that fit in these categories?

A Excuse me. I couldn't hear the question.

Q Are the dollars amounts shown here the total that fit into the categories identified?

A Those are the identified amounts. If you look on the left-hand side of the page, under each docket heading there is an item and then there is an associated amount, and that is what I'm identifying in the text of my testimony.

Q It doesn't say anywhere in this document that these are amounts that are to be written off, does it? Doesn't it say that these are amounts that can be written off?

A Well, again, I think it's just a matter of semantics. I didn't choose the words "to be written off" with any particular meaning, other than to say those are the identified amounts identified at this point in time to be written off under the plan.

Q Well, you say with any particular point in mind. So it didn't relate to the testimony that you offer elsewhere about the extremely large amount, huge amount to be written off?

A Well, I think if you look on that page and you look at the amount of $841.2 million, that is an extremely large amount, and I think it's unfair to have rate payers in 1998 and 1999 have to bear that.

Q Where does it say -- I'll try again.

Where does it say that 841 million is to be written off in 1998 and 1999 on this document or anywhere?

A Well, I didn't say that either.

Q That's what I'm asking you about in your testimony. You say, page 14, lines 3 and 4, "The identified amounts to be written off total 619.1 million, and is comprised of," and then you conclude later on in line 13, "The total amount expected to be available, 841 million, would be applied."

And my point is, there's nothing in this plan that quantifies the dollar amount to be written off, is there?

A There is no identified dollar amount in the order.

Q Did you hear your counsel asking clarifying questions of Mr. Gower as to the amount to be written off?

A Yes, I did.

Q Do you think that those really weren't clarifying questions, in fact, you knew?

A Did I know?

MR. BREW: Objection, Your Honor, that's not proper cross-examination.

MR. CHILDS: Well, I think it is. I think that he's characterized these dollar amounts as amounts to be written off, and we just heard the question from his own counsel about another list of numbers where a counsel characterized those as clarifying questions about what the company expected to do.

MR. BREW: His opinion about --

MR. CHILDS: And this witness is simply referencing this one document, and I'm trying to find out -- well, I'll rephrase it rather than -- whether they weren't really clarifying and say, do you have any other independent source than this document as to the amount that the plan authorizes or quantifies will be written off in 1989 and 1999?

THE WITNESS: Well, as I said, there's no amount in the order that says this is the amount that will be written off. It's based on a sales formula in the fixed portion, and in reviewing the documents associated with this proceeding, there were amounts associated with the items listed in the order, and that's all I'm trying to show.

Q (By Mr. Childs) Which documents?

A Interrogatory responses.

Q Do you remember your deposition where you were asked the question as to what documents you relied on in the preparation of your testimony?

A Yes.

Q Do you recall questions about what you relied on in the preparation of your testimony?

A Yes.

Q Do you recall that you identified no answers to interrogatories or no independent sources for the preparation of your testimony, other than what was attached to it?

A I don't recall that I said that.

Q Just a moment. Do you have a copy of your deposition transcript with you?

A Yes.

Q Would you refer to page 31? And you were asked specifically whether the Notice of Deposition asked you to bring documents with you, and I asked you whether you had them. Did you bring any of these answers to interrogatories to which you now refer to your deposition?

A It asked for my work papers, and I told you other than as I said on line 21 -- well, it asked for my work papers or other materials. I didn't have any work papers, and I don't know what other materials you were referring to. I didn't say that I didn't study the materials associated with this case, and I believe we identified in one of our interrogatory responses many interrogatories and orders and various things that I did rely upon.

Q Well, I realize that, and that was after your deposition, and I asked you -- if you look at this examination, I asked you, line 23, page 31, "I believe you were asked to bring various document that supported your testimony with you. Do you have those?" And you answer, "Everything that --" and then you inject "work papers," do you not?

A Well, I believe that's what it says on the notice.

Q Well, look at line 21 of page 32. It asked for my work papers or other materials, and you didn't bring that.

MR. BREW: Commissioner, for the record, the parties discussed at the deposition that the Notice of Depositions had been filed only two business days beforehand. This was a Monday meeting and we received the Notice of Deposition on Thursday. Neither the company nor AmeriSteel at that point had had an opportunity, given the shortness of time, to assemble the materials relied upon by the witness to deliver at the time of the deposition. AmeriSteel has supplied those materials to Florida Power & Light subsequently.

MR. CHILDS: No, that's incorrect. Florida Power

& Light brought everything to the deposition. Wait a minute.

Florida Power & Light brought everything to the deposition of its witness. The material was not asked for until the deposition was concluded, and it was asked for as though a discovery request instead of something to see in terms of preparing and taking the deposition.

I asked this witness and discussed it over these series of pages whether he had materials with -- had he had any materials on which he'd relied and did he have them with him? And I asked him specifically questions about this subject at the deposition, and I think, if I can find it, that he testified in his deposition that in fact the words "would be" and "could be" were wrong. Now I find that they're right and he has something on which to rely. I just -- you know, I think that the deposition transcript makes it clear that he was asked for it and didn't respond at that time.

CHAIRMAN JOHNSON: Is there an objection?

MR. CHILDS: I guess I'm not sure I know how I'm going to pursue this, so I'm going to go with other questions at this point and maybe return to it.

THE WITNESS: Commissioners, if I may clarify my understanding of what was being asked there, when it asked for work papers and other supporting materials, I assumed that what it was asking for were things such as spreadsheets and calculations and things of that nature, of which I didn't have any -- I didn't rely on any for this testimony.

Q (By Mr. Childs) Would you identify specifically those commission normal accounting practices that are applicable to the PSC authorizations being addressed in this docket?

A Could you refer me to a spot in my testimony where I'm addressing that?

Q Right. Page 8, lines 6 through 9, and I ask if you will identify those commission normal accounting practices that are applicable to the PSC authorizations being addressed in this docket?

A Well, I think there was significant discussion this morning about the Uniform System of Accounts and the general requirements with regard to the unamortized loss on reacquired debt, and with regard to the Commission's normal accounting practices, I'm referring to what FPL was doing prior to approval proposed -- or approval in the plan to allow those to be written off over a short period of time.

Q Well, I'm asking you to identify specifically, not generally, but specifically what are those practices?

A Well, the practice follows the Uniform System of Accounts, and the premiums associated with the debt reacquired are amortized per the Uniform System of Accounts.

Q Would you agree that you don't have any specific reference to commission normal accounting practices that are applicable in this docket but, instead, you rely upon your experience of, quote, "how the Commission has done it"?

A Well, I relied on my experience when I wrote that. What I had in mind would be, for example, the MFR schedules that would used in a rate case to determine the cost of debt and those amortizations, although I didn't specifically cite those.

Q Would you turn to page 45 of your deposition transcript?

A (Witness complies.)

Q And look at the question beginning on line 8, and I ask you -- remember that I asked you the question, "Do you have any reference of how the Commission has dealt with any of those items in the past that would constitute a representation of normal accounting practices?" and your answer is, "Just my experience in how the Commission has done it"?

A Well, I believe that's what I just said.

Q I thought you referenced MFR schedules?

A Well, that's where I got my experience.

Q So when I asked you this question at your deposition, you did not -- you did not take it to mean that you were to identify that? In fact, if you read the next question I asked, "Have you undertaken any review to identify those accounting practices?" and you answered, "Well, I'm just aware of how it's done."

A Well, I believe I participated in the recommendation for the Staff that produced the order in '83, and I'm familiar with the Commission's practices with regard to the MFRs, and I was relying on my experience in writing that and in answering your question.

Q My question is, do you recall giving me this answer?

A It's on the paper. I --

Q Is there some reason that in answering the question at that time that the information as to the source of your knowledge was not available?

A No. I believe I gave the same answer, and I was just trying to expound upon it further for the benefit of the Commissioners.

Q Commissioners, it makes it difficult to cross-examine when the undertaking is for parties to conduct discovery and ask questions so that they can find sources of information and then come to hearing and find that there's additional sources of information. I will try to muddle through that, but -- and I know it's sometimes difficult to go through deposition transcripts.

In your direct testimony, you state that, quote, "In response to FPL's petition, the Commission approved a proposal by FPL that resolved the issues identified in FPL's petition," and that's at page 9 of your testimony. And in addition, you referenced at that point -- the reference is to Order PSC 960461, I believe. That's page 9, line 10 and 11.

When you made your statement that the Commission approved the proposal by FPL that resolved the issues, as you say, would you agree that you didn't know what issues had been resolved?

A Well, at the time of my deposition, I couldn't recall exactly what the issues were in the prehearing order, but I had read it.

Q The issues in the prehearing order? That's not the issues that this order resolved, is it?

A I was referring to the '95 docket.

Q Do you know now what issues were resolved?

A Well, I've read the order, but I can't remember off the top of my head what all the issues were. I believe I have it with me, if you'd like me to get it.

Q On page 14 of your testimony, you assert that the plan approved by this commission deviates from the generally accepted rate-making treatment, and I believe you also stated at your deposition that, by traditional rate-making you mean the Commission's, quote, "balancing the interests of shareholders and rate payers." Do you recall that?

A You asked me two questions, I believe, Mr. Childs, could you please --

Q On page 14 of your testimony, beginning at line 23, you assert that the plan approved by this commission deviates from the generally accepted rate-making treatment for recovery of regulatory assets. Would you agree?

A Yes.

Q Now, I believe at your deposition you stated that, by accepted or traditional rate-making, you mean this commission balancing the interests of shareholders and rate payers. Would you agree with that?

A Yes. I believe we had a very lengthy discussion with regard to that, and I believe what I finally tried to make clear was, in a very general, broadly-defined sense, I believe that's a good definition.

Q Well, that was the definition you offered, was it not? It was not a definition you were asked to agree to.

A That's correct.

Q And rate-making, therefore, means instances -- if rate-making means instances where this commission balances the interests of rate payers and shareholders, then this commission, under your methodology, is engaged in rate-making anytime it does that in any context?

A I -- again, broadly defined, I think when the Commission engages in the balancing of the interests of rate payers and shareholders, that that is -- can broadly be defined as rate-making and perhaps interchangeable with public utility regulation.

Q Isn't that what you were asked about as to how you meant that term in your testimony? Isn't the point of the deposition -- the questions that you used the term rate-making, you talked about this commission being engaged in rate-making, and you were then asked what do you mean by rate-making? Would you agree with that?

A I believe that's generally how it went.

Q And so you've defined it as anytime there's a balancing of the interests of rate payers and shareholders, right?

A Broadly speaking, yes.

Q And so I'm trying to make sure that it's understood that when you say traditional rate-making, that you don't mean that the Commission in fact is setting the charges to be paid by customers?

A I don't mean specifically -- to limit it specifically to only instances where there's a change in rates.

Q And would you agree that you had no authoritative source to support your definition of rate-making?

A I still can't recall an authoritative source off the top of my head that would specifically say, in the general sense that I'm trying to refer to it here, what exactly rate-making is.

Q You speak to the issue of intergenerational equity on page 18 after you talk about traditional rate-making again. You then conclude on page 19 that it's inappropriate under the concept of intergenerational equity to force current rate payers to bear the cost of reacquired debt so that future rate payers can enjoy a cost of debt below which you say is the net cost of debt, and that's at lines 1 through 6 on page 19. I have several questions to ask you about that.

Is it your view that the savings already realized as a result of the reacquired debt should not alter the conclusion you propose as to intergenerational equity?

A I don't understand that question, Mr. Childs.

Q Do you know how much savings has already been realized as a result of the reacquisition of debt through -- by FPL through reducing the interest cost to customers?

A Well, I've seen the interrogatory response with the amount of the change in the interest expense netted against the unamortized loss on reacquired debt, yes.

Q And would you agree that the net amount is in excess of $500 million?

A Yes, that's the net change in interest expense.

Q And my question to you is that, would the fact that there's been a net change of interest expense of $500 million already alter your conclusion as to the application of the concept of intergenerational equity to the expensing of the loss on reacquired debt?

A I thought I was following you there for a minute. The question got kind of long. I'm not sure exactly what you're asking.

Q I'll try it again. I'll try to break it up.

Now that we've at least addressed the basis for quantification of net savings, and keep that in mind, you would agree that you testified that the concepts of intergenerational equity would argue against the expensing of the loss on reacquired debt as proposed in this docket?

A Absolutely.

Q And I'm asking you, would you consider that the fact that there have already been substantial savings through interest expense reduction, would that alter your conclusion as to the application of the concept of intergenerational equity?

A No, not at all. As a matter of fact, I think it's incumbent upon companies to take advantage of refinancing high-cost debt when they have that opportunity, and FPL certainly has; but those costs that are associated with that reacquisition, the premiums paid and so forth, should be netted against the savings and spread over the remaining life of the original issue, or if there was a refinancing, over the life of the new issue. I think in that order that we've all been talking about from '83, it's referred to as the net proceeds method, and that gives us a fair spreading of the costs and benefits.

I state in my rebuttal testimony, I believe, that if you broke down the cost of service in 1997 and FPL had written off $200 million of unamortized debt costs associated with reacquisition, that there's no valid justification for 1997 rate payers to have to pay such a high amount. It's not an unrecovered prior period deficiency such as a depreciation reserve.

Q Do you also agree with the conclusion that the net savings of $500 million has not been passed through customers because there's not been a change in rates?

A Well, there hasn't been a change in rates, but it is -- does impact the cost of debt for surveillance report purposes.

Q Well, wait a minute, is your answer yes or no? I mean, you acknowledge there hasn't been a change in rates, but my question is, is it because there hasn't been a change in rates, is it your position that the net $500 million savings has not been passed through to customers?

A Well, in terms of rates actually being decreased to reflect a $500 million net savings on interest expense -- and that's not an annual amount, that's a total amount -- no, there hasn't been an actual reduction of rates to share that good fortune with rate payers.

Q Therefore, is it your position that because there hasn't been a reduction of rates, that customers have not received the benefit of that reduction in cost?

A Well, to the extent that it reduces the amount of debt reported for surveillance report earnings, there is some benefit there, but that is far overwhelmed by the additional cost that's being placed on rate payers under the plan to cover those reacquisition costs over a very short period of time.

Q What is the annual benefit of the interest rate reduction that has been estimated and provided in this docket?

A Could you repeat the question, please?

Q What is the estimate of the annual reduction in interest costs as a result of the reacquisition of debt by FPL for the year 1997?

A I don't recall the amount.

Q Would you agree that, subject to check, that it's in the area of $140 million?
A I would agree with that, subject to check.
Q Now, if the amount is a $140 million in 1997, then is it fairly reasonable to assume that the amount would be approximately that in 1998 and 1999?
A No, not necessarily.
Q The annual savings would not be?
A It's possible, but it doesn't necessarily have to be the case.
Q Well, hasn't Florida Power & Light provided its estimates of what the, in fact, identification of what issues of debt had been retired or reacquired? I mean, wasn't there a stated term for those issues of debt and from that wouldn't you be able to conclude whether the estimated savings in 1997 are reasonably expected to continue in 1998 and 1999?
A Yes, you could. I just think --
Q But you didn't do that?
A -- you said necessarily isn't that the case, and my point is, no, it's not necessarily the case.
Q Would you accept subject to check that that's correct, that it will be in the area of 140 million in '98 and '99?
A The reduction in interest costs associated with

removing those items?

Q Sure. Right.

A Yes, I would accept that subject to check.

Q How does that compare -- I'm sorry. I was speaking while you were finishing. Go on.

A I just said I would accept that subject to check.

Q Would you agree then that the total of the annual savings in 1998 and 1999, without regard to any net savings already realized, is approximately the amount of the remaining balance of unamortized loss on reacquired debt?

A Well, that may be a mathematical fact, but the point is, rate payers are entitled to the company to run its financial operations as efficiently as possible. They are, under sound financial management by the company, entitled to those rate reductions associated with decreased interest expense.

The issue here is what to do with $292 million of unamortized costs associated with reacquiring that debt, and in order for rate payers to be treated fairly, just as the Uniform System of Accounts proposes, those amounts should be spread over time and not placed on rate payers' shoulders in 1997 and 1998 alone.

COMMISSIONER DEASON: Mr. Childs, let me interrupt for just a second. Your previous question related to the annual savings for '98 and '99 that would be realized from the reacquired debt, and you compared that to the unamortized loss associated with the decision to reacquire the debt? Did I understand the question correctly?

MR. CHILDS: Yes.

COMMISSIONER DEASON: And that unamortized balance was of 1-1-98?

MR. CHILDS: I believe that unamortized balance was as of 1996, and that the reference is Mr. Gower's HAG-2. Oh, I'm sorry, that's as of June 30, 1997, and the balance is $292 million as of that date.

COMMISSIONER DEASON: As of June 30, '97?

MR. CHILDS: Correct, and as you recall, there were questions, I think, of Mr. Gower where he was asked to explain what that amount would be at a -- starting in '98. I simply don't recall what he said as to that number, and thought that two times 140 was close to 290.

COMMISSIONER DEASON: Okay. So we really haven't clarified in the record yet what it is as of 1-1-98, but you're just making the comparison as of June 30, '97, that two times 140 almost equals 292.

MR. CHILDS: That's correct.

THE WITNESS: Commissioner, if I may, there's an interrogatory response from FPL that says the amount of unamortized loss on reacquired debt is expected to be approximately 98 million on 12-31-97. The amount at the beginning of the year, I believe as shown on Mr. Gower's docket, is $292 million approximately, which would indicate approximately a $194 million write-off over 1997.

COMMISSIONER DEASON: According to Mr. Gower's Exhibit HAG-2, it's indicated to be 292 million, but that's as of June 30th. So I assume there would be six months more accrual to bring it to 12-31-97, but there's a question, it's really unresolved at this point, what that balance is going to be. I know that it was represented that perhaps it's 98 million, and there was some other representation that perhaps it's 188 million or something along those lines, and that's the reason I was asking the question to you, Mr. Childs. I was trying to understand under what basis you were making the comparison, because you're just basing it on 1-30-97.

MR. CHILDS: Actually I misspoke, that number -- if you look at Mr. Gower's document, HAG-2, I had the wrong footnote. The footnote for that amount is Footnote 2. It says it's a balance at 1-1-95. So when we had all the questions about what had been written off, that's why the number came out to the much lower level.

COMMISSIONER DEASON: So it's Footnote 2, which is 1-1-95?

MR. CHILDS: Correct.

THE WITNESS: Commissioner Deason, if you look at my Exhibit 2, or Exhibit 1, page 2 of 2, you'll see that, as through 1997, 54.4 million had been written off for the loss on reacquired debt.

COMMISSIONER DEASON: Okay. I'm on Exhibit 2. What should I be looking at, for '95 or '97?

THE WITNESS: Page 2 of 2, if you look on 1997, accruals to date, if you go down to line 8, loss on reacquired debt, it's 54.4 million.

COMMISSIONER DEASON: I'm sorry, I don't see 54.4 million. What are you referring to? You're referring to your prefiled exhibits?

THE WITNESS: Yes, Exhibit 1.

COMMISSIONER DEASON: Exhibit 2?

THE WITNESS: Well, my Exhibit 1, page 2 of 2.

COMMISSIONER DEASON: I'm sorry, I was looking at Exhibit 2. Exhibit 1, page 2 of 2?

THE WITNESS: Yes.

MR. BREW: Commissioner Deason, if it would help things, the company's response to Staff Interrogatory 13 states the forecasted amounts and including 200,535,000, of which, of forecasted expenses, over 181 million 107 as a result of the prior docket.

If it would clarify matters, we'd be happy to have copies made and have that marked as an exhibit for identification.

COMMISSIONER DEASON: Well, I think that Mr. Gower, I think when he takes the stand, is going to try to present that information. I'm sure that if you've got a conflicting exhibit, you'll be able to ask him about it at that time.

Q (By Mr. Childs) Now your conclusion then as to why the loss on reacquired debt -- I call it premium. Is premium or loss equally acceptable to you?

A I would prefer the premium associated with reacquiring the debt.

Q In your view then, is the premium on debt reacquisition should not be expensed as proposed in this docket because it would violate the concept of intergenerational equity?

A Yes.

Q Now, would you explain the concept of intergenerational equity, as you've used it?

A Basically applying the -- well, I believe I stated in my testimony, so we can go there.

Q I mean, in general, what is the concept of intergenerational equity?

A Let me read you exactly what I put in my testimony.

Q Okay.

A "The concept of intergenerational equity holds that each generation of customers should pay its share of the costs related to the service from which they are benefiting."

Q Where is that?

A That's on page 18, line -- starting on line 18.

Q I couldn't hear. Line what?

A Line 18.

Q Now then, how do we -- you're familiar then generally with the application of this concept of intergenerational equity, not just to the issue here of the loss on reacquired debt, but to other instances as well?

A Yes.

Q Have you made a review of any orders of this commission as to its application of the concept of intergenerational equity?

A I don't recall any order specifically.

Q But you generally familiarized yourself with the concept?

A Well, I think anyone familiar with public utility regulation would have an understanding of the concept.

Q Okay. Then is it correct that, under the concept that basically what we're talking about, is that the customer should pay the costs associated with the services they receive at the time they receive the service?

A Generally -- well, following the requirements of accrual accounting, I'm -- your question seems to indicate that perhaps just because a certain cost was incurred at a certain time, that that should be charged to rate payers at that time. That's not necessarily true.

Q No, I mean, I assume that if accrual accounting is followed, to the extent that it's followed correctly, that that's a cost at that time.

A Given those requirements, I would agree with your statement.

Q Okay. And you believe that that -- you believe that concept should apply to the recognition of expenses by utilities in their operation?

A Well, as a guiding principle, yes.

Q Okay. And you believe it should also apply as a follow-through to the rates that are charged the customer?

A Yes. As a guiding principle, if we were in a perfect world, that would in fact be the goal.

Q And I want to ask you a question about a rate which is reduced in anticipation of future benefits. Would you agree that, to the extent a rate is reduced currently from the level it otherwise would be to reflect future benefits, that that rate then does not conform to your concept of intergenerational equity?

A Well, I'm not sure I understand exactly what you're talking about.

Q You're not? Your understanding --

A No.

Q -- that rates -- that you should record rates -- excuse me -- you should record expenses and costs at the time that they occur, and to the extent you use accrual accounting, that's appropriate to be followed, correct?

A Yes.

Q And then I asked you whether it is appropriate as well to follow through on that concept and design rates the same way so that, to the extent costs were incurred to provide services, whether actual costs or accrued costs, that the rate would reflect that cost?

A Well, Mr. Childs, I know there are a lot of issues specific to rate design which -- with which I am not familiar, so I really don't follow your question.

Q I'm not asking about those. I'm just asking about intergenerational equity.

Wouldn't you agree that under the definition that you've given in our -- and the clarification as to costs and accrued costs and expenses, that if a rate that was charged to a customer did not reflect the costs, current costs, because of the anticipated future benefit, that that would violate your concept of intergenerational equity?

A Well, as I said, as a guiding principle, I believe intergenerational equity should be a major goal. Without knowing all the details of what goes into this rate that you're proposing, I wouldn't know whether or not it would be good rate-making or in the best interests of either shareholders or rate payers to allow such a rate. So I really am at a loss to adequately respond to your question.

Q I'm only asking about the concept of intergenerational equity -- well, let me try it this way.

You're generally familiar with the regulation by this commission and the basis for that regulation, are you not?

A Yes.

Q Are you generally familiar with conservation goals imposed by this commission?

A Generally speaking, yes.

Q And would you agree that generally conservation goals are based upon the avoidance of future costs for generating capacity and operating generating units?

A Generally speaking, yes.

Q And that generally the reduction in those future costs is used as the justification for the current recognition, in fact, the current incurrence of costs so that conservation programs will be put in place?

A Well, I have not reviewed the particular conservation rate design that you're talking about. I know there is a lot of debate within the industry as to whether or not those rates ought to exist. There are certain environmental goals that are attempted to be reached. I really -- and I believe I've answered the question as best I can. As a guiding principle, intergenerational equity is a very good thing, but there may be instances where there's different degrees of intergenerational equity. It's not always a black and white issue, and the Commission must look at the facts and circumstances associated with each incident in which it's reviewing in order to make a determination.

Q Okay. So then we have intergenerational equity that's acceptable and intergenerational equity or inequity that's not acceptable, is that correct?

A Well, I don't believe I said that. I said there may be some times when there are varying degrees of equity and, therefore, taking one action as a matter of fairness may deviate from the specific goal of trying to apply costs specifically.

Q I was trying very carefully not to ask you about the specific rate in that question. I was asking you about this commission's conservation goals and conservation programs and conservation responsibilities.

Did you understand those last questions to be in that context?

A Yes, and I believe I answered them in that context.

Q I think you said you weren't aware of specific rates. There are other results or other ways to pursue conservation than specific rates, aren't there?

A Yes.

Q And do you know how the costs for conservation are recovered by electric utilities from their customers?

MR. BREW: Is this going to relate to his direct testimony at some point?

MR. CHILDS: Sure, it relates all the time, Mr. Brew, to his intergenerational equity.

Q (By Mr. Childs) Do you know how the costs for conservation programs are recovered by electric utilities from their customers?

A I'm not certain. I believe there is a conservation cost recovery clause.

Q So utilities don't just expense the conservation programs. They actually recover the costs from their customers?

A Mr. Childs, I am not --

COMMISSIONER CLARK: Mr. Childs, can I interrupt for a minute?

MR. CHILDS: Sure.

COMMISSIONER CLARK: Mr. Cicchetti, would you accept as being true that we allow the utilities to recover conservation costs now on a dollar-for-dollar basis through the cost recovery clause, and it's based on the notion of avoiding incurring costs to build a plant in the future?

THE WITNESS: I will accept that with -- subject to check, but my own knowledge as to exactly how conservation costs are recovered is limited to just a general idea of allowing --

COMMISSIONER CLARK: That's fine.

If that is the case, avoiding the costs in the future will benefit those customers on line at the time they don't have to build the plant. Would you agree with that?

THE WITNESS: If the conservation rate resulted in --

COMMISSIONER CLARK: No, Mr. Cicchetti, let me ask you it again.

Suppose that we allow a utility to incur -- to recover five dollars a month from a customer for conservation that will avoid the necessity of building a power plant in 2002. Does the customer have to be on line in 2002 to get the benefit of that?

THE WITNESS: I would suppose so, yes.

COMMISSIONER CLARK: All right. Then it would seem he's paying now for a future benefit, right?

THE WITNESS: Yes.

COMMISSIONER CLARK: Okay. Would you describe that as being inequitable?

THE WITNESS: Well, I believe it would probably have some inequitable characteristics, by definition, but that's an instance of what I'm talking about. The Commission may think that a greater good is served by having certain inequitable characteristics built into the system. It's not always a black and white instance. There may be varying degrees, but the overall objective was what the Commission thought was best. I could understand that.

COMMISSIONER CLARK: So contrast that with why you conclude that writing off the costs now with respect to the reacquired debt is inappropriate.

THE WITNESS: Well, it's causing the rate payers in 1997 and 1998 to pay the costs associated with reacquiring the debt while the benefits are given to rate payers in the future.

COMMISSIONER CLARK: And that's not the same as the conservation costs?

THE WITNESS: Well, it's -- I don't see the benefit to offset the deficit in terms of the bad things that happen when you apply these costs to rate payers in 1997 and 1998.

It's not a matter of whether or not FPL will recover these costs. The Commission has a treatment that allows those to be recovered. They will be amortized. It's just more fair and more equitable to net the benefits against the costs and have those spread over time rather than saying we are going to charge rate payers in 1997 and 1998 the costs associated with that so that someone ten years from now can have a lower cost of debt.

COMMISSIONER CLARK: Okay.

COMMISSIONER DEASON: Well, let me ask a question. What is your position as to the amount of unamortized premium on reacquired debt that exists that will be subject to rapid recovery under the plan?

THE WITNESS: My understanding is that amount in total is $292 million.

COMMISSIONER DEASON: Now, you're taking that from HAG-2, Mr. Gower's exhibit?

THE WITNESS: I believe that's what Mr. Gower has listed on his exhibit, yes.

COMMISSIONER DEASON: Now, if that is the amount, and I guess we'll probably get some more clarification on that amount, but just for purposes of this question, if that is the amount, and I think you've already accepted subject to check that the annual savings from the decision to reacquire the debt is approximately 140 million, how does that create a generational inequity?

THE WITNESS: Well, the rate payers should be getting that $140 million savings. It's no longer being paid by Florida Power & Light. Now the question is, what are we going to do with the almost $300 million that has been incurred in reacquiring that, and I believe this is --

COMMISSIONER DEASON: Well, now, I'm just looking at the concept of, if Power & Light had not made the decision to reacquire the debt, the customers are basically kept whole, are they not? There's additional expenses that are going to be recovered and there are savings that generally approximate each other, 280 million versus 292. Now, I understand, if you accept the 292, there may be $12 million of difference, but generally speaking, don't the two almost equate?

THE WITNESS: Well, Commissioner, don't get me wrong. I don't think it's a bad idea that FPL reacquired this debt to the extent that it's a process of lowering debt costs.

I do have a problem with it to the extent that it has severely reduced the amount of debt in the capital structure, and the amount of equity in the capital structure is excessive; but to get back to the point that you're trying to make or that you are addressing, I think it's incumbent upon the company to manage its debt costs to be as efficient as possible, and so if the company hadn't reacquired the debt, I think the Commission should question why they hadn't. And those cost sav..ngs are there. That's the actual costs to be passed on, and the costs that they incurred in reacquiring that debt is going to be recovered.

Now it's a matter of fairness as to why should rate payers have to pay that just in 1997 and 1998, and why shouldn't it be spread over some longer period of time associated with either the original debt or any new issue of debt? And I think that's a classic example of where regulatory accounting differentiates from standard accounting for non-regulated companies. We're trying to match up the costs and the benefits, and so the Uniform System of Accounts requires that those costs be amortized over time. Now, of course, the Commission doesn't have to abide by the Uniform System of Accounts, but I believe the intergenerational-equity aspect of the issue is why the Uniform System of Accounts dictates that treatment.

COMMISSIONER DEASON: Well, would an extension of your argument be that, in a period of rising capital costs when the company has to issue debt in an incremental cost higher than embedded, that to avoid intergenerational inequity, that all the new customers have to be allocated the higher capital costs and all the customers that were on line when debt costs were less were allocated the existing debt costs?

THE WITNESS: No, absolutely not, because on a going-forward basis, the cost of the debt is going to be what it is, and FPL should be allowed to recover that, and that's the debt cost for those customers that are on line at that time.

COMMISSIONER CLARK: Mr. Cicchetti, I wanted to follow up something that you brought up with regard to the notion that it -- that the reacquisition has driven up the equity portion of their capital structure. So what are we supposed to do? I mean, what -- is that supposed to affect the amount we allow them to amortize or -- and I guess -- why did you raise it? Does that mean it wasn't a good idea to reacquire the debt?

THE WITNESS: In my opinion, it wasn't a good idea to allow the amount of equity in the capital structure to balloon to the amount that it has.

There could be two ways of handling it, if you were so inclined. One would be to make the adjustment on the surveillance reports and track earnings based on what you believe is a reasonable amount of equity in the capital structure. The other would be in a rate proceeding to reset rates using a prudent capital structure and all the other costs that you think should be recovered.

COMMISSIONER CLARK: I guess I -- what are you recommending we do?

THE WITNESS: Well, we were, I guess, not allowed to address those issues specifically in this proceeding. So what my point is is that these are issues that are all associated with the plan and that the Commission should not allow the plan and take a look at the cost of equity, the capital structure in at least a limited proceeding and go forward from there, and then you would be able to take a close look at exactly the impacts of what the plan is contemplating. For example, it's my opinion that the Commission could allow FPL to continue to recover these costs and remain whole, as they have been, so there would be no rate increase associated with the recovery of the items in the plan, and in addition have a rate decrease.

COMMISSIONER CLARK: Okay.

Q (By Mr. Childs) Mr. Cicchetti, on page 22 of your testimony at about line 20, you refer to FPL's equity ratio and state that, "It has risen to a level much greater than that required for a double-A-minus rated electric utility with FPL's business position." Do you have that reference?

A Yes.

Q And as the basis for the conclusion about much greater than that required at that point, you cite the S&P guidelines in your Exhibit 4 and the S&P credit report for

June 1996, and that's at the top of page 23 of your testimony, correct?

A Yes, yes.

Q I assume, therefore, that at page 23, where you conclude that FPL's equity ratio exceeds the benchmark for double-A-rated utilities, that that is with reference to the expectations or criteria of Standard & Poor, as set forth on your Exhibit 4 or Document 4.

A Well, Standard & Poor's provides some general guidelines, and this was taken from those general guidelines.

Q Okay. Would you look at Exhibit 4, turn to that for a minute?

Now, you have stated that FPL's equity ratio is 61.1 percent. You state that at page 23. And if we look over to your Exhibit 4, I guess I take it that I'm supposed to conclude that the 61.1 percent is somewhere lower than this 58 percent that you show under the column headed Equity Ratio, is that correct?

A It's higher.

Q Well, higher in the sense that the number's bigger, but lower down on the chart, because it goes from the low numbers at the top to the high numbers at the bottom, right? Fifty-three percent is the equity ratio at the top of that column and 58 is at the bottom?

A That's correct.

Q So I assume 61.1 would fit somewhere below the 58?

A No.

Q No?

A No.

Q Where would it fit?

A FPL has less risk than the average electric utility for the reasons I cited in my testimony. Its business position then would be comparable to Business Position 1, which for that level of risk, a guideline for a Double-A electric would only require 53 percent equity ratio.

Q Yeah, and that's my point. You're saying that it would only require a 53 percent equity ratio, but you've quantified that it's 61 percent. So if we were going to represent 61, it would be somewhere below the 58 and imply a different business position than you have stated is applicable to FPL.

A Well, I don't believe I follow what you're saying.

Q Do you agree that Standard & Poor does not use equity ratio as the basis for rating electric utilities?

A Well, it provides some general guidelines, and what it does is a total debt to total capital ratio, and what I've shown there is the equity ratio as a reciprocal of that.

Q So Standard & Poor would look to the column under total debt versus total capital, right?

A Yes, and I would point out that FPL's total debt to total capital is significantly below the industry average.

Q Well, is it the reciprocal that you're talking about here, the reciprocal of 61.1?

A Not exactly, no.

Q What is it? What is it?

A If you'll give me a second, I'll have to find it.

Q Is it a calculation you've made?

A Yes. It's taken from the surveillance reports.

Q Well, let me pursue that before you look for it. What you did was you took the debt number, long-term debt as of a particular date?

A Yes.

Q And you divided that by the total capital as of that date, total capital being made up of equity and debt?

A Total investor capital, yes, debt, preferred stock and equity, short-term debt.

Q But you didn't include tax credits or cost-free capital?

A No.

Q Okay. Therefore, your ultimate point however is that FPL has too much equity capital under the criteria of S&P because -- and that's the reciprocal of the debt ratio that S&P in fact uses?

A Yes. Being precluded from addressing this issue in much detail, I'd say, just generally speaking, that's an accurate representation.

Q Okay. And I take it that you calculated the 61.1 based upon the July, 1997, surveillance report using equity capital divided by total capital?

A Total investor capital, yes.

Q Total investor capital, okay.

And, therefore, the number that you show on page 22, line 10, for the 1985 test year number of 42.3 percent is calculated the same way?

A Yes.

Q And that was also from the surveillance report as of that date, or was that from the rate case?

A I took that from the rate case.

Q Now, going back to your Exhibit 4, I think you said that the -- when I asked you if the complement to 61.1 was calculated the same way the complements are that you show on your Exhibit 4, you said not exactly. And as an observation, I conclude that in each of these events the numbers total 100 percent for the four instances you've given. Are your numbers totaling to something different than 100 percent when you calculate the reciprocal of the equity ratio of 61.1?

A No, that appears to be the case. I don't see any typographical errors.

Q I beg your pardon?

A I don't see any typographical errors. That appears to be the case.

Q So then we would conclude that the reciprocal of 61.1 is what, 39 percent, 38.9 percent?

A Well, as a matter of a piece of arithmetic, that is correct.

Q Thirty-eight, is the correct way to do it?

A I would agree, subject to check.

Q You would agree?

A Well, 61.1 would be 38.9.

Q 38.9, but I've -- okay.

I want to show you a document, and it's the June, 1996, S&P publication, and I'd like to have this marked for identification, please. Well, I think it's -- I'm wrong. I'll get it for you in a second.

CHAIRMAN JOHNSON: We'll mark it Exhibit 17, and short title, it's "Standard & Poors Utility Rating Service, FPL."

(Exhibit No. 17 marked for identification.)

MR. CHILDS: Correct.

Q (By Mr. Childs) Have you had a chance to look at this, Mr. Cicchetti?

A Have I previously looked at it?

Q Well, have you just looked at this document that I just passed out to you?

A I'm looking at the cover page, yes.

Q Is this the same credit report to which you refer on page 23 of your testimony?

A It appears to be, yes.

Q Okay. Would you look at the box at the lower right-hand side of the cover page? The cover page has a number at the bottom, 505, and I'd like it if you'd look at that box where it says "Financial Summary." I know this is hard to read but -- it's small print and it's been copied before. Could you look at that?

A Yes, I see it.

Q Would you agree that this document shows that the total debt, the total capital ratio for Florida Power & Light as of this date is 48 percent?

A That's what it appears to show, yes.

Q And it's not the 38.9 percent that you show, is it?

A Well, FPL has reacquired debt from this time until until the July 31 report that I was referring to.

Q Is that the reason for the difference?
A Well, that's part of the reason.
Q Why don't we turn to the last page and see the reason for the difference. You're familiar with how the debt to co-capital ratio was calculated by S&P, are you not?
A Yes.
Q And they denied -- what do they include in the denominator of that calculation?
A Purchased power contracts.
Q That's the total of off-balance-sheet financing?
A I believe so, yes.
Q In fact, they multiply the off-balance-sheet financing by a factor of about .195, don't they?
A I would have to go back and check, but I'll accept that subject to check.
Q And if we look to the middle box where the heading is Balance Sheet, the last entry will be an entry of $1,272,000,000?
A Yes, that's correct.
Q And that's the total of the off-balance-sheet obligations that have been used.
A I believe so, yes.
Q And would you agree, subject to check, that when the total off-balance-sheet obligations are used in both

the numerator and the denominator of the calculation of the total debt to total capital, that you would then get a debt to equity ratio of 48 percent as shown in the next series of numbers right below that off-balance-sheet number?

A I accept that subject to check.

Q So S&P says that Florida Power & Light Company's debt to equity ratio is 48 percent. Would you agree to that?

A For December 31, 1996, yes.

Q Now, if we look to your Exhibit 4 and we tried to place the 48 percent on this Exhibit 4, we'd see that it fits pretty close to a business position of 1, doesn't it?

A Yes.

Q Is it better or worse than the business position of 1? It goes the other way, doesn't it?

A Yes, that's correct.

Q Okay. So -- and you don't see an equity ratio on this summary page at all, do you, for Florida Power & Light Company, or a reference that it's used as an indicator of financial position?

A No.

Q Now, would you look to that same page, 505, there's a heading that says "OUTLOOK." Do you have that in all caps?

A Yes.

Q In the sentence previous -- right above that reflects the substantial off-balance-sheet obligations of Florida Power & Light Company. And I take it that this observation about FPL working to make these contracts more competitive is considered by Standard & Poor to be a positive, would you agree?

A Yes.

Q And now would you look under the discussion of OUTLOOK itself, in about three lines down, it talks about financial structure of -- did you review that when you were preparing your testimony?

A Yes.

Q Okay. And it notes that FPL will continue to control costs and improve the company's financial structure to meet increasing competition in the industry, and I take it Standard & Poor considered that to be a positive, too; would you agree?

A Yes, I would assume they would.

MR. CHILDS: Okay. Then I want to show you another document, which is a May 1997 Standard & Poor credit report and ask that this be marked for identification, please.

CHAIRMAN JOHNSON: We'll mark this as Exhibit 18.

(Exhibit No. 18 marked for identification.)

Q (By Mr. Childs) Thank you.

Have you seen this Standard & Poor credit rating report for Florida Power & Light?

A I don't believe I have.

Q Okay. Now, if we check the same thing that we did before, we can see that the total debt to total capital ratio on this May, 1997, report is now 46 percent; would you agree?

A Yes, that's what it is shows.

Q Under OUTLOOK, again, it's on that same first page, we see similar comments that we saw for the 1996 report about, the company will continue to control costs and improve the company's financial structure to meet increasing competition in the industry, and I take it you would still think that S&P is of the opinion this is a positive?

A Yes.

Q Now, would you agree that S&P includes off-balance-sheet obligations in its computation of the debt ratio because it in effect treats them as equivalent to debt because of the exposure the company has and the risk associated with those obligations?

A Yes.

Q So when we were looking -- if we were to look at the way S&P would calculate FPL's debt to equity ratio for purposes of determining its business position and its rating, we would get a number of 48 percent based on the '96 report or 46 percent based on the '97 report, which is totally within their criteria for Double-A rated utility. Would you agree?

A Well, I believe that 46 percent is outside of that range.

Q A little higher, right?

A Yes. Well, a little lower.

Q A little lower. Okay.

Incidentally, you have down here on this Exhibit 4, Business Position 1, 2, 3, and 4. Does Standard & Poor have a below-average rating?

A Well, I believe they've recently changed how they list those ratings.

Q And these aren't what they are, are they?

A They have recently changed, that's correct.

Q Do you know what they are now?

A I believe it's a scale of either 1 through 10 or 1 through 7.

Q All right. So if you look at -- if you look at the cover page of this document we're just looking at, Exhibit 18, you see Business Profile. Do you see that?

A Yes.

Q And the highlight is No. 3, right?

A Yes, and they've also changed their parameters to match the change in the scale.

Q Okay. Now, we can see, can we not, the corporate credit rating history on that same page if you look over on the left, and we see that in 1984, it was Double-A-Minus, right?

A Yes.

Q And then it went to A-Plus in '89. Is A-Plus below Double-A-Minus, it's a lower rating?

A Yes.

Q And would you agree that generally the lower the rating for a utility, the more costly the capital is to it?

A Well, it's debt cost would be higher, yes.

Q It's debt costs would be higher. So to the extent that the company can improve its rating in between rate cases, that would improve its ability to raise debt on more favorable terms in the future?

A Generally speaking, yes.

Q And wouldn't you agree that one of the reasons you see some of these fluctuations in the rating of utilities, A to A-Minus and Double-A, et cetera, is that it kind of locks to the ebb and flow of the construction program of utilities for major power plants?

A That has an impact, yes.

Q Okay.

CHAIRMAN JOHNSON: Mr. Childs, how much more will you have?

MR. CHILDS: Can you give me just about 30 seconds?

CHAIRMAN JOHNSON: Sure.

(Whereupon, a pause was had in the proceedings.)

MR. CHILDS: Commissioners, I'm not going to go back to the transcript on questions that I posed in deposition at this time, not at all, and that would close my examination of the direct.

Am I supposed to do the rebuttal now, too?

CHAIRMAN JOHNSON: Yes, but we're going to take a break.

MR. CHILDS: Thank you. We'll take a ten-minute break.

(Whereupon, a recess was had in the proceeding.)

CHAIRMAN JOHNSON: We're going to go back on the record.

Mr. Childs, I think you're prepared for the cross of the rebuttal?

MR. CHILDS: We were talking a little bit among ourselves, and I understand that we're going to try to finish tonight. That being the case, I'm going to waive any cross of the rebuttal testimony of Mr. Cicchetti.

CHAIRMAN JOHNSON: Great. Okay.

MR. CRUZ-BUSTILLO: Is it our turn? Okay. Give me about two minutes.

Commissioner Johnson, I didn't need those two minutes. I'm ready.

CHAIRMAN JOHNSON: Okay.

CROSS EXAMINATION

BY MR. CRUZ-BUSTILLO:

Q Mr. Cicchetti --

A Yes.

Q -- would you agree that the testimony today by FPL indicates that it will be 464 million that will be accrued for the purposes of this docket in 1998 and 1999?

A Do I agree that was their testimony?

Q Sure.

A No.

Q Would you -- what amount do you say that they will accrue actually within the scope of the plan? Let me strike that.

Would you agree that Mr. Gower testified in his direct testimony that FPL will accrue approximately 464 million? Would you agree that that was Mr. Gower's direct testimony?

A Well, I believe he said that, and that he wasn't exactly sure what the ultimate amounts would be. As a matter of fact, I think there's still some discussion as to how much unamortized loss on reacquired debt is going to be written off in '97.

Q Would you agree that, after he made that qualification, he did say that it was roughly 464 million?

A And I believe he said that was in response to some interrogatory answers, and that those represented the minimum accruals under the plan.

Q Mr. Cicchetti, yes or no?

MR. BREW: He answered the question.

MR. CRUZ-BUSTILLO: It's a direct question that requires a yes or no. That's all I'm asking for, Chairman Johnson.

THE WITNESS: Well, the answer is yes, he said that, but he qualified his answer.

Q (By Mr. Cruz-Bustillo) Thank you, Mr. Cicchetti.

Do you believe that the company's -- do you believe that FPL's estimates of 1998 and 1999 accrual amounts shown on Composite -- let me reference you to the exhibit. I want you to go to Composite Exhibit 7, Bates-stamped Document 001, which is in fact the document that was attached as an exhibit to Mr. Gower's late-filed testimony.

A I have it.

Q A late-filed exhibit to his deposition. I mischaracterized it.

A I have it.

Q Looking at that document, do you believe that FPL's estimates of 1998 and 1999 accrual amounts shown on this document are realistic?

A What do you mean by "realistic"?

Q Do you believe that they are practical?

A I believe they represent the minimal -- minimum amounts under the plan, I'm not very certain --

Q Thank you.

A -- about their veracity for a variety of reasons. First, the amounts that they wrote off in the prior years ended up being much greater than what was originally estimated. Second, the amount for 1997 shows 162 million; however, it's my understanding that 59.7 million associated with book tax timing differences has been written off in '97, and then if you take the difference between what we began the beginning of the year with with regard to unamortized loss and what the company expects it to be as of December 31, that indicates approximately another 190 million, so that's about 250 million there, and then you add 30 million for the fixed portion, and that's about 280 million.

Q So you do agree they are realistic, the estimates for 1998 and 1999, the accrual amounts?

A I believe it's possible. I don't know how realistic they are.

Q Thank you.

Now, let's turn to your direct filed testimony on the bottom of page 13 and the top of page 14, and just for the record, and I just want you to -- you stated that Staff's estimate was 841 million -- 841.2 million that could be written off in 1998 and 1999, is that correct?

A Where are you referring to?

Q The bottom of page 13, the last line, top of page 14, you state, do you not -- excuse me. You state, do you not that Staff's estimate is 841.2 million that could be written off in 1998 and 1999, is that correct?

A Yes, that's what I state, and that was taken from a document, as I indicated earlier, that came from a production of documents request by AmeriSteel.

Q Do you know how the Staff determined that estimate that you are referencing?

A Well, I'm not sure exactly how they arrived at it, but I did doublecheck it against the confidential information that we received from Florida Power & Light with regard to their expected revenues, and it wasn't -- it seemed to me that it could be a realistic amount.

Q Mr. Cicchetti, was the accrual estimate that you referenced based on an assumption that FPL would accrue plan-related expenses equal to 100 percent of the

difference between the actual revenues and the 1996 most-likely revenues?
A Could you repeat that, please?
Q Is that estimate that you made with respect to 841.2 million --
A That wasn't my estimate.
Q The estimate that you adopt, because you say that Staff made that estimate.
A The estimate that I cite?
Q The estimate that you cite.
A Yes.
Q Are you saying that that is equal to 100 percent of the difference between the 1996 most-likely revenue and the actual revenue? That's my question.
A That assumes 100 percent booking as it shows on that exhibit, yes.
Q Okay. What percentage of the difference between the base revenues reported during the two years of the plan and the 1996 most-likely revenue do you believe FPL will apply to expenses in this docket during 1998 and 1999?
A I didn't follow that, I'm sorry.
Q What percentage of the difference between the base revenues recorded during the two years of the plan and the 1996 most-likely revenues do you believe that FPL will apply to expenses in this docket?

A I'm not sure what amount they're going to end up applying. They have some broad discretion there. If they, for example, wrote off X-amount and had an earned return of let's say 13 percent, they could write off an additional $100 million and still be at 12 percent. So they have quite a bit of discretion there. I'm not sure exactly where they'll choose to end up.

Q Okay. Still referencing Composite Exhibit 7, document Bates-stamped 001, in your opinion, would determining the accrual estimate in that exhibit have required the Staff to utilize estimates of revenue or revenue growth for 1997, 1998 and 1999?

A Well, my understanding is these numbers came from Mr. Gower, but if the Staff were to replicate what is going to go on in the plan, I believe they would have to make some estimates as to -- or rely on FPL's estimates as to what the revenues are expected to be.

Q I was -- and let me ask that question again, but I want to reference your Exhibit No. 2 that was attached to your prefiled testimony, and I believe that is Exhibit No. 14, and I'm referencing -- and I'm referencing the circled numbers that you have there for 1998 and 1999 projected.

A Excuse me. Did you say that I have circled?

Q No, that are -- that appear circled on that document.

A Okay. I would just like to make it clear the annotations on that page are not mine.

Q And it has been noted for the record.

Now, looking at that document and looking at those circled numbers, in your opinion, would determining the accrual estimates in those circles have required Staff to utilize estimates of revenue or revenue growth for 1997, 1998 and 1999?

A Yes.

Q What estimates of 1998 and 1999 revenue or revenue growth rates do you believe were used to determine the accrual estimate in this document?

A Well, I've seen the exhibit that Staff has put together, and I believe it's in the neighborhood of 3.5 percent. I would point out, as I stated earlier, that I -- looking at the confidential information with regard to future revenues provided by FPL, those amounts with regard to the maximum amount that could be accrued under the plan are not materially different than FPL's estimates.

Q To your knowledge does FPL calculate their revenue growth rate for these years of 1998 and 1999 to be lower than 3.5 percent?

A Yes, that's my understanding.

Q Okay. Now what I want you to do is I would -- if you could refer to Composite Exhibit No. 8, Document 021.

A Did you say No. 8?

Q Yes, Composite Exhibit No. 8, Bates-stamped Document 021 should be the third from the back.

A Excuse me, Jay, I'm not sure I have Composite Exhibit 8. Okay. I've got it.

Q Can you tell me by referring to that document what FPL's average growth rate -- what FPL's average growth rate is?

A I assume you're asking for the average growth in revenues that FPL relied on to make their estimates of expected revenues for '98 and '99?

Q That is correct.

A I believe Mr. Gower cited it at 2.9 percent, and I'd accept that subject to check.

Q Mr. Cicchetti, if we have established that the 1998 and 1999 accruals shown in your Exhibit 2, which is Exhibit 14, are based on the revenue growth rate of approximately 3.5 percent, and if we have also established that FPL, based on its forecasts of revenues on growth is at approximately 2.9 percent, can FPL reasonably be expected to accrue 841.2 million for the purposes of this docket during 1998 and 1999?

A Well, not if you rely on those amounts. As I said, relying on FPL's amounts, you come up with a number that's approximately 800 million, and the number that the

Staff is showing there is 840. You're talking about a $40 million difference, while we're talking about a billion dollars of revenue out into the future. So, you know, I'd be happy to rely on FPL's amounts, but I don't see that as being materially different. It's just the maximum, an estimate at the maximum of what could be allowed under the plan. 800, 841 million, it seems quite a big number either way. It doesn't change my position either way.

Q But wouldn't you agree that you could not obtain the $841.2 million at 2.9 percent growth rate?

A That's a piece of arithmetic, yes, I agree with that.

Q Thank you.

Now, I'd like you to turn to page 14 of your direct testimony, line 10, Commissioners. Is 222.1 million your estimate of the amount that could be applied at a later date to an unspecified depreciation reserve according to the plan?

A If the revenues were such that they produced the 841.2 million --

Q I'm sorry, Mr. Cicchetti. I can't hear you.

A If revenues produced an amount available under the plan of 841.2 million and 619.1 million was written off under the plan, yes.

Q Mr. Cicchetti, if FPL's total accrual amount is less than 841.2 million in 1998 and 1999, would you expect that the accrual amount applied to an unspecified depreciation reserve would be less than a 222.1 million?

A It would depend on how much was actually written off.

Q Do you expect the priority order discussed in the proposed agency action to be followed?

A I expect it would, yes.

Q I'm sorry. I didn't hear your answer.

A I would expect it would, yes.

Q Okay. Would you agree that the 222.1 million that I just asked you about is in the -- is at the last position in the priority list, wouldn't you agree?

A That the unspecified depreciation reserve is the last item?

Q Yes.

A Yes.

Q And would you also then agree that if the $841.2 million will not be achieved based upon the 2.9 percent growth rate which you have just conceded would in fact not allow them to get that amount, would you then say that the actual amount accrued would be less than the 222.1 million that would be left for this category?

A Well, it would depend on how much was written off. If you reduced that revenue amount by 20 million and then you reduced the write-off by 20 million, you'd still end up with the 222.

Q Can you try -- can you explain that again? I didn't understand that.

A Well, if you subtract 20 million from the revenue, and 20 million from the expenses, you'll still end up with a difference of 222.1 million.

MR. CRUZ-BUSTILLO: I need just about two minutes.

I'm going to have Mr. Cicchetti refer to this book. It's -- Commissioner Johnson, Commissioners, I'm going to ask some questions of Mr. Cicchetti of a book, and in your -- in the packets that we provided to you, it should be Item No. 6 and I would ask that that be -- that that section in your book be marked as the next consecutive exhibit, whatever number that would be, marked for identification.

CHAIRMAN JOHNSON: We're on Exhibit 19, and this is excerpts from Public Utility Depreciation Practices and Accounting for Public Utilities.

(Exhibit No. 19 marked for identification.)

MR. CRUZ-BUSTILLO: That's correct, Chairman, and I would ask the Commission if they could recognize it as a treaty -- a treatise, an authoritative treatise in the area of public utility depreciation practices, official recognition from the Commission that in fact this is a treatise, an authoritative treatise in the area of public utility depreciation practice.

CHAIRMAN JOHNSON: Okay. You want it marked as an exhibit, but you want us to take official recognition of the document?

MR CRUZ-BUSTILLO: Official recognition, if Mr. Cicchetti doesn't himself recognize it, according to the rules of -- Florida Rules of Civil Procedure.

Q (By Mr. Cruz-Bustillo) And before I ask you, Mr. Cicchetti, I want to ask, are you familiar with the National Association of Regulatory Utility Commissioners, NARUC?

A Yes.

Q And can you tell me what that body is and what they do?

A It's an association of state utility commissioners.

Q I'm sorry. I can't hear you.

A It's an association of state utility commissioners.

Q Okay. Are you familiar with NARUC's public utility depreciation practices?

A No, I hadn't seen it until I saw the exhibits.

Q Okay. You're not familiar with this book, are you?

A I hadn't seen it since I saw the exhibits.

Q Okay. Turn to page 188 in that book, and for purposes of this exhibit, it would be Composite Exhibit 19, Bates-stamped Document 03.

A Okay.

Q And if you would just take about two minutes and read the last paragraph and the top two paragraphs on page 189.

CHAIRMAN JOHNSON: And while he's doing that, I have a question for you. Accounting for Public Utilities -- these are all excerpts from the same book? Are these different chapters or are these different books?

MR. CRUZ-BUSTILLO: No, the first part is from this book and the second part is from -- they are not from the same book. It's Accounting for Public Utilities.

CHAIRMAN JOHNSON: Oh, Accounting for Public Utilities is a separate book?

MR. CRUZ-BUSTILLO: Is a separate book. That's correct.

MR. BREW: I have a question, too. Was the --

MR. CRUZ-BUSTILLO: Sure.

MR. BREW: Is the cover page from NARUC part of that publication or is that something different?

MR. CRUZ-BUSTILLO: Yes, it is part of the book. That page is part of the book.

THE WITNESS: Okay.

Q (By Mr. Cruz-Bustillo) Give me one minute.

Read the first four lines. Can you please read the first four lines for me?

A The first four lines of what?

Q The first four lines at the bottom of the page Bates-stamped 03, page 188.

A The paragraph beginning "A reserve imbalance exists"?

Q That is correct.

A "A reserve imbalance exists when the theoretical reserve is either greater or less than the actual reserve. If changes are made to the estimated service life and net salvage, creating a reserve imbalance, a decision must be made as to whether and how to correct the reserve imbalance."

Q Would you agree with that statement?

A Sure.

Q Okay. Turn to the next page, page 189. On the top of page 189, please read the first sentence of that paragraph.

A "When a depreciation reserve imbalance exists, one should investigate why past depreciation rates, average service lives, salvage, or cost of removal amounts differ from current estimates."

Q Would you agree with that statement?
A Yes.
Q Go down to the fifth line, the sentence begins "Recognizing the nature."
A Okay.
Q Please read that sentence into the record.
A "Recognizing the nature of depreciation and its requirement for future estimations, no adjustment in annual depreciation accruals to reflect the reserve requirement based on rates should be made unless there is a clear indication that the theoretical reserve is materially different from the book reserve."
Q And you meant to say "based on current rates." You just skipped over that, correct?
A If I did, I meant to read whatever was there.
Q Would you agree with that statement, yes or no?
A Yes.
Q Okay. In your opinion, what would happen at the end of a plant's life if you find that there is a reserve shortfall?
A What should happen?
Q Uh-huh.
A Well, hopefully the Commission --
Q What would happen -- strike that.
What would happen, in your opinion?

A Well, if there was a reserve shortfall at the end of the plant's life, capital recovery wouldn't have been achieved.

Q And how would you achieve that?

A By writing off the total amount.

Q And would that be accelerated over as short a period as possible, as economically practical?

A I guess I don't understand your theoretical. Are you assuming that the Commission decided at the time that -- well, what is the basis for your assumption?

Q At the end of the plant's life, the Commission has said you can cover -- you can recover the under-recovery, the shortfall. Do you agree that that amount of recovery can be accelerated over a short period of time?

A Well, that's one way to handle it. If you, you know, had an ongoing concern and you were going to just factor that into your depreciation rate, you could do it that way. I think if you look down two sentences later, "The use of an annual amortization over a short period of time or the setting of depreciation rates using the remaining life technique are the two most -- are two of the most common options for eliminating an imbalance."

Q So you would -- are you through?

A Yes.

Q So you would agree that the Commission -- it would be within their discretion to use either one of those, and both would be reasonable, based upon what you just read?

A Well, based upon the facts and circumstances, one might be reasonable or it might not. If you look at the first sentence of the second paragraph there, "Whereas, the judgment of materiality is subjective, if further analysis confirms a material imbalance, one should make immediate depreciation accruals." And then the last sentence of that paragraph says, "The size of the plant account, the reserve ratio, the account remaining life, the technology of the plant and the account reserve imbalance in relationship to the account annual accrual all have a bearing on the choice of course of action taken."

So I think the materiality and the size of what it is that you want to adjust for are things that need to be considered, as it says right there.

Q So would you agree, based upon the first sentence -- let me state the first sentence for the record: "Whereas, the judgment of the materiality is subjective, if further analysis confirms a material imbalance, one should make immediate depreciation accrual adjustments."

Would you agree that, if there was a determination that the under-recoveries or shortfall or imbalance were material, that a reasonable, prudent -- that a reasonable solution would be an acceleration of the recovery?

A Well, it depends on the circumstances. I think the point here is, if it's material, you might want to do it over a long period every time.

Q Well, if the circumstances dictated that you would accelerate it because it was material, is that reasonable?

A Well, those are kind of --

MR. BREW: Excuse me, could you repeat that question or re-read that question, please?

Q (By Mr. Cruz-Bustillo) Would you think -- would you state or would you -- wouldn't you agree that based on the circumstances, based on the finding of materiality and any other circumstances you want to put in there, that it would be in accordance with regulatory practice for the Commission to accelerate the recovery?

A Well, based on the facts and circumstances, the Commission can do what it feels proper. I think I've indicated that and as it says here.

COMMISSIONER CLARK: The answer is yes, is it?

THE WITNESS: Yes.

COMMISSIONER CLARK: I just wanted to know which way you were going.

Q (By Mr. Cruz-Bustillo) Thank you.

At this time I'd like to turn to the next treatise, which is encompassed in Composite Exhibit 19, and it's called -- it's entitled Accounting for Public

Utilities. Are you familiar with this accounting book?

A I haven't seen it before until I saw the exhibits.

COMMISSIONER CLARK: What page are you on?

MR. CRUZ-BUSTILLO: I'm on Bates-stamp 06, under Composite Exhibit 19, and then I would ask the Commission, Commissioner Johnson, if you could take -- if you could find that is an authoritative treatise on the area of accounting for public utilities, according to -- Florida Evidentiary Code gives you the authority to do that.

CHAIRMAN JOHNSON: Okay. You've asked, and I apologize, because last time I did not -- I haven't taken official recognition of either document, but is this a request to take official recognition of both?

MR. CRUZ-BUSTILLO: Yes, it is.

CHAIRMAN JOHNSON: Okay. And seeing no objections, I'll take official recognition of those two documents.

Q (By Mr. Cruz-Bustillo) Mr. Cicchetti, if you could turn to what has been Bates-stamped as Document 09 on Composite Exhibit 19.

A I'm there.

Q Excuse me?

A I'm there.

Q You're there. Could you read for the -- could you read the passage into the record that begins, "Only after a plant"?

A "Only after a plant asset has lived its useful life will the true depreciation cost be known. The same difficulty is encountered in computing the annual profit and loss of a business. Only after a business has been wound up can the absolute profit and loss be determined, and then only for the entire period of its existence. Nevertheless, it is necessary to make determinations of depreciation and profit and loss periodically, at least annually, and the fact that very precise answers cannot be obtained should be no deterrent. Reasonably accurate results in both cases are all that should be expected and these can usually be achieved."

Q Do you agree with that passage?

A Certainly.

Q Can you now turn to what has been Bates-stamped as Document 10? At the bottom of page 10 and the top of page 11 -- this will be the last passage that I have you read -- please read the passage that begins "Those consequences stem."

A That whole paragraph?

Q Yes.

A "Those consequences stem from the fact that depreciation expense is an operating cost commensurate with the consumption of service life of the utility plant. Accordingly, if the annual accrual for depreciation is understated, there is a corresponding overstatement or inflation of net income and earned surplus. Investors are given an illusory and false impression with regard to earnings coverage, the effects of which are two-fold and cumulative. Moreover, if past deficiencies and depreciation accruals were substantial, it may be necessary to make up the back accruals by an appropriate adjustment of existing or future earned surplus and, in extreme cases, of the capital account itself."

Q Now, having read this passage, would you agree that adjustments of existing or future over-earnings to make up substantial material past deficiencies and depreciation accruals is an appropriate accounting from a regulatory perspective?

A Not in all cases, no. I would take you back to page 9, the last sentence on the bottom of that page, "The main purpose of the charge is that, irrespective of the rate of depreciation, there shall be produced, through annual contributions by the end of the service life of the depreciable plant, an amount equal to the total net expense of its retirement," and I think what that's saying there is the important thing is that the company recover its total cost; and I think there's no evidence in this docket to indicate that any of the items or the amounts listed in the proposed agency action or that we've been discussing are in jeopardy of not being recovered.

The question has to do with whether or not they should be recovered all in a very short period of time, and whether or not that's equitable.

The fact that there is a depreciation reserve deficiency is not the fault of the rate payers. It's not the fault of the Commission. It's not the fault of the company. The best estimates were used at the time to determine those rates and those are the rates that the rate payers paid. To take 15 or 20 years of accumulated reserve deficiency and 15 years of premium costs associated with debt and hundreds of millions of dollars associated with maybe 20 years of decommissioning reserve deficiencies and dump them on rate payers all in 1998 and 1999, to me does not seem fair. It seems that those rate payers will be paying much more than their fair share of the cost, and I can't see how it's unfair to rate payers maybe 15 or 20 years from now to pay one 20th of that amount, but it's fair for rate payers in 1998 and 1999 to pay what could be $800 million worth of those costs.

And I think that this sentence on the bottom of page 9 is extremely important. It's not exactly when it gets recovered that's the most important, but that it will be recovered in total by the end of its useful life.

Q So that I understand, for the record, Mr. Cicchetti, but you did agree at the beginning of your answer that based upon what you read, this is an appropriate accounting regulatory practice, whether or not you agree with it or not?

MR. BREW: Are you asking him to restate his prior answer?

MR. CRUZ-BUSTILLO: I'm asking him because I'm not sure what he answered. I just want to know does he agree, based upon what he read, that this in fact is an appropriate accounting regulatory practice?

THE WITNESS: That what is an appropriate accounting regulatory practice?

COMMISSIONER CLARK: Let me see if I can ask a question. With respect to -- let's just look at the nuclear decommissioning. If we discover that we're at the halfway point in the useful life of the asset and we have not -- in a perfect world we would have recovered 50 percent of the decommissioning costs, and we aren't there. Why is it not appropriate to allow for the recovery of that in the shortest possible amount of time?

THE WITNESS: Simply because, if it's a significant material amount, 484 million being lumped onto rate payers just in '98 and '99, along with hundreds of millions of dollars of other costs, it's simply not fair to those rate payers. That depreciation deficiency --

COMMISSIONER CLARK: Why is it not fair?

THE WITNESS: Because they will be paying an extremely greater amount than the other rate payers because that 484 million is coming out from their -- from them for 1998 and 1999. Those reserves deficiencies extend back as far as '71 for the nuclear decommissioning reserve.

Every time the Commission had to raise the accrual, there was by definition a deficit there, but the Commission has decided in the past that the appropriate way to deal with that is equal annual amounts over the remaining life of the plant. That should guarantee that there will be enough to cover the decommissioning at the time the decommissioning is to take place.

COMMISSIONER CLARK: It's your testimony that that's the way we've always taken care of depreciation reserve imbalances?

THE WITNESS: Nuclear decommissioning reserve imbalances, that's my understanding, yes. It's always been done by increasing the accrual to match the expected future cost.

COMMISSIONER CLARK: What about other depreciation?

THE WITNESS: I believe there have been instances where the Commission has allowed certain depreciation reserves to be written off on shorter periods of time, nothing as great -- to an extent as great as this, but looking back at a lot of those cases, those things made sense. It's based on the facts and circumstances that the Commission is dealing with.

I'm not saying it's never appropriate to write off a deficiency over a shorter period of time, but looking at the facts and circumstances in this instance, it's over $1.1 billion over a very short period of time.

COMMISSIONER CLARK: So it's your view it's really not an intergenerational inequity, it's the magnitude of it?

THE WITNESS: Well, I think the magnitude of it accentuates the intergenerational inequity.

COMMISSIONER CLARK: Okay.

Q (By Mr. Cruz-Bustillo) Commissioners, can I go forward?

Mr. Cicchetti, hasn't the Commission on several occasions corrected reserve deficiencies over a period of time that is shorter than the remaining life?

A Yes.

Q Do you recall being asked in your deposition whether it is appropriate to say that reserve deficiencies are properly attributable to future years?

A Generally, I do, yes.

Q Do you recall saying that, working from the definition of reserve deficiency and the Commission rules, reserve deficiencies would be attributable to the past?

A Yes.

MR. BREW: Excuse me. Are you talking about depreciation deficiencies or decommissioning?

MR. CRUZ-BUSTILLO: In his deposition he didn't attribute whether it was one. He just talked about it generally.

Q (By Mr. Cruz-Bustillo) Mr. Cicchetti, isn't the purpose of depreciation to systematically spread the recovery of prudently invested capital over the period of the plant items represented by the capital providing the service?

A I'm sorry, did you say over the "plan items"?

Q Over the plant items represented by the capital.

A Could you repeat that, please?

Q Sure. Isn't the purpose of depreciation to systematically spread the recovery of prudently invested capital over the period of the plant items represented by this capital providing service?

A I'm not sure what's meant by "the period of plant items."

Q Okay. Hold on one second.

COMMISSIONER CLARK: The life of the plant.

THE WITNESS: That's fine, if that's what he means.

Q (By Mr. Cruz-Bustillo) Over the period that the plant items are in fact in service.

A Over the period of the plant items, or do you mean as --

Q Over the period that the plant items in question are in service. I'll repeat it one more time.

Over the life of the plant. Isn't the purpose of depreciation to systematically spread the recovery of the prudently invested capital over the life of the plant?

A Yes.

Q Thank you.

Isn't it the goal of intergenerational equity that each generation of customers pay for the costs related to the service from which they are benefitting?

A Yes.

Q Is it your opinion that the recovery of the nuclear decommissioning and fossil dismantlement reserve deficiencies over a shorter period of time is in conflict with your definition of intergenerational equity?

A Yes.

Q The provision for the cost of nuclear decommissioning and fossil dismantlement relates to the provision for the cost of removal of these plants, isn't that correct?

A Yes.

Q Rather than providing for these removal costs through the depreciation rate, these costs are recovered separately and placed in their own separate reserve; isn't that correct?

A Yes.

Q Theoretically, shouldn't these removal costs be recovered equitably over the life of each unit, and shouldn't each generation of customers pay for the costs related to the nuclear or fossil generating plant from which they are benefitting?

A Theoretically and equitably, yes.

Q And to the extent that customers of the past didn't pay their fair share of these removal costs, customers of the future will have to make up that shortfall by paying a higher accrual then they would have to do otherwise; isn't that correct?

A Well, I think it's --

Q Well, before you qualify, is that correct yes or no?

A Yes, but I would like to qualify.

Q Sure, go ahead.

A There seems to be this implication that rate payers somehow did something wrong because there's a deficiency and they didn't pay their fair share. We can't go back and charge those rate payers back then for those costs. That would be retroactive rate-making, and my point is, for example, with the nuclear decommissioning, as the Commission's been practicing it, it's spread over the remaining life. That seems to me to be more fair, especially for material amounts, than saying this past 20 years of deficiencies should be dumped on rate payers only in 1997 and 1998, especially if it's going to be amounts approaching a billion dollars.

Q If there's an identified shortfall, won't there be a greater amount to recover in the future than there would be if there was no shortfall?

A By definition, yes.

Q Would you consider that intergenerational equity?

A Well, as I had stated earlier, there were varying degrees. The Commission has to look at the facts and circumstances. Sometimes things are a little more fair to be done one way than another. It's not simply yes, you either have to do it over two years, or you do it over the next 20.

As the treatise that you referred to stated, the two main ways of doing it are over a shorter period time or over the remaining life, and that the Commission should consider things such as materiality and the amount of the accrual relative to the deficiency and so forth.

Q Mr. Cicchetti, since there's no way to go back to the past and correct the shortfall, won't an immediate or a short-term correction of the shortfall reduce the spread of the shortfall into the future?

A Well, by definition, if you're going to write it off in two years instead of spreading it out over 20, there's going to be less that's going to have to be collected ten years down the road. That's simply by definition.

Q So by definition, it would be yes?

A That's what I said.

COMMISSIONER CLARK: While he's looking in his notes, Mr. Cicchetti, I'd like you to look at your direct testimony on page 20 and 21. You seem to have a concern that, because the revenue level is based on 1996 revenues, the plan gives FPL discretion over tens of millions of dollars of expenses and provides the opportunity to manage the return, and you allude to the fact that they could, I guess, in effect, charge for an expence that we might not normally allow, and then it will reduce the amount that a legitimate expense -- well, you say the result being that there is still legitimate expense that can be claimed and the earned return is the same as if the legitimate expense had been taken.

I'm not sure I understood why the plan made it any different than what exists in normal rate-making. They always have discretion over expenses in the sense that they can elect to incur tree-trimming expense or they may elect to defer it, and I guess I just didn't understand why the use of those revenues had an impact on this -- on their discretion.

THE WITNESS: The point I was trying to make, Commissioner, is if rates were set just to produce the midpoint of the allowed return, then FPL would have incentive to keep their costs as low as they could so that they could earn that midpoint. If rates are set to produce hundreds of millions of dollars over the top of the range and you've given them discretion over 50 percent of the amount between the actual and the expected from 1996 -- and I'm not saying they have done this, but I'm just -- with regard to management efficiency incentives inherent in regulation, if, for example, the company was at 13 percent and just decided, okay, everybody, it's time to re-carpet offices again, they could take that expense -- let's say they're going to earn a little bit over 13 percent -- take that expense, get it down to 13 percent. They've only written off additional expenses to the top of the range. It's an amount that, because they have that cap on their earnings and the rates are set to produce over that, that the incentive for holding down the cost is no longer there as if they had to work to achieve that midpoint.

It's -- for example, you wouldn't want to set rates by having a rate case figuring out what rates need to be, and then say, we're going to raise them an extra $100 million, and there wouldn't be the incentive for them to keep costs as low as possible. The inherent incentive, not just for FPL, but any utility company, would be they're not so concerned about what expenses are. That natural design of rate-making to try to keep them to hold costs as low as possible is just no longer there because they're already taking in more than they're allowed to keep.

MR. CRUZ-BUSTILLO: Commissioner Clark, I'm ready to go forward.

COMMISSIONER CLARK: Go ahead.

Q (By Mr. Cruz-Bustillo) Mr. Cicchetti, would you agree that reserve transfers made across functional categories of plants may have pricing implications?

A Yes.

Q Isn't it correct, Mr. Cicchetti, that one element of the plan is to record any revenues in excess of the specifically identified expenses in an unspecified depreciation reserve to be allocated at a later date, and in the event there are no reserve deficiencies, the

Commission could dispose of these reserve monies in any way it sees fit, including a rate payer refund?

A I'm not sure about that. I am not a lawyer, and my --

Q In your opinion?

A Well, in my opinion, my concern would be for the company to write off amounts and reduce their earnings and have them go into that depreciation, unspecified depreciation reserve, and then have the Commission come back and try and tell them that they had to give that money back. It would seem to me there would be retroactive rate-making concerns associated with that.

Q So your response is, depends?

A My response is I don't know for sure.

Q Okay. Would you agree that the Commission can maintain jurisdiction over those monies?

A Yes, that's my understanding.

MR. CRUZ-BUSTILLO: I need about a minute.

Ready, Commissioner Johnson, Chairman Johnson, inside the packets that we gave the Commissioners in Section 1, I'm asking the -- I'd like at this time to have it marked for identification, and in fact it's a list of orders, and I would ask the Commission or the Chairman to take official recognition of those orders in that packet, and I would request that it be mark the next composite exhibit.

CHAIRMAN JOHNSON: It will be marked as Composite Exhibit 20.

(Exhibit No. 20 marked for identification.)

MR. BREW: Excuse me, is that the packet that has as its first order a West Florida Natural Gas Company order issued August 8, 1995?

MR. CRUZ-BUSTILLO: That's correct.

COMMISSIONER CLARK: Mr. Cicchetti, let me ask you something. You raised the issue of retroactive rate-making, the fact that by having a deficiency in the decommissioning fund, you in effect have not charged rate payers in the past the appropriate amount for the use of that plan, is that correct? Is that what you mean?

THE WITNESS: That if there's a reserve deficiency, you can't go back and collect those amounts from rate payers in those years because of retroactive rate-making.

COMMISSIONER CLARK: Okay.

THE WITNESS: That's the --

COMMISSIONER CLARK: But the fact that you would charge future rate payers for that deficiency does not cure, I guess -- is that retroactive rate-making?

THE WITNESS: No, because it's using the cost, the best information available now to set rates for the future.

COMMISSIONER CLARK: But it is an expense, theoretically at least, that was incurred in the past.

THE WITNESS: And that's an interesting point because for other expenses, if the company happened to under-earn in the past, it couldn't go back and say, well, we're going to change our rates now, plus we want the amount from the past that was under-recovered They have to wait until they make their case and get an approval from the Commission to raise their rates on a going-forward basis.

COMMISSIONER CLARK: Well, they never recover what they didn't earn in the past.

THE WITNESS: Right, but with the depreciation reserve deficiency we're going to use the best information available now to get us full capital recovery for that item over its remaining life.

COMMISSIONER CLARK: And whether you charge it in a short period or a longer period in no way impacts whether it's retroactive rate-making?

THE WITNESS: Right, and doesn't impact whether or not they're actually going to collect it, just when.

COMMISSIONER CLARK: Okay.

Q (By Mr. Cruz-Bustillo) Mr. Cicchetti, please refer to Composite Exhibit 20, which was just marked for identification, and specifically Order PSC-94-0172, issued

February 11th, 1994, and I would have you turn to --

A I don't believe I have that.

Q Specifically, it's Attachment A, and on Attachment A in the top left-hand corner, there's different page numbers around, but if you look at the top left-hand corner, there will be a page No. 23 and that's what I want you to turn to. Page 23 --

A What order are you looking at?

Q I'm looking at Attachment A to the order in this case.

A Oh.

Q It's 9200260, or 920260. That's the docket number.

MR. CRUZ-BUSTILLO: Commissioner Johnson, could you find it, Chairman Johnson?

CHAIRMAN JOHNSON: 920 -- say the number again.

MR. CRUZ-BUSTILLO: It's --

CHAIRMAN JOHNSON: It's in this composite exhibit that we just --

MR. CRUZ-BUSTILLO: It's in this composite exhibit, and it's dated -- it's docket at the top 920260-TL, and it's dated February 11th, 1994. It's date-stamped February 11th, 1994, and what I want to do is I want to turn to page 23 of that entire document, and you can see the pages up on the left-hand corner.

CHAIRMAN JOHNSON: Okay.

Q (By Mr. Cruz-Bustillo) Mr. Cicchetti, and I'm going to be referring to the last three lines of the first paragraph on that page, and the question is, while you're getting there, in your direct testimony you stated that it's the Commission's normal practice for loss on reacquired debt to be amortized over the remaining life of the original issue or, if refunded, amortized over the life of the new issue.

A Is that a question?

Q Well, no. I haven't gotten to the question yet.

Did you in fact state that in your direct testimony?

A I believe so, yes.

Q Okay. Looking at the last sentence of the first paragraph, would you agree that, in accepting this agreement -- this is the question, you can read it and then answer it. In accepting this agreement, the Commission approved the proposed treatment that Southern Bell could amortize the cost of refinancing as rapidly as possible as long as the amortization in any year did not exceed the interest savings for that year?

A Yes, but the Commission's normal practice is to follow the Uniform System of Accounts, which indicates otherwise. This is something that the Commission allowed separate and apart from that, which it's within its jurisdiction to do.

Q Okay. You do agree it's in their jurisdiction?

A Yes.

Q Okay. And it was appropriate in the circumstances involved?

A I haven't read -- you know, I don't know what all the circumstances are. I'm going to assume the Commission acted appropriately.

Q Mr. Cicchetti, in your rebuttal testimony you stated that the treatment of the unamortized loss on the reacquired debt should be no different than the treatment of debt issuance -- strike that. Let me repeat that.

In your rebuttal testimony, and specifically page 12, lines 19 through 24, you state that the treatment of unamortized loss of reacquired debt should be no different than the treatment of debt issuance expense, and that it is the Commission practice and standard industry practice to amortize debt issuance expense over the life of the debt. Is that correct?

A Yes.

Q Okay. I want you to refer to another order that I had in that packet, and it's PSC Order 95-0964-FOF-GU, and it's dated August 8th, 1995, and it should be the first one.

A I've got it.

Q I'm going to ask you the question and then I'm going to have you refer to the second paragraph on that first page, about the middle of the paragraph where it begins, "To address the issue of its excess earnings," and my question for the record is: Do you agree, based upon this order, that the Commission found the proposal to apply excess earnings from fiscal years '94 and '95 toward the reduction of the company's balance of unamortized issuance costs to be reasonable and in the interests of both the company and the rate payers?

MR. BREW: Do you have a specific reference in the order?

MR. CRUZ-BUSTILLO: Yes. What do you mean by "specific reference"?

MR. BREW: Are you reading from the order?

MR. CRUZ-BUSTILLO: No, that's my question, and I'd like him to read from the order and give me an answer, and he can begin to read from the middle of the second paragraph beginning with the words, "To address the issue of its excess earnings, West Florida submitted a proposal."

MR. BREW: And you're asking him to agree with what the order say based on his review of just those sentences?

MR. CRUZ-BUSTILLO: Based upon -- that's exactly right. Based upon reading that order, I'd like him to answer the question that I asked him.

MR. BREW: Well, he's not reading the order. He's just reading the sentences that you --

MR. CRUZ-BUSTILLO: Well, if he wants to read the order, that's fine. I'm having him to look at the sentence. If you as his counsel want him to read the order, then he could read the order.

MR. BREW: It depends on the characterization you put in your question.

MR. CRUZ-BUSTILLO: Well, let me just ask the question again for the record so I can get an answer.

Q (By Mr. Cruz-Bustillo) Mr. Cicchetti, would you agree that the Commission found the proposal in this case to apply excess earnings from fiscal years '94 and '95 toward the reduction of the company's balance of unamortized issuance costs to be reasonable in the interests of both the company and the rate payers?

A I don't see that on the front page. Is there a spot in the order where the Commission stated that?

Q You can take your time and read the order if you want. I'm asking you a question and you can reference that order. You can give me a yes or no. I'll ask you one more time for the record.

Do you agree that the Commission found the proposal in this case to apply excess earnings from fiscal years '94 and '95 towards the reduction of the company's balance of unamortized issuance cost to be reasonable in and in the interests of both the company and the rate payers? Take your time, if you want to read the order.

CHAIRMAN JOHNSON: And if you don't know, you can state you don't know.

THE WITNESS: I don't know.

MR. CRUZ-BUSTILLO: I have nothing further.

COMMISSIONER CLARK: Mr. Cicchetti, what do you think that order says?

THE WITNESS: Well, I'm assuming that it may say that --

COMMISSIONER CLARK: Well, just read that paragraph, that last paragraph on the first page and tell me what it says.

THE WITNESS: The last sentence or the next to the last sentence, it says, "Upon review in Order No. PSC 94-1136-FOF-GU issued September 15th in Docket No. 94-0664-GU, we found that the proposal was reasonable and in the interests of both the company and its rate payers. This order addresses West Florida's earnings for the year ending June 30th and the implementation of the company's proposal."

Having read that, I assume that the Commission felt the same way in this order as they did in the previous order.

MR. CRUZ-BUSTILLO: And Commissioners, I was just trying to get him to say -- get him to acknowledge that in fact the Commission did make that finding, and I should have made that clearer, and I should have just -- that was just the point. So I guess I would just ask the question again.

Q (By Mr. Cruz-Bustillo) After reading that, do you agree that the Commission did in fact make that finding with respect to this proposal, yes or no?

A Yes.

MR. CRUZ-BUSTILLO: Thank you. Thank you, Commissioners.

CHAIRMAN JOHNSON: Any questions, Commissioners? Redirect?

MR. BREW: May I have just a moment with the witness, Your Honor, off the record, and then I'll let you know if we have any questions on redirect?

CHAIRMAN JOHNSON: If there's no objection, we'll take a minute.

(Whereupon, a pause was had in the proceeding.)

CHAIRMAN JOHNSON: Are you prepared?

/////

REDIRECT EXAMINATION

BY MR. BREW:

Q Thank you, Chairman Johnson.

Mr. Cicchetti, do you have the late-filed Exhibit No. 1 that was included in the Staff Composite Exhibit 7?

A Yes.

Q That purports to show the 1998, 1999 forecasted accruals and under-recoveries, do you see that?

A Yes.

Q Do you know for the 1995 actuals -- just for clarification, the amount shown is $126 million. Is that the variable portion of the plan?

A That's my understanding.

Q Okay. Do you know what Staff had forecasted the amount would be in 1995 in that docket?

A I believe there's an amount in Pat Lee's testimony from that docket, and it's less than the 126 million.

Q Less than --

A The 126 million.

Q Did Staff have a forecast for the 1996?

A That also, yes.

Q Okay. So -- and is it your testimony that. based on the information you've seen, that the company is likely to take as expense more than the 162 million shown in the 1997 forecast?

A Yes.

Q Okay. You were asked several questions regarding your testimony with respect to the equity ratio of Florida Power & Light. Could you clarify what the actual equity ratio of the company is?

A The actual equity ratio, as I listed in my testimony, is over 61 percent and I believe, if an updated exhibit -- if a more recent number of the actual was looked at, it would probably be somewhat higher, and that actual high equity ratio has a significant tax impact and --

MR. CHILDS: Objection. He asked him if he could clarify what it would be, and I don't think that there's room on redirect to have the witness draw additional conclusions about new information and the significance of it.

CHAIRMAN JOHNSON: Mr. Brew?

MR. BREW: Nothing further, Your Honor.

CHAIRMAN JOHNSON: No further questions?

MR. BREW: No further questions.

CHAIRMAN JOHNSON: Okay. Exhibits? I think it's 13 through 16.

MR. BREW: Thirteen through 16 is what we would move into the record.

MR. CHILDS: I would move 17 and 18.

CHAIRMAN JOHNSON: Show those all admitted without objection.

(Exhibit Nos. 13, 14, 15, 16, 17, and 18 were received in evidence.)

MR. CRUZ-BUSTILLO: And, Chairman Johnson, we have Composite Exhibit No. 8, and then I'm not sure about 19 and 20, because I asked the Chair to take official recognition. Do I need to move those into evidence?

CHAIRMAN JOHNSON: You don't have to, but if you want them -- we'll move them.

MR. CRUZ-BUSTILLO: We can do it, overkill.

CHAIRMAN JOHNSON: We'll move those into evidence.

(Exhibit Nos. 8, 19, and 20 were received in evidence.)

CHAIRMAN JOHNSON: Mr. Gower now?

MR. CHILDS: Mr. Gower.

Whereupon,

HUGH GOWER

was called as a witness, having been previously sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CHILDS:

Q Do you have before you a document entitled Florida Power & Light Company Rebuttal Testimony of Hugh A. Gower, Docket No. 970410-EI, dated November 3, 1997?

A Yes, I do.

Q Was that prepared by you as your rebuttal testimony for this proceeding?

A Yes, it was.

Q Do you have any changes or corrections to make to this document?

A Only one.

Q Yes, sir?

A On page 10, line 7, at the very end of the line, I have the words, "5 years," numeral five. That should be 6, "6 years."

Q With that change, do you adopt this as your testimony?

A Yes, I do.

MR. CHILDS: Commissioners, we ask that the prepared testimony of Mr. Gower be inserted into the record as though read.

CHAIRMAN JOHNSON: It will be so inserted.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

REBUTTAL TESTIMONY OF HUGH A. GOWER

DOCKET NO. 970410-EI

NOVEMBER 3, 1997

**Q. Please state your name and address.**

A. My name is Hugh Gower and my address is 195 Edgemere Way, S., Naples, Florida 34105.

**Q. Have you previously filed direct testimony in this proceeding?**

A. Yes, I have.

**Q. What is the purpose of your rebuttal testimony?**

A. The purpose of my rebuttal testimony is to respond to certain erroneous and misleading assertions contained in Mr. Mark A. Cicchetti's testimony on behalf of AmeriSteel Corporation. Also, I will point out how his conclusions misconstrue the purpose of the plan contained in Order No. PSC-97-0499-FOF-EI and ignore key facts as well as the benefits to customers who will be served by FPL for the longer term.

**Q. What erroneous assertions does Mr. Cicchetti make about the plan?**

A. First, Mr. Cicchetti asserts (page 7, lines 11-13 and page 15, lines 21-23) that "The plan allows FPL to accelerate expenses that are appropriately attributable to future periods..." and that the purpose of the plan is to eliminate "...potential stranded costs." (page 16, lines 7-8). These assertions completely fail to recognize that depreciation reserve deficiencies, fossil plant dismantlement reserve deficiencies, nuclear plant decommissioning reserve deficiencies and prior years' income tax flow through amounts -- the majority of the costs addressed by the plan -- are all costs which are attributable to <u>prior years</u>. Had information been available at the time, FPL (with the Commission's approval) would have recovered these costs in prior years. Since those costs were not recovered in prior years, they remain to be recovered now, and the plan proposes to correct for the prior cost underrecoveries as quickly as economically practicable. Misunderstanding the nature of these items would be a prerequisite for asserting these items "... are appropriately attributable to future periods."

Second, Mr. Cicchetti's assertion that the purpose of the plan is the elimination of potential stranded costs is nothing but an unsupported interpretation. As the Commission's order states, the plan addresses prior cost underrecoveries. Neither does Order No. PSC-97-0499-FOF-EI mention stranded costs nor has any determination of stranded costs been made.

**Q. Is Mr. Cicchetti's claim (page 7, lines 13-15) that the plan "...removes incentives for management efficiency inherent in traditional ratemaking practices..." correct?**

A. No, contrary to Mr. Cicchetti's claim, the requirement of the plan is that FPL record additional expenses which, based on the experience in 1995, 1996 and 1997 under Order No. PSC-96-0461-FOF-EI will be significant in amount. The effect of this requirement is that the Commission has "captured" these amounts of potential revenue growth for the customers' benefit and that revenue growth is therefore not available to offset expense increases. This heightens -- not eliminates -- the pressure to control expenses or suffer earnings below authorized levels. Operating expenses applicable to base rates include operation and maintenance, depreciation, taxes other than income and income taxes. Of these categories, operations and maintenance expenses are the only costs controllable by management in the short run. But since operations and maintenance constitute only 42% of the total, this task is more daunting than it might seem to the uninformed. Further, Mr. Cicchetti's assertion ignores the substantial efforts of FPL's management, now ongoing for several years, to control and reduce its costs. These efforts have reduced operation and maintenance expenses for 1996 below 1988 levels while FPL produced 31% more kilowatt hours and served 20% more customers. These efforts have also reduced debt cost rates 17% from 1988 to 1996 while FPL met the need to increase total invested capital by more than $1,250,000,000 ---and avoided any increase in base rates--- during that same period.

Q. **Will implementation of the Commission's plan in this docket result in FPL having "unreasonable rates" as Mr. Cicchetti claims (page 7, line 17)?**

A. No, it will not. As Mr. Cicchetti himself notes (page 17, lines 21-24), FPL's rates are presently low relative to Florida and the Southeast. Beyond that, according to surveys of the Florida Electric Cooperative Association and the Florida Municipal Electric Association, FPL's rates are below the average rates for Florida's municipal and cooperative electric distributors --- none of which has federal or state income taxes as operating expenses as does FPL. In addition, surveys by the Public Utility Commission of Texas and Jacksonville Electric Authority show FPL's rates are lower than many utilities located outside the Southeast.

Further, although FPL's surveillance reports are continuously audited by the FPSC Staff, no major questions regarding the allowability of expenses has been raised. This, together with earnings within the Commission's allowed ranges, suggests rates are reasonable.

Since under the Commission's plan in this docket FPL's rates will not change, they will remain reasonable --- not become unreasonable.

**Q. Is Mr. Cicchetti's claim (page 7, lines 17-18) that the plan will result in "excessive compensation" to FPL correct?**

A. No, it is not. As the Commission and Mr. Cicchetti are both aware, under cost-based rate regulation, investors are entitled to "return of" and "return on" the capital they provide. By definition, "compensation" cannot be "excessive" unless the returns achieved on investors' capital is beyond reasonable limits, usually denoted by the allowed rate of return. As should be obvious, the plan in this docket deals with the "return of" investors' capital. And the additional expenses recorded by FPL pursuant to the Commission's directives in Docket

No. 950359-EI and which may be recorded pursuant to the directives in this docket have not, and will not, provide any additional "return on" the capital provided by FPL's investors. What the additional recorded expenses have and will provide is the "return of" investors' capital. The only effect the additional expenses recorded under the plan have had or will have on compensation to FPL's investors is to reduce it... unless FPL's management can succeed in controlling the Company's other expenses and avoid reductions in achieved earnings below authorized levels.

**Q. Mr. Cicchetti states (page 7, lines 17-19, page 18, lines 18-23 and page 19, lines 1-8) that the plan in this docket "...results in... intergenerational inequity." Is this correct?**

A. On the contrary, this plan corrects "intergenerational inequity". As is obvious from reading Order No. PSC-97-0499-FOF-EI, the majority of the items addressed by the plan represent costs which should have been recovered in prior years when customers received the service to which the costs relate. (Specifically, I refer to depreciation reserve deficiencies, prior year income tax flow through amounts, nuclear plant decommissioning and fossil plant dismantlement reserve deficiencies.) As to these costs, the "intergenerational inequity" has already occurred and, if not corrected by the plan, would only become more inequitable.

Yet, the only item Mr. Cicchetti seems willing to discuss in connection with "intergenerational equity" is the cost of reacquiring high cost debt -- the only item covered by the plan for which "intergenerational equity" is the least applicable.

**Q. Why is "intergenerational equity" less applicable to the cost of reacquiring debt than other items covered by the plan?**

A. The main point of equity related to the cost of reacquiring high cost debt is this: since customers will get the benefit of lower debt costs, investors are entitled to recover the capital they have provided to finance the reacquisition. The question of when investors get recovery and when and how much benefit customers get is less critical. This latter aspect is reflected in different Commission decisions which have alternatively directed (a) immediate write-off, (b) immediate write-off for part and amortization for part, and (c) amortization over the remaining life of the reacquired security.

Under the "amortization over the remaining life" plan, investors' capital recovery is effected over perhaps 20 years and customers benefit from part of the savings (reduced interest less reacquisition cost amortization) from the date of the reacquisition. The plan in this docket would merely effect recovery of investors' capital much sooner -- without increasing FPL's rates -- and lower capital costs included in cost of service by eliminating the amortization of debt reacquisition costs. This preserves the main point of equity related to the treatment of debt reacquisition costs. Investors still recover their capital and customers still get the interest savings but the full interest savings will be reflected in a reduced cost of service sooner. This result is achieved by the Commission's action which not only maintains rate stability but also lowers future costs by allowing the recovery of capital investments which financed reacquisition of debt on an accelerated basis as it has in selected other cases.

Q. **In what other cases has the Commission allowed accelerated recovery of capital investment?**

A. The Commission has allowed recovery of capital investments on an accelerated basis in cases where such capital investments provide savings to customers and such investments are not covered by base rates. A good example is the Oil Backout Cost Recovery Factor approved by the Commission in Order No. 11188, dated September 23, 1982. This rule was designed to encourage reduced reliance on expensive oil-fired generation and directed that two-thirds of the "oil/non-oil" savings from eligible projects be recorded as additional depreciation, thus accelerating the recovery of capital invested in oil backout projects. An extension of this policy was reflected in Order No. PSC-94-1106-FOF-EI issued September 7, 1994. In that decision the Commission approved FPL's recovery through the Fuel and Purchased Power Cost Recovery Clause of the cost of converting two of its generating units to have the capability to burn Orimulsion. Similar to Order No. 11188, this decision directed that one-half of the associated fuel savings be recorded as additional depreciation.

Similarly, the Commission has authorized accelerated recovery through the Fuel and Purchase Power Cost Recovery Clause of the cost of plant modifications which result in significant savings in fuel costs. Recovery periods are accelerated over as little as six months. Examples would include Order No. PSC-95-0450-FOF-EI in which the Commission authorized FPL's recovery of $2,754,502 of plant modification costs during the April through September 1995 period. Likewise, in Order No. PSC-97-0359-FOF-EI, the Commission authorized recoveries of plant conversion and modification costs by both Florida Power Corporation ("FPC") and FPL. In FPC's case, recovery was authorized over 5 years and in FPL's case over 3 years.

The Commission has also approved payments to qualifying facilities by utilities pursuant to standard capacity and energy purchase contracts. Payments may commence at any time after the specified early capacity payment date (an approximation of the lead time required to site and construct the avoided unit) and before the anticipated in-service date of the avoided unit. Such "prepayments" are recoverable currently by the utility under the Capacity Cost Recovery Clause.

In each case just cited, the Commission's approval of accelerated capital recovery meant increased current billings to customers. In contrast, the accelerated recovery of debt reacquisition costs directed in this docket will not require price changes.

Q. **Mr. Cicchetti argues (page 16, lines 9-19) against making the capital recovery corrections in the manner proposed in this docket because the book value (cost less accrued depreciation) of FPL's nuclear and fossil generating units is below industry average book values. Is this relevant?**

A. No, neither the fact that the book value of FPL's nuclear and fossil generating units is below industry averages nor how well-suited FPL may be to meet future competition are relevant to the issues in this docket.

The relevant issue regarding depreciation of FPL's generating units is (regardless of their cost) how much should have been depreciated as of the date of the last required comprehensive depreciation study. Staff's calculations show that at January 1, 1994, FPL's generating units were "under-depreciated" by $235,642,000.

While the information Mr. Cicchetti cites here is a positive statement regarding FPL's ability to manage its construction costs which should please those of its customers concerned with the price of electricity, FPL's relative position in the industry insofar as exposure to competition is irrelevant to proper depreciation accounting as long as FPL remains subject to cost-based price regulation.

Q. **Please respond to Mr. Cicchetti's claim (page 14, lines 21-23) that depreciation reserve deficiencies are normally corrected over the life of the associated facilities.**

A. While there are many cases in which the corrections are made over the remaining life, there are also numerous cases (cited in my direct testimony and not repeated here) in which the Commission has made such corrections over much shorter periods. Further, making such corrections promptly without changing prices seems prudent because it avoids compounding risk associated with future uncertainties by deferring known deficiencies to future periods.

Q. **Mr. Cicchetti argues (page 26, lines 9-11) that "there is no demonstrated need to allow the write-off of... reserve deficiencies..." for nuclear plant decommissioning and fossil plant dismantlement. Is this true?**

A. No it is not. The demonstration of this need is evidenced by the Commission's orders approving the accrual rates for these costs. According to Order No. PSC-95-1531-FOF-EI at the date of the latest decommissioning cost studies, the estimated current cost had increased 77% over the estimate made ~~8~~ 6 years earlier. FPL's nuclear units, on average, have been in service for 50% of their estimated useful lives, but at December 31, 1996 the decommissioning reserve amounted to less than 12% of the estimated total future expenditures to be made for decommissioning costs. The need to address this reserve deficiency is rather obvious. A similar but smaller problem exists for fossil plant dismantlement since accruals were not begun until 1987, while the in-service dates of many of the units was 20 years prior to that. Faced with this knowledge, it would be irresponsible to delay correction of these underrecoveries as Mr. Cicchetti suggests.

Q. **Mr. Cicchetti further argues against the plan in this docket (page 17, lines 7-17) on the basis that New England Electric System ("NEES") recently sold 4000 MW of generating assets at a price which suggests the value of FPL's generating assets is "...almost $3 billion over their book value". Is this true?**

A. It is true that NEES recently contracted to sell 3,962 MW of fossil and hydroelectric generating facilities and 1,155 MW of purchased capacity to US Generating Co. (a subsidiary of Pacific Gas & Electric Company) for a price of

$1.59 billion or $311 per KW. While this is true, it is neither relevant to the issues addressed by the plan in this docket, nor true that it suggests that FPL's generating assets are undervalued.

**Q. Why doesn't the NEES sale suggest that FPL's generating assets are undervalued?**

A. First, the NEES sale was motivated by the terms of the industry restructuring plans in the states in which it operates. The terms of the restructuring plans may affect values, but since there are no industry restructuring terms applicable to Florida, no valid inference can be drawn.

Second, generating asset competitive values in NEES' service territory are influenced by the costs or values of competitive power sources. Whatever those are in New England is very likely to be different from the costs or values of competitive power which might become available in Florida.

Thirdly, the marginal operating costs of the generating assets in question relative to the costs of competitive power sources influence values. We don't know the operating costs of the generating assets NEES sold, but we do know that the operating costs of the 1,167 MW of hydroelectric generating capacity NEES sold will be substantially different than the operating costs of <u>any</u> of FPL's generating units.

For all of these reasons, the price realized by NEES cannot be "translated" into a value for FPL's generating assets as Mr. Cicchetti suggests. But more importantly, whatever the NEES sale does suggest is irrelevant to this proceeding.

**Q. Why would values suggested by sales of other utilities generating assets be irrelevant to this proceeding?**

A. Because, as pointed out earlier, this proceeding deals with issues of cost recoveries under the terms of cost-based price regulation. Only historical recorded costs and capital investments enter into consideration --- not market values. But if Mr. Cicchetti's asserted market value for FPL's generating assets were correct, those of its customers concerned with electricity prices --including Ameristeel-- should be delighted with the bargain provided by original cost-based prices.

**Q. Does the estimate by Resource Data International, Inc. ("RDI") that FPL's assets are undervalued by nearly $900 million relative to their expected value in a competitive generation market cited by Mr. Cicchetti (staring at page 16, line 19) provide relevant data to this proceeding?**

A. No, it does not. This proceeding, contrary to Mr. Cicchetti's assertions, does not deal with stranded costs but rather underrecoveries of historical costs in prior years.

Just to set the record straight, estimates of stranded costs have been published by Moody's Investors Service, Resource Data International, and Smith Barney, to name a few. The estimates vary, ranging from RDI's "negative" stranded cost of $895 million to Smith Barney's stranded cost exposure estimate of $2.698 billion. Each of the studies is based on certain assumptions and estimates and their accuracy depends on how closely subsequent developments correspond to those assumptions and estimates as well as the representational faithfulness of the information used in underlying calculations.

No determination of stranded costs has been made, nor can it be made at this time.

**Q. Mr. Cicchetti further criticizes the plan (starting at page 25, line 24) as allowing FPL to "...manipulate its earnings and achieved return..." and suggests FPL might "...incur an expense the Commission might not normally allow..." (page 21, lines 1-7). Are these criticisms valid?**

A. No, they are not valid criticisms. Rather they are desperate, unsupported claims made when no real customer-perspective complaint about the plan can be identified. What possible motive would FPL have for incurring "unallowable" or "illegitimate" expenses instead of the write-offs authorized by the plan (as Mr. Cicchetti suggests on page 21) when a major focus of management for several years has been to control and reduce costs? The obvious answer is "none". (Even if FPL were so motivated, FPL's earnings and expenses are subject to ongoing continuous review by the FPSC Staff.) And the Commission's providing FPL some flexibility along with the requirement to record substantial additional expenses is a far cry from "allowing FPL to manipulate its earnings". The Commission's policy (evidenced by orders cited in my direct testimony and not repeated here) of providing for recovery of costs attributable to prior years "as fast as economically practicable" wisely recognizes the need to allow reasonable earnings to investors. That policy further recognizes that inconsistent earnings signal "risk" to investors and such a signal would have adverse implications to the cost of capital. Insofar as Mr. Cicchetti's claim that FPL might attempt to "manage" its earnings, only an incompetent management would ignore the earnings consequences of its actions. What FPL management has been able to do under the Docket No. 950359-EI plan through August 1997 is continue to control and reduce its costs while absorbing $441,541,000 of additional expense and achieving earnings within the allowed range authorized by the Commission. What FPL, under the Commission's direction, succeeded in managing was important capital recovery, but a great deal remains to be done on that task.

**Q. Mr. Cicchetti also points (page 18, lines 10-14) to increases in FPL Group's common stock prices and FPL's debt ratings as evidence there is no need for the plan in this Docket. Do you agree?**

A. No, I do not. While it's true that FPL Group's common stock price rose 41% during the 5 year period ended September, 1997, during that same period the Dow Jones Industrial Average ("DJIA") and the Russell 2000 Index increased 142% and 135%, respectively. This suggests that FPL's success in controlling and reducing its costs together with the regulatory policies reflected in Docket No. 950359-EI (as well as other Commission orders relative to cost recoveries) have enabled FPL Group to realize some improvement in its share values, but not nearly so great as the market as a whole. Improving the market value of shares and maintaining good quality debt ratings is important because it can help keep capital costs from increasing and will be beneficial to customers served by FPL for the longer term.

Q. **Please summarize your testimony.**

A. My testimony has shown that the information offered by Mr. Cicchetti in his testimony is either irrelevant or misinterpreted, and he has misconstrued the purpose of the plan in this docket. Consequently, his conclusions are flawed. The proposed agency actions in this docket should be approved by the Commission because it will benefit the majority of FPL's customers whom it will serve for the longer term since it corrects prior cost under-recoveries, reduces the amount of investor supplied capital needed to finance the business and mitigates future cost increases that might otherwise occur.

Q. **Does this conclude your testimony?**

A. Yes, it does.

CONTINUED DIRECT EXAMINATION

BY MR. CHILDS:

Q And, Mr. Gower, would you please summarize your testimony?

A Yes. This testimony is my rebuttal to Mr. Cicchetti's direct testimony, and in my opinion, Mr. Cicchetti's direct testimony misconstrues the purpose of the plan and further ignores the benefits to the customers of the plan, and those benefits could either be an avoidance of a rate increase, or a rate decrease.

Mr. Cicchetti characterizes the plan in his direct testimony as having a purpose of eliminating stranded cost. That is not the purpose of this plan. It is to correct costs under-recoveries, and those -- the method of correction has been repeatedly characterized today as being accelerated. It is anything but. It is remedial correction. The plan does not accelerate expenses attributable to future periods, but it addresses expenses attributable to prior years.

Further, contrary to Mr. Cicchetti's assertion, the plan does not eliminate the incentive for management to control expenses. Quite the contrary, in my opinion, it increases the pressure to control expenses because substantial amounts of revenue growth will be captured for the benefit of the customers. In the short run, the only thing that management can control is operation and maintenance expenses.

Of the total operating expenses reported on the surveillance reports to you periodically, operation and maintenance expenses are only 42 percent of that total, so their opportunity to work in the short run is severely limited; and I think it's important to note that in spite of the need to earn a decent return in the years since 1995, Florida Power & Light has booked these capital recoveries to a point that reduced earnings below the maximum allowed return on equity. So it's obviously important in management's view.

Mr. Cicchetti further asserts that rates will become unreasonable if the plan is approved, yet Mr. Cicchetti acknowledges that Florida Power & Light's rates are low relative to Florida and the southeast. Rates haven't been increased since 1985. Expenses are audited by staff of this commission as well as the FERC. The returns achieved since the initiation of the plan in the previous docket are within the allowed rate of return. Rates have to be reasonable.

The plan, furthermore, does not produce excessive compensation as Mr. Cicchetti asserts. Compensation, that is, earnings can't be excessive unless the earnings exceed the allowed return, and this hasn't occurred.

Furthermore, this plan doesn't deal with return, it deals with return of capital, not return on capital, and booking expenses that represent the return of capital do not increase the return on capital. It just can't work both ways.

Further, there's been a good bit of discussion about intergenerational inequities. I'll just say this plan corrects it, it does not create it.

There are cases in which the Commission has accelerated the recognition of expenses. Examples would include the oil back-out clause. In that connection, Florida Power & Light has an investment in a transmission line which ties it to Georgia Power Company for purchases of energy which displaces oil-fired energy. In two years' time following the formula under the clause, Florida Power & Light accelerated about a quarter of a billion dollars of additional depreciation following the formula in that plan. That's a fairly substantial number, and I point that out because it's been suggested that all the previous approvals by the Commission were insignificant and di minimus, and I don't think that's true. In most cases where the Commission has approved the acceleration of capital recovery such as the oil back-out clause and the fuel clause, it meant higher current billings to customers. That's not true in this docket because there will be no price increase, and that's the neat thing about this docket, to put it in the vernacular.

Mr. Cicchetti further suggests that correction of the cost under-recoveries isn't needed because the book value of Florida Power & Light's generating plants are below industry averages, which is true. He further suggests that it's not needed because of a recently-announced sale by New England Electric System of some of its generating units suggests that Florida Power & Light's generating units are under-valued by three billion dollars. I think those are both very interesting facts which ought to really please customers of Florida Power & Light who are concerned with the price of electricity because it shows, number one, what a good job Florida Power & Light has done in building its plants at a lower than average cost, and number two, with reference to the New England Electric sale, what a real bargain original cost rate-making produces in terms of prices. So the customers ought to be very pleased. However, both those facts are irrelevant because this proceeding is about recovering historic original cost under cost-based regulation, and the relevant question is how much of the original cost of their plants should have been depreciated, and the answer is $235 million more than was depreciated.

Incidentally, Mr. Cicchetti also cites a document in the Public Utilities Fortnightly which indicates that Florida Power & Light has a negative exposure to stranded cost. Interestingly, there are other publications which estimate FPL's stranded cost exposure to be as high as 2.7 billion, but both the negative estimate and the positive estimate are irrelevant again because this proceeding is about correcting recoveries under cost-based regulation.

Perhaps the most inexplicable assertion in Mr. Cicchetti's testimony is that FPL might manipulate its earnings and it might elect to incur unallowable expenses. I can't imagine why FPL would have any incentive whatsoever to incur expenses not allowable by this commission when the entire focus of management for several years has been on reducing costs; but even if it were, the Commission and the Commission Staff and Public Counsel and the FERC would all have to be asleep at the switch to allow that to happen, and we know that's not true.

The Commission's policy of allowing faster recovery as quick as economically practical is a good policy because it gets prior service cost behind the company, and, therefore, customers in the future aren't burdened, but it also recognizes that current earnings are important. They're important and the stability of current earnings are important to keeping the value of securities high and, therefore, their costs low. And the cost of capital is very important both in the past and it will be important in the future.

Mr. Cicchetti further notes that FPL stock prices increased in the last five years, and that's true. It didn't increase as much as the market as a whole, but it's good that it increased because it helps keep capital costs low. If FPL stock price had fallen to 50 percent or some fraction of book value as have several utilities who are facing cost-recovery difficulties, it implies a much, much higher capital cost than FPL may be facing, and that's not a good situation.

So in summary, rate payers can benefit without a price decrease. They can benefit by avoiding a price increase, and this plan should be approved because it benefits customers who will be served for the longer term. It keeps rates stable. It lowers long-run costs and it avoids increasing risks which will be detrimental to customers in the future.

Q Mr. Gower, I believe you were asked to provide some reconciliation of some numbers related to what might be written off. Do you have that?

A Yes, I do. As I recall, there were two or three questions, one of them pending was, were the amounts booked under the previous docket in '95 and '96 the minimum under the plan? And it has been brought out by Mr. Cicchetti, no, they were not, the company did book some discretionary amounts in '95 and '96.

There was also a question, what will FPL book under the plan for 1997? At one time it was thought that perhaps the company would book some discretionary amounts. Now, however, the best information is it will likely book something very close to the minimum amounts which were shown on my late-filed exhibit.

The complicated question that I was asked was, what causes the difference between my late-filed exhibit and the estimated remaining balance of cost of reacquiring debt, and I will give you that information.

First of all, the question from Staff had to do with the projected unamortized cost of reacquiring debt as of January 1, 1998. That was shown on a response to an interrogatory as $98 million. In preparing the response to that interrogatory, the instruction to the company was, assume the additional capital recovery under the plan shown on a forecast 1997 surveillance report. And so in preparing that calculation, the company started with the December 31, 1996, unamortized balance, which is about $12 million less than shown on my late-filed, and it assumed a discretionary write-off in addition to the minimum of $79 million. The 79 million and the difference between the beginning balance on my exhibit and the calculation for the

98 totals $91 million. That was the difference between the sum on my late -- the sum of the three figures on my late-filed exhibit which added to 722 million, and the sum of the figures read to me in the questions which totalled 631 million.

Now, further, there was a question as, what will be the unamortized balance of the cost of reacquired debt as of January 1, 1998? And the answer is, as best we know it at this time, the 98 million, which was on the interrogatory, plus the 79 million discretionary additional expense recognition, which now does not appear to be likely to be recorded. So, as of this moment, my best guess is that the unamortized balance as of January 1, '98, will be $177 million in round numbers.

Q Is that all of the clarification that you have?

A I hope so.

MR. CHILDS: Then we will tender the witness for cross-examination.

CHAIRMAN JOHNSON: Mr. Brew?

MR. BREW: Thank you.

CROSS EXAMINATION

BY MR. BREW:

Q Mr. Gower, I've got exhibits I want to show to you. If you'll bear with me. Is this the company's response to Staff Interrogatory 13 that was submitted on

September 26th, 1997?

A Yes. This is the historical amortization of loss on reacquired debt plus the 1997 forecast, and that forecast figure apparently is -- does not appear to be too likely to eventuate at this time.

Q The forecast that was applied on September 26th was for $200,535,000?

A That's what this shows.

Q That's what this shows. Of which 19,428,000 was the normal amortization and the remainder 181,107,000 was the result of the plan in the prior docket?

A Yes.

Q And you're saying now that, since September 26th, the company has changed its estimate?

A No, I'm saying that the current indication is that the company may not book any discretionary write-off, which at one time it did anticipate doing.

Q So it's changed the forecast in the last month?

A I don't know when that was changed.

Q Well, this answer was delivered September 26th.

A I understand that.

The information I have is as of today.

Q Do you know when the forecast changed?

A No, I do not.

Q Did anybody at the company --

A I learned this today, and that's all I know.
Q Did anyone at the company attempt to notify Staff or AmeriSteel of the change in forecast?
A I do not know the answer to that.
Q Okay. Have -- with respect to your comments with respect to rate stability, has the company's O&M cost on a per-kilowatt-hour basis declined in each of the last six years?
A I would expect that they have declined over a period of time. I have not made a calculation for each of the last six years.
Q Has the company told investors that that trend is expected to continue in the future?
A I do not know the answer to that.
Q Okay. Is the company's capital expenditure budget roughly half what it was in 1993?
A I do not know the answer to that.
Q And we've talked a lot about the changes in the capital costs. Can you identify for me any major cost categories, other than depreciation and special amortizations, that are going up?
A I think taxes other than income tax has continue to rise.
Q And what is that as a percentage overall of revenues -- or revenue requirement?

A I don't have that number. I can get it for you if you like.

Q Well, can you give me an order of magnitude?

A No.

Q Okay.

A I can look it up for you and I'll be happy to do that.

Q Can I refer you to Mr. Cicchetti's exhibits -- it was identified as No. 14, his Exhibit No. 2, do you have it with you?

A Yes, I do, just one moment.

Was this an exhibit to the direct testimony?

Q Yes, yes, that's it.

A I have his direct testimony, if you could refer me to the correct exhibit.

Q It's the second page of -- the third page of his exhibits.

A Exhibit 2, page 1 of 1?

Q That's correct. Do you see the handwritten notes there?

A Yes, I do.

Q And the sentence that, "Please note that the total annual accrual amount is growing by an average of about $90 million a year." Do you see that?

A Yes, I see that.

Q Is that consistent with your understanding of the company's growth in revenues?

A I think the growth in revenues is somewhat greater than that.

Q Okay. If the plan isn't approved, do you know if FPL will be facing an excess earnings situation in 1998?

A If the plan is not approved and the company does not book the expense that would be indicated under the plan, it may report earnings which may appear to be excess, in excess of the authorized levels. That is one of the questions from -- I think the bench brought out earlier today. The appearance of an over-earning isn't necessarily so when there are unrecognized deficiencies, uncorrected deficiencies.

Q Does the approval of the additional expenses of the plan address any of the underlying factors that would lead to excess earnings?

MR. CHILDS: Excuse me --

Q (By Mr. Brew) Let me rephrase it.

If the plan were approved and the company continued to keep its operating costs down, which I understand you described as their major cost -- controllable cost driver.

A I indicated that operation and maintenance expenses were the ones which are most susceptible of control in the short run.

Q Okay. Assuming that the company keeps its O&M costs down during that two-year period and it continues to experience the revenue growth that's been projected, would the company's excess earning situation be more -- would it be greater when we get to the end of this plan than it is now?

A Well, I don't think the company has an excess earnings situation now. I thought your question was, would there appear to be an excess or would it appear to report earnings in excess of authorized if the expenses under the plan were not recorded?

Q And my question now is, if the plan were approved and went another two years and you continued to have revenue growth, and the plan expires and you don't have this continuing level of 400-odd million of expense, would the perceived excess earnings be even greater at that point?

A Well, they may or may not. That depends on the rate of growth in expenses.

Q I asked you to assume that they stayed under control.

A Well, that's an assumption not yet really in evidence. The company has been very successful up through '96 in controlling its operation and maintenance expenses, but inflation and growth in customers are going to have an effect, and I don't think it's necessarily a logical assumption. I can make that assumption, let's say everything stays except that revenues grow -- will grow, well, arithmetically it's going to show higher earnings. I'm just telling you that the assumption is not very good.

Q Thank you.

Now, you mentioned stranded costs in your rebuttal and in your summary of your rebuttal. Has this commission made any finding with respect to the potential for stranded costs of FPL?

A Not to my knowledge, and that was the point of my commenting upon it, that it was an issue raised in Mr. Cicchetti's testimony which is irrelevant.

Q Has the Commission adopted any policy with respect to recovery of stranded cost by electric utilities?

A Not to my knowledge.

Q Have you seen the FPL's web page?

A No, I'm not on the net.

Q Okay. Do you -- so you don't know whether or not the company on its internet page is describing the write-offs in this docket as reducing its potential for stranded costs?

A I don't know. I have heard that, but it may or may not.

Q Okay. On page 2 of your rebuttal, if you've -- I'll refer you to page 2, line 9. The sentence that reads, "Had information been available at the time, FPL with the Commission's approval would have recovered these costs from prior years." Do you see that?

A Yes, I do.

Q By "information available at the time," do you mean the most recent estimates of decommissioning costs?

A Not only decommissioning costs, fossil plant dismantlement costs, the depreciation -- I mean, the whole of the items addressed by this proposed agency action.

Q The depreciation reserve deficiencies that you referred to there that you reference on page 9, line 4, that's the $235 million that we had agreed earlier has already been written off fully? Is that right?

A That, plus any others that may yet be identified.

Q But we've agreed the 235 million is already gone, is that right?

A I think that's correct.

Q Okay. And in keeping with your comment on page 2 of your rebuttal, referring to the information that should have been available -- that had it been available at the time, the next time we, the Commission, considers a decommissioning study by -- or a fossil dismantlement study from FPL, it would have wanted to have that information all along too, would it not, in figuring out the reserve deficiency, since that would become the most current estimate?

A The most current information would go into the calculation of the theoretical reserves the day any study is made.

Q So we would always want the most current estimate, but we're never going to have knowledge about what the next estimate will be in advance, will we?

A No, we will not have knowledge in advance of the finite estimates. There is some knowledge of the factors that will enter into those estimates, and those are projected to the future in making each estimate, and there may or may not be variances between those projections and the subsequent developments as they actually turn out.

MR. BREW: Thank you. That's all I have.

CHAIRMAN JOHNSON: Staff?

MR. CRUZ-BUSTILLO: Chairman, we have no questions because we think he appropriately answered them in his summary of his rebuttal.

CHAIRMAN JOHNSON: Commissioners? No? Redirect?

MR. CHILDS: No redirect.

CHAIRMAN JOHNSON: Exhibits?

MR. CHILDS: This witness has no exhibits.

CHAIRMAN JOHNSON: I'm sorry.

MR. CRUZ-BUSTILLO: Yes, Chairman.
CHAIRMAN JOHNSON: Did we enter in all of Staff's exhibits? Were they all identified and entered?
MR. CRUZ-BUSTILLO: No, not -- I believe that there are two which are not entered. Can I come up and take a look and see?
CHAIRMAN JOHNSON: Well, I have two that are not entered.
MR. CRUZ-BUSTILLO: And they are not to be entered.
CHAIRMAN JOHNSON: Then I'm set.
MR. CRUZ-BUSTILLO: Yes.
CHAIRMAN JOHNSON: Any other matters?
MR. ELIAS: Just the question of the briefing schedule. What we would propose, the court reporter has indicated that the transcript can be filed no later than December 5th, possibly sooner. In order to meet the December 16th agenda, I propose that the briefs be filed no later than the close of business on Monday the 3th, with a Staff recommendation to be filed no later than the close of business on, or say noon on Friday the 12th.
CHAIRMAN JOHNSON: That was the briefs on the 8th?
MR. ELIAS: The 8th.
CHAIRMAN JOHNSON: And the filing on the 12th?

MR. ELIAS: Yes.

CHAIRMAN JOHNSON: Okay. Any other concluding matters?

MR. CHILDS: What day of the week is the 8th?

MR. ELIAS: Monday.

MR. CHILDS: Thank you. And that's an in-hand date?

MR. ELIAS: Yes. And with respect to the transcript there's a possibility that it will be filed sooner. The 5th is a Friday. I'll make sure that both parties get a copy of it as quickly as possible and before I leave here on Friday, the 5th.

CHAIRMAN JOHNSON: Okay. The schedule sounds fine. Anything else?

COMMISSIONER DEASON: This is going to come before the Commission at the regularly-scheduled agenda on the 16th?

MR. ELIAS: Yes.

CHAIRMAN JOHNSON: Seeing no other matters to come before us tonight, this hearing is adjourned. Thank you.

(Whereupon, the proceeding was concluded at 8:05 p.m.)

CERTIFICATE

STATE OF FLORIDA )
COUNTY OF LEON )

I, RAY D. CONVERY, Court Reporter at Tallahassee, Florida, do hereby certify as follows:

THAT I correctly reported in shorthand the foregoing proceedings at the time and place stated in the caption hereof;

THAT I later reduced the shorthand notes to typewriting, or under my supervision, and that the foregoing pages 1 through 424 represent a true, correct, and complete transcript of said proceedings;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 1st day of December, 1997.

Ray D. Convery

RAY D. CONVERY
Court Reporter