BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080317-EI

In the Matter of:

PETITION FOR RATE INCREASE BY
TAMPA ELECTRIC COMPANY.
_______________________________/

VOLUME 2

Pages 72 through 300

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PROCEEDINGS: HEARING

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, January 20, 2009

TIME: Commenced at 9:30 a.m.
Recessed at 5:07 p.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

APPEARANCES: (As heretofore noted.)

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PROCEEDINGS

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CHAIRMAN CARTER: We are back on the record, and thank you, one and all, for coming back after we had a nice lunch, historical brunch.

Just a few -- just a brief, brief, ever so brief reminder about my comments earlier. As your witnesses go up, you know, up to five minutes in their summary. Also, my comments about friendly cross. Let's govern ourselves accordingly, because we really do -- we have a lot of information, and we want to get it on the record and we want to move forward. And I don't think redundancy helps any of us, so let's move forward with that.

And with that, let's do this. The witnesses that we have for this afternoon that will be testifying, would you please stand, and I can swear you in as a group, and we can move forward from there.

MR. YOUNG: Mr. Chairman?

CHAIRMAN CARTER: Yes, sir.

MR. YOUNG: Just a reminder. TECO's witness, Ms. Abbott, she's gotten ill, and I think TECO would like to address the Commission.

CHAIRMAN CARTER: Was it something I said?

MR. WILLIS: No, sir. She was feeling bad yesterday and felt worse this afternoon. But what we would suggest is that -- I'm not sure we would get to her anyway today, but that if she is still feeling bad, that we proceed on with witness Murry and down the witness list until she feels better.

CHAIRMAN CARTER: Okay. Any objections?

Okay. Without objection, show it done.

Witnesses, please stand and raise your right hand.

(Witnesses collectively sworn.)

CHAIRMAN CARTER: Please be seated. You may call your first witness.

MR. WILLIS: I call Charles R. Black.

Thereupon,

CHARLES R. BLACK

was called as a witness on behalf of Tampa Electric Company and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WILLIS:

Q. Could you please state your name, business address, and occupation?

A. Yes. My name is Charles R. Black. My business address is 702 North Franklin Street, Tampa, Florida, 33602. I'm employed by Tampa Electric Company as president.

Q. Did you prepare and cause to be prefiled direct testimony of Charles R. Black consisting of 24 pages of testimony filed on August the 11th?

A. Yes, I did.

Q. Do you have any additions or corrections to your testimony?

A. Yes, I do. I'm sorry. No, I don't.

Q. Okay. Did you prepare an exhibit under your direction and supervision titled "Exhibit of Charles R. Black" consisting of one document which has been identified as Exhibit 14?

A. Yes.

Q. Do you have any additions or corrections to your exhibit or the MFR schedules you sponsor which are identified in Document 1 of your exhibit?

A. Yes. MFR Schedule F-9 was refiled on December 1st, 2008.

Q. If I were to ask you the questions contained in your prepared direct testimony, would your answers be the same today?

A. Yes, they would.

MR. WILLIS: I would ask that the direct testimony of Charles R. Black be inserted into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be inserted into the record as though read.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PREPARED DIRECT TESTIMONY

OF

CHARLES R. BLACK

Q. Please state your name, address, occupation and employer.

A. My name is Charles R. Black. My business address is 702 N. Franklin Street, Tampa, Florida 33602. I am employed by Tampa Electric Company ("Tampa Electric" or "company") as President.

Q. Please provide a brief outline of your educational background and business experience.

A. I received a Bachelor of Chemical Engineering degree in 1973 from the University of South Florida and I am a registered Professional Engineer in the State of Florida. I joined Tampa Electric in 1973 and have held various engineering and management positions at Tampa Electric and TECO Power Services, TECO Energy's former independent power production operations. In December 1991, I was named Vice President, Project Management for Tampa Electric. In that capacity, I was responsible for the engineering and construction of Tampa Electric's Polk Power Station, a first-of-its-kind 255 MW (net winter capability) integrated gasification combined cycle ("IGCC") unit. From 1996 through October 2004, I held leadership positions of progressively greater responsibility within the organization. Most notably, I was responsible for managing the repowering of Gannon Station and its conversion from a coal-fired facility to the natural gas facility, H. L. Bayside Power Station. This was a cornerstone project in the company's substantial environmental commitment made in 2000. In October 2004, I assumed my current role of President of Tampa Electric, and in that role I am responsible for the overall management of the company.

Q. What is the purpose of your direct testimony?

A. After extensive and careful analysis, Tampa Electric is requesting approval by the Commission for an increase in the company's retail base rates and service charges. The purpose of my direct testimony is to introduce the witnesses who have filed direct testimony on Tampa Electric's behalf, and to provide an overview of the company's filing and its positions in this case.

Q. Have you prepared an exhibit to support your direct testimony?

A. Yes. Exhibit No. ___ (CRB-1) entitled "Exhibit of Charles R. Black" was prepared under my direction and supervision. It consists of one document, "List Of Minimum Filing Requirement Schedules Sponsored Or Co-Sponsored By Charles R. Black".

Q. Briefly describe Tampa Electric.

A. Tampa Electric was incorporated in Florida in 1899 and was reincorporated in 1949. In 1981, Tampa Electric became a wholly owned subsidiary of TECO Energy, Inc. The company is a public utility regulated by the Florida Public Service Commission ("FPSC" or "Commission") and the Federal Energy Regulatory Commission. The company serves approximately 667,000 retail customers within Hillsborough and portions of Polk, Pasco and Pinellas counties, including the municipalities of Tampa, Plant City, Temple Terrace, Winter Haven, Auburndale, Lake Alfred, Eagle Lake, Mulberry, Dade City, San Antonio and Oldsmar.

The company maintains a diverse portfolio of generating facilities. Tampa Electric has five generating stations that include fossil steam units, combined cycle units, combustion turbine peaking units, an IGCC unit and internal combustion diesel units. These units are located at Big Bend Power, Bayside Power, Polk Power, Phillips and Partnership Stations.

Q. Please summarize the company's position in this case.

A. Tampa Electric's primary goal is simple: safely provide reliable electric service at the lowest possible cost over the long term. While the goal is simple to state, it is difficult to achieve. We are constantly challenged by changes in the economy, shifting needs of our customers and variations in weather. We are challenged, too, by the ever-increasing need to protect our environment and to comply with new laws and regulations. Still, Tampa Electric has been particularly successful in its efforts. The company has met these challenges by investing billions of dollars in new generating facilities, new environmental equipment, transmission and distribution facilities, and other infrastructure necessary to meet the increases in demand from a growing customer base. We have successfully achieved this goal without a base rate increase since

1994, but we have exhausted our options and must now seek a rate increase.

Q. When did the company's last full revenue requirements proceeding take place?

A. The company's last full revenue requirements proceeding was filed May 22, 1992. The Commission issued its Order No. PSC-93-0165-FOF-EI in Docket No. 920324-EI on February 2, 1993.

Q. In general, what changes has Tampa Electric experienced since its last base rate increase?

A. Since the company's last base rate increase, Tampa Electric has experienced tremendous customer growth while providing cost-effective, reliable electric service. The company has been able to maintain its retail base rates while investing $3.4 billion in generation and infrastructure additions to its system as operations and maintenance ("O&M") expenses dramatically increased. Since 1992, the cost of goods and services, as measured by the Consumer Price Index ("CPI") increased 48 percent. In addition, the costs of commodities essential to the production and distribution of electricity have also increased dramatically since that time. Labor costs have increased 77 percent and steel and concrete prices have increased 72 and 73 percent, respectively.

Tampa Electric has also improved efficiency and performance in all major areas of operations of its electric system, which has experienced an increase in retail peak demand of about 50 percent. In 2007, Tampa Electric served a retail peak load of 4,123 megawatts ("MW") compared to 2,771 MW served in 1992. As the population has grown in our service area, Tampa Electric has expanded its system to meet those needs. Today, Tampa Electric serves approximately 667,000 customers, almost 200,000 or 42 percent more customers than in 1992.

Customer growth in our service area is expected to continue although at a slower pace than the state has experienced in the past. While customer growth and increased efficiencies have allowed the company to operate well, customer growth and productivity efficiencies are no longer sufficient to allow Tampa Electric to continue to effectively and reliably meet the electric needs of existing and new customers at current base rates.

Q. Please identify Tampa Electric's witnesses and summarize the purposes of their direct testimony in this proceeding.

A. The direct testimony submitted by other witnesses on behalf of Tampa Electric and the areas each witness will address are as follows:

- **Gordon L. Gillette,** Tampa Electric's Senior Vice President and Chief Financial Officer and TECO Energy's Executive Vice President and Chief Financial Officer, will describe the capital structure of the company, the importance of maintaining the company's financial integrity, and the overall fair and reasonable rate of return needed to accomplish this goal.
- **Susan D. Abbott,** managing director with the investment-banking firm of New Harbor, Inc., will discuss the consequences of regulatory action, Tampa Electric's credit worthiness, its credit ratings and the importance of the current rate request.
- **Donald A. Murry, Ph.D.,** Vice President and Economist with C. H. Guernesey & Company, will

address the company's capital structure, cost of capital and fair and reasonable rate of return.

- **Lorraine L. Cifuentes**, Tampa Electric's Manager of Load Research and Forecasting, will discuss the company's load forecasting process, describe the methodologies and assumptions and the company's inflation assumptions.
- **Mark J. Hornick**, Tampa Electric's General Manager of Polk and Phillips Power Stations, will discuss the company's construction and O&M budgets for generation facilities.
- **Joann T. Wehle**, Tampa Electric's Director of Wholesale Marketing and Fuels, will support the company's fuel inventory requirements.
- **Regan B. Haines**, Tampa Electric's Director of Engineering and Field Services, will discuss the company's transmission and distribution system construction and O&M budgets. He will also discuss the company's reliability, service quality and storm hardening activities.
- **Dianne S. Merrill**, Tampa Electric's Director of Staffing and Development, will discuss the company's employee benefit costs, its record of controlling health care costs and the gross payroll expenses for the company.

- **Edsel L. Carlson Jr.**, Tampa Electric's Risk Manager, will address the appropriateness of the proposed annual storm reserve accrual and the target level for the storm reserve.
- **Steven P. Harris**, Vice President with ABS Consulting, will address his study supporting our proposed annual storm reserve accrual and the target level for the storm reserve.
- **Alan D. Felsenthal**, Managing Director with Huron Consulting Group, will support the company's income tax calculations.
- **Jeffrey S. Chronister**, Tampa Electric's Assistant Controller, will discuss the company's budgeted O&M expenses, income statement, balance sheet and ongoing capital budget and will review Tampa Electric's outstanding record of managing O&M expense below the Commission's O&M benchmark. In addition, witness Chronister will explain the calculation of Tampa Electric's revenue requirement for 2009.
- **William R. Ashburn**, Tampa Electric's Director of Pricing and Financial Analysis, will discuss the jurisdictional separation and retail class cost of service studies, billing determinants, billed electric revenue budgets and rate design.

Q. What is the company's specific base rate relief request?

A. Tampa Electric is requesting a $228.2 million increase in base rates and service charges effective on or after May 1, 2009, based on a 2009 projected test year. This increase will cover our costs of service and allows us the opportunity to earn an appropriate return on the company's investments. In establishing an appropriate rate of return for Tampa Electric, the testimonies of witnesses Donald A. Murry, Ph.D. and Gordon L. Gillette reflect that the midpoint of a fair return on equity ("ROE") is 12.00 percent with a range of 11.00 to 13.00 percent.

Q. What are the major factors driving the need for this base rate increase in 2009?

A. The significant cost drivers that have resulted in the need for a base rate increase are summarized below. The company's various witnesses in this proceeding address them in more detail.

Generation

The company has added significant generating resources to its system since 1994. From 1994 through 2007, Tampa

Electric has added approximately 1,400 MW of generation to meet growing customer demand. Polk Unit 1 is an IGCC power plant that has been named the cleanest coal-fired unit in North America and was placed in service in 1996. Polk Units 2 and 3, both simple cycle combustion turbines, were placed into service in 2000 and 2002, respectively. Polk Units 4 and 5 (also simple cycle combustion turbines) were placed into service in 2007. In addition, as part of a comprehensive environmental settlement, the Gannon coal-fired generation assets were repowered into the Bayside Power Station, a gas-fired combined cycle plant completed in 2004. Although all of these generation additions were determined to be the lowest cost resources to meet customers' needs, these investments have resulted in incremental costs above incremental revenue to Tampa Electric's system. Consequently, one of the major factors underlying the need for a change in base rates is to reflect these investments that are in rate base.

The company plans to construct five simple cycle combustion turbines in 2009 and two simple cycle combustion turbines in 2012, all to meet system peaking needs. In addition to generation added since the company's last rate case, Tampa Electric's current 10-

year generation expansion plan includes over 2,500 MW of new generation. The 2,500 MW of new generation includes a 533 MW natural gas combined cycle base load unit the company plans to add at its Polk Power Station by 2013. Finally, the company plans to invest in 2008 and 2009 for a rail facility at Big Bend Power Station to provide the company with transportation diversity for solid fuel. Tampa Electric witness Mark J. Hornick will address our generation expansion plans further in his direct testimony.

Transmission and Distribution

Tampa Electric made and will continue to make significant capital investments in its transmission and distribution infrastructure to meet its obligation to reliably serve customers and to meet the new system hardening requirements implemented by the FPSC after the hurricanes of 2004 and 2005. Since our last rate case, the company has added over 100 net miles of transmission. In 2009 and beyond, transmission capital expenditures are anticipated to be significant, necessitated by additional generation in the state, Florida Reliability Coordinating Council study impacts, as well as hardening of the existing infrastructure as discussed in the direct testimony of Tampa Electric witness Regan B. Haines.

Customer Demand

While Tampa Electric has enjoyed strong customer growth since its last base rate change, we expect it to slow considerably over the next few years. Although a number of factors such as increased conservation, improvements in appliance efficiencies and increasing energy prices have resulted in lower consumption, these reductions have been offset to a large degree by the increasing size of new homes and the increasing saturation of electronic appliances and other electric equipment. Energy consumption for the 2009 projected test year includes the impacts of Tampa Electric's recently approved new and modified demand side management programs as well as higher appliance efficiency trends associated with the Energy Policy Act of 2005. Tampa Electric witness Lorraine L. Cifuentes discusses this in more detail in her direct testimony.

Operations and Maintenance Expenses

For years, Tampa Electric has worked to control its O&M expenses despite steady growth in demand and the number of customers served, and while maintaining high levels of service reliability and customer service. Total non-fuel operating expenses for 2009 are expected to exceed $700 million. Tampa Electric's costs are expected to continue to increase due to the cumulative effects of inflation, customer growth and operational requirements.

Major impacts to the company's O&M since its last rate increase include employee benefits such as healthcare costs, depreciation expense, system hardening expenses, storm reserve accruals and federal and state compliance costs.

Q. Please describe the significant environmental commitment the company has made.

A. Between November 1999 and December 2000, the U.S. Department of Justice, acting on behalf of the Environmental Protection Agency ("EPA"), filed lawsuits against eight utility companies affecting 106 generating units for perceived violations of New Source Review ("NSR"), a complex program created by various provisions of the Federal Clean Air Act. While Tampa Electric contended it had not violated any NSR requirements, it decided the best outcome for customers, the environment and the company was to take early definitive action to significantly lower its emissions and thereby resolve the dispute. The company settled with the Florida Department of Environmental Protection ("FDEP") in late 1999 and the EPA in 2000 and began implementing a comprehensive program to decrease future emissions from the company's coal-fired power plants dramatically. Tampa Electric was the first utility in the country to resolve issues raised by the agencies.

The emissions reduction requirements included flue gas desulfurization systems ("FGDs" or "scrubbers") to help reduce SO_2, projects for NO_x reduction efforts on Big Bend Units 1 through 4 ("SCRs"), and the repowering of the coal-fired Gannon Station to natural gas. The total estimated costs are about $1.2 billion. While most of the environmental control systems are being recovered through the Environmental Cost Recovery Clause ("ECRC"), the repowering of Gannon Station makes up about $750 million of the total commitment and it is not being recovered through the ECRC nor was it taken into account when the company's current base rates were approved.

Q. What have been the benefits of Tampa Electric's settlement agreements with the EPA and FDEP?

A. Since 1998, Tampa Electric has reduced annual SO_2, NO_x

and particulate matter ("PM") from its facilities by 162,000 tons, 42,000 tons and 4,000 tons, respectively. The reductions in SO_2 emissions were accomplished in large part through the installation of scrubber systems on Big Bend Units 1 and 2 in 1999. The Big Bend Unit 4 was originally constructed with a scrubber but it was modified in 1994 to allow it to also scrub emissions from Big Bend Unit 3. Currently, the scrubbers at Big Bend Power Station remove more than 95 percent of the SO_2 emissions from the flue gas streams.

The repowering of Gannon Station to Bayside Power Station resulted in significant reductions in emissions of all pollutant types. The installation of the SCRs on all Big Bend units is expected to result in further reduction of emissions. By 2010, these SCR projects are expected to result in the total phased reduction of NO_x by 62,000 tons per year, which is a 90 percent reduction from 1998 levels. To date, these projects have resulted in the reduction of SO_2, NO_x and PM emissions by 93 percent, 60 percent and 77 percent, respectively, below 1998 levels. In total, by 2010 Tampa Electric's system-wide emission reduction initiatives will result in the reduction of SO_2, NO_x and PM by 90 percent, 90 percent and 72 percent, respectively.

Q. Has Tampa Electric reduced its greenhouse gas emissions?

A. Yes. In addition to the reductions in regulated emissions listed above, since 1998, system-wide emissions of CO_2 have been reduced by over 20 percent, bringing emissions to below 1990 levels.

Q. What efforts has Tampa Electric taken to control expenditures to avoid the need for higher rates?

A. Over the past 16 years, Tampa Electric has avoided seeking a retail base rate increase despite having experienced significant increases in operating costs and having made significant capital investments to meet the needs of its customer base. Since its last rate case through year-end 2009, the company will have invested more than $1.7 billion in the construction of new generating capacity and more than $1.5 billion in the expansion of Tampa Electric's transmission and distribution system. During this same period of time without rate relief, the CPI has increased by 48 percent. The company has been able to manage this because of numerous initiatives. One key initiative has been the concerted effort of Tampa Electric's management and team members to control O&M expenses. Since its last rate case, the company has succeeded in maintaining its total O&M costs under the Commission's O&M benchmark while customer growth increased by 42 percent during the same time frame. Tampa Electric's 2009 total O&M expenses are also below the Commission's benchmark. Tampa Electric continues to pursue efficiency improvements and cost reductions in all aspects of its operations.

The performance of Tampa Electric's generating units has also played a major role in Tampa Electric's ability to control its base rates. The company has improved the performance and availability of its existing generating units. Some of these improvements have provided, in effect, additional generation at a relatively low cost compared to the costs of constructing new and more expensive units. Additionally, Tampa Electric has continued to provide aggressive demand side management programs to its customers that have resulted in deferring the need for approximately 660 MW of winter generating capacity or the equivalent of almost four simple cycle power plants.

I am proud of our team members' efforts in managing all categories of expenses and I am pleased with the benefits we have provided to our customers. Unfortunately, we are at a point in time where these actions are no longer sufficient to cover our costs to provide service. For 2008, the company filed a forecasted surveillance report with this Commission with an expected 9.40 percent ROE, well below the bottom of our authorized range. For 2009, without the revenue requirements being sought, we expect the company's ROE to be at 4.38 percent. It is beneficial for our customers to have a financially solid electric utility with access to capital markets as needed to fund a robust and necessary capital program going forward at prices that minimize impacts to customers, so a projected ROE of 4.38 percent for 2009 is not in the best interest of our customers or shareholders.

Q. What are the implications of Tampa Electric being foreclosed from the markets?

A. As indicated in the direct testimony of witness Susan D. Abbott, being unable to access capital markets and fund company needs will increase costs, decrease reliability and eventually result in higher costs to customers. This is not acceptable for our customers.

Q. Has Tampa Electric considered its customers before filing for an increase in rates?

A. Yes, we have. The company has carefully evaluated all options before making this request. A major tenet of Tampa Electric's operating philosophy is a focus on our customers. While we are keenly aware of the impacts that a price increase has, we remain committed to continuing to find cost-effective conservation initiatives, and to implementing efficiencies and other prudent cost-cutting measures that minimize the need for higher rates.

Q. Does Tampa Electric's proposed rate design support statewide energy efficiency efforts?

A. Yes. We are proposing a two-block, inverted base energy rate with the break-point at 1,000 kWh and a one cent per kWh differential between the two blocks for the residential standard service rate in lieu of a flat base energy rate. We believe the higher rate above 1,000 kWh provides an appropriate price signal to customers regarding their energy usage because it can serve as a means for encouraging energy conservation. To optimize the advantage of this conservation-oriented rate design and further motivate customers, we will also seek Commission approval of a two-block inverted residential fuel factor in our upcoming 2009 fuel and purchased power projection filing in Docket No. 080001-EI on September 2, 2008. By implementing an inverted rate design for the residential base energy charge and fuel factor, the company is supporting statewide efforts for the efficient use of energy.

In addition, the company is proposing the continuation of the RSVP rate, our critical peak pricing conservation program known as Energy Planner. Energy Planner allows customers to make energy consumption decisions based on near real-time energy prices by using a programmable "smart" thermostat provided by the company. Both the RSVP and inverted rate designs reinforce state-wide efforts to educate consumers regarding their energy consumption while sending price signals that emphasize the monetary benefits of energy conservation. Tampa Electric witness William R. Ashburn discusses these conservation-oriented rate designs in greater detail in his direct testimony.

Q. Does the company have any special programs for customers with special needs?

A. Yes. Our special needs programs include our 62+ program and the assistance we provide to a variety of social services programs, including our SHARE program, a program that helps senior customers who have low-incomes and/or who are medically disabled and unable to pay their energy-related bills. We also provide Commission-approved conservation related credits and cash incentives to our customers to encourage them to use electricity wisely. We attempt to communicate to our customers in multiple forums and media to inform them more clearly about energy issues, especially the steps they can take to mitigate the effects of increasing rates.

Q. Please discuss Tampa Electric's proposed overall rate design.

A. Tampa Electric's proposed rates and service charges are designed to produce the company's requested additional revenues of $228.2 million. Tampa Electric's proposed rate design more accurately reflects the cost to serve the various classes. Cost of service is a major consideration in the rate design as well as revenue stability and continuity. As I previously mentioned, the rate designs for the residential class are designed to produce conservation-oriented price signals. In addition, the company is proposing to combine all demand billed customers into a single rate schedule with cost-effective options for customers that elect to be subject to service interruption. Witness Ashburn discusses rate design in greater detail in his direct testimony.

Q. Please summarize your direct testimony.

A. Tampa Electric has worked very hard to establish itself as a low-cost provider of high quality electric service while being sensitive to the interests of our customers and the environment in which we live. We are extremely proud of our environmental commitments as evidenced by our Polk Unit 1 IGCC facility and our repowered Bayside Power Station. Our accomplishments reflect the efforts of a strong management team and dedicated team members throughout the company. Collectively, our efforts have succeeded in delaying as long as possible the necessary increase in the company's retail base rates and service charges while keeping pace with Florida's rapid growth and demand for power. The central element in Tampa Electric's operating philosophy is to provide customers with reliable electric service at a reasonable price. We know that price increases put economic pressures on our customers but the declining financial condition of the company coupled with our obligation to provide reliable service mandate that we increase our prices in order to have the opportunity to earn a fair return, both in the near term and over time. This will ultimately yield benefits to customers by ensuring that we maintain access to capital markets in order to secure the necessary funding for current and future investment at a reasonable cost. After 16 years, an increase in retail base rates is now necessary to ensure that Tampa Electric can continue to provide reliable, cost-effective electric service at the levels its customers have come to expect.

Q. Does this conclude your direct testimony?

A. Yes, it does.

BY MR. WILLIS:

Q. Please summarize your testimony.

A. Thank you. Good afternoon, Commissioners. The purpose of my testimony today is to describe Tampa Electric's request to increase our base rates and to identify and describe the drivers that require the company to take this action.

We have taken aggressive action over the last 16 years since our last rate case to avoid asking for an increase in base rates while still providing safe and reliable electric service to our customers. Since the company's last retail base rate proceeding in 1992, Tampa Electric has added 200,000 customers and has invested $3.4 billion in generation and infrastructure additions to its system while providing cost-effective, reliable electric service. This has been done while drastically reducing the environmental impact of our system through the implementation of a 10-year, $1.2 billion commitment to significantly reduce our emissions, including emissions of greenhouse gases. These reductions have already achieved positive results such that Tampa Electric Company is one of the cleanest coal-fired utilities in the country.

Over the same period of time, the cost of goods and services used by the company have escalated by

48 percent. Specifically, labor, steel, and concrete prices have increased more than 70 percent. While the company has taken numerous actions to help reduce its cost to operate, it can no longer do so without an increase in our base rates.

It is imperative that Tampa Electric remain financially solid with access to the capital markets, which is required to fund our capital investments at the lowest cost to our customers. Without the base rate increase being requested today, the company's 2009 return on equity is projected to be about 4.4 percent. This is not an acceptable return for our customers or for our shareholders.

The company is requesting an increase in base rates and service charges of $228 million. Tampa Electric is also recommending certain rate design changes to better reflect the cost of providing services to various classes of our customers. One key change in rate design is for our residential customers. The company is proposing a two-block inverted base energy rate in lieu of a flat base energy rate. This design will support statewide efforts for the more efficient use of energy.

Tampa Electric recognizes that there's never a good time to seek higher rates, and we do not take our decision to file for higher rates lightly. However, due to the declining financial condition of Tampa Electric company, coupled with our obligation to provide reliable service, mandate that we increase our prices in order to position the company with the necessary financial strength to access capital markets for the benefit of our customers. Unfortunately, after 16 years, an increase in base rates is now necessary.

That concludes my summary.

MR. WILLIS: Tender the witness.

CHAIRMAN CARTER: Ms. Christensen, you're recognized.

CROSS-EXAMINATION

BY MS. CHRISTENSEN:

Q. Good afternoon, Mr. Black. I just have a few questions for you. I want to refer you to page 11 of your direct testimony.

On page 11, you state that the five simple cycle CTs are needed to meet system peak demand; is that correct?

A. What line are you referring to?

Q. Twenty-one through 24.

A. That's correct.

Q. And isn't it correct that for system peak to be growing, the overall sales have to be growing as well?

A. No, that's not correct.

Q. Would you agree that the five simple cycle units are needed to meet peak demand in 2009?

A. When the projects were initiated, the five CTs were required to meet margin reserve requirements. As we look at our revised forecast, it appears that all of them may not be needed in 2009. We're evaluating that situation now. But it's important to note that those CTs provide benefits to the operation of our system in addition to just satisfying our reserve margin requirement.

Q. Okay. So it would be correct that the five simple cycle combustion turbines will be needed not only to meet peak demand and sales growth in 2009, but also in subsequent years, or at least some of them will be?

A. Yes.

Q. Mr. Black, have you made a determination whether or not some of those combined cycle plants will not be built in 2009?

A. We currently don't have any combined cycle plants scheduled to be constructed in 2009.

Q. Excuse me, the CTs. Have you made a determination regarding the CTs as to whether any of them will not be brought on line in 2009?

A. We have looked at some contingency planning that could push some of those units out, but we have made no decision to deviate from the plan that we have in place today.

Q. What are those contingency plans?

A. As we look at our next demand and energy forecast and go through the process of our Ten-Year Site Plan that we normally do every year, depending on what that tells us, it may indicate that some of the later of those CTs should be pushed out some.

Q. And when will the company be making that decision?

A. That's typically done in the April time frame.

MS. CHRISTENSEN: Okay. No further questions.

CHAIRMAN CARTER: Ms. Bradley.

MS. BRADLEY: Thank you.

CROSS-EXAMINATION

BY MS. BRADLEY:

Q. Mr. Black, in discussing some of your witnesses' testimony, you mentioned the fact that they were going to testify about why your requested rate is fair and reasonable?

A. Yes, ma'am.

Q. Have you reviewed the public hearing, the testimony that was given at the public hearing?

A. I'm sorry. Could you repeat that?

Q. Have you reviewed the testimony that was given at the public hearing?

A. Yes, ma'am.

Q. Some of those people testified that they would not be able to afford to pay their electric bills if there was an increase such as that you had requested. Would it be fair to say that those people are not going to consider this fair and reasonable?

A. I think it's fair to say that we've included in our filing significant conservation programs that can assist folks that are having trouble meeting their electric bills and provides them a way to reduce their energy usage and therefore their electric bills. We also have filed as part of this case for an inverted residential rate that I mentioned earlier, and that's going to provide a price signal to promote the conservation of energy. It's also going to help that rate be affordable for people that fall below the initial breakpoint there.

So I think we have addressed some of these issues as it relates to affordability. We also work with local agencies such as the Share program through the Salvation Army in the Tampa area that provides assistance to people who have trouble making their electric bill.

Q. Going back to my question, though, for somebody that's unable to afford the rate increase and has already taken steps to conserve and lower their energy use, can you understand that they will not consider this fair or reasonable?

A. I understand that this rate increase is going to have impact on individuals. Our company works WITH those individuals to the extent possible to mitigate the impacts on them. Whether or not they consider it just and reasonable is something you really need to ask them. I mean, no one likes to see rates go up. No one likes to see their gasoline rates go up, their food rates, electric rates, or any rates, and we understand that and are sensitive to those issues.

That does not change the fact that to provide the lowest cost to our customers over the long term, it's important that we have adequate access to the capital markets and be able to raise capital at rates that provide a lower cost for our customers not only today, but over the long term.

Q. Are you given stock in your company each year?

A. Part of the incentive program is a long-term incentive which has restricted stock, so it's not actually given to you at that time, but it's restricted over some period of time.

Q. So do you own shares in your company?

A. Yes, I do.

Q. And what is the salary that they pay you?

A. My current salary?

Q. Yes, sir.

A. $368,000 per year.

Q. And is that in addition to the incentives that you talked about?

A. Yes, it is.

Q. Can you understand that there are persons out there that can't afford any more of an increase and that looking at the salary that you're making, they may not understand that?

A. I can understand how people may not understand that, but I think it's important to note that in order to provide the lowest cost service to our customers over an extended period of time, we need competent, qualified people in all levels of jobs in our company, including the executives. And by having talented, capable executives in position in our company, that's going to benefit those customers over time.

Q. Would you be willing to lower your request for a rate increase if it would allow more people to be able to afford your services?

A. I think the rate increase we're seeking again not only focuses on the short-term impact to our customers, which is important, but also the longer term impacts, and allows us -- the request that we've asked for will allow us to provide longer term savings to our customers. So in that context, I think the rate plan that we have filed provides the lowest cost, long-term options for our customers.

Q. And again, going back to my question, if you would, would you be willing to lower your request for an increase if it would allow more people to be able to afford your services?

A. No. I don't believe that's appropriate in the context that it may provide a short-term benefit, but is not beneficial to those customers over the long term.

MS. BRADLEY: Nothing further, Mr. Chairman.

CHAIRMAN CARTER: Mr. Wright.

MR. WRIGHT: Thank you, Mr. Chairman.

CROSS-EXAMINATION

BY MR. WRIGHT:

Q. Good afternoon, Mr. Black.

A. Good afternoon.

Q. Are you familiar with the company's MFRs?

A. Yes.

Q. I'm not going --

A. In general.

Q. I'm not going to hold you to every number that's in there.

In your summary, you remarked that without rate relief, the company would earn about 4.4 percent ROE.

A. That's correct.

Q. Isn't it true that the company's MFR Schedule A-1, which is the first page of the executive summary, shows that even without rate relief, the company will recover all costs necessary to provide service?

A. I'm not sure I have that document.

Now that I'm looking at the document, could you repeat the question again?

Q. Isn't it true that the company's MFR Schedule A-1 shows that even without rate relief, the company will recover all the costs necessary to provide service in 2009?

A. By that are you asking whether the company would be able to operate without incurring a loss for that year?

Q. Yes, sir.

A. That's correct.

Q. So you could cover all your costs, depreciation, interest, and everything else; correct?

I would also point out that a factor influencing that is the way that the company has been managed, as evidenced by the fact that our O&M numbers for our projected test year are significantly below the Commission's benchmark for O&M expenses. So I think it's a number of factors, but that clearly is one of them.

Q. Regarding your testimony just now regarding your O&M costs being below the benchmark, is it your testimony that just because O&M costs are below the benchmark proves that they're reasonable and prudent?

A. No, not totally. I think the Commission needs to look at all those expenses individually to determine the prudency, but I think it is instructive as an overall general assessment and has been used by the Commission historically to determine the reasonableness of your O&M program.

Q. Thank you. Do you know what the company's base rate revenues were in 1993?

A. No, I don't.

MR. WRIGHT: Mr. Chairman, I'm going to ask the Commission to take official notice or administrative notice, or whatever we call it, of a number of the Commission's orders, including 15451, 93-0165, and others. I have complete copies of most of these orders, and I have excerpts of others. For the most part, my intention is to simply ask the witness to confirm certain numbers in these orders. I do have sufficient copies for you and the parties to look at as we go through it. Otherwise --

CHAIRMAN CARTER: Ms. Helton, is there a more efficient way to do this? Do we need to --

MS. HELTON: I think that the way the pendulum has swung right now is that the Commission's position is that we do not need to take official recognition of any Commission order. I think everybody acknowledges that the orders have been issued by this Commission. The orders speak for themselves. And if there are numbers in the orders that you want verified, I think we could just make a statement that we would accept the numbers as they are represented in the orders that have been issued.

CHAIRMAN CARTER: Okay. We'll proceed further.

MR. WRIGHT: Thank you. That will make it a little bit more efficient. I would like to approach the witness and show him the order coming out of --

CHAIRMAN CARTER: You may proceed.

MR. WRIGHT: -- the 1992 rate case.

BY MR. WRIGHT:

Q. This is the order from the case, and this is the exhibit I want you to look at.

A. Okay.

MR. WRIGHT: Mr. Chairman, I've just handed the witness a copy of Order 93-0165, which was the Commission's order coming out of the 1992 rate case, and I've directed his attention to page 103.

BY MR. WRIGHT:

Q. And my question, Mr. Black, is, is it correct that that indicates that the company's base revenues for 1993 were approximately $545 million?

A. Yes.

Q. I'll try to save time on this one. Will you agree, subject to verification, that your company's MFR Schedule C-5 shows projected total retail sales of approximately 2 million -- I'm sorry, 2,075,000,000?

A. What's the basis of that again? I'm sorry.

Q. It's MFR C-5, page 2, for 2008.

A. Let me take a look at it.

Q. Certainly. (Tendering document.)

COMMISSIONER ARGENZIANO: Mr. Chairman.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: While he's reviewing that, could staff verify for me -- I have a different salary for Mr. Black than was indicated. I have

535,712, and I would like to know if that's including stocks or what's the right number.

CHAIRMAN CARTER: Mr. Willis, can you help us out with that?

MR. WILLIS: I'm not sure I understood the Commissioner's question.

COMMISSIONER ARGENZIANO: I guess, Mr. Chair, I can ask Mr. Black when he's done. When we're done, I'll ask him myself.

CHAIRMAN CARTER: Okay, because it may be salary and --

COMMISSIONER ARGENZIANO: Right. Thank you.

CHAIRMAN CARTER: Thank you. Mr. Wright, you can continue questioning, and we'll just take a moment after you complete your questioning.

MR. WRIGHT: Thank you, Mr. Chairman.

BY MR. WRIGHT:

Q. Mr. Black, have you had an opportunity to look at that schedule?

A. (Nodding head.)

Q. I have two questions. The first one, I think the pending question is, isn't it true that the company's estimated, as of the filing date, total retail revenues for 2008 were approximately $2,075,000,000?

A. Our witness Chronister actually sponsored this exhibit and would be able to answer in more detail, but, yes, that's what it indicates. However, it would seem to me that that would include also revenues associated with fuel recovery.

Q. Yes, sir. And if you would look at the right-hand column of that table, would you also agree that it shows that the projected base revenues, or partially actual and partially projected base revenues for 2008 is approximately $847 million?

A. Yes.

Q. Thank you.

CHAIRMAN CARTER: While you're shifting gears, I'm going to break in for Commissioner Argenziano. I just saw you going to another document.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Thank you. Mr. Black, you had answered a different salary than what I have here. I have indicated for your salary as being 535,712. Does that include stocks and bonuses, or can you tell me what your entire salary is, including any bonuses or perks or whatever they're called?

THE WITNESS: Okay. The interrogatory that was provided, interrogatory number 2, is slightly different on my base salary, but it indicates it's $370,240 per year for salary.

COMMISSIONER ARGENZIANO: Okay. Do you have a number which includes the bonuses or stocks or anything?

THE WITNESS: Yes, ma'am. The stock awards for 2008, 306,431; option awards, 16,279; and non-equity incentive plan compensation, 202,653; other compensation, 8,311.

COMMISSIONER ARGENZIANO: If I may ask, and I'm not sure if I've got it right or not, there's a parent company. Do you work for the parent company also?

THE WITNESS: No, I do not.

COMMISSIONER ARGENZIANO: Okay. And could somebody total that up for me real quick?

THE WITNESS: On the interrogatory, the total comes out to be 901,938.

COMMISSIONER ARGENZIANO: 901 --

THE WITNESS: 901,938.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Mr. Wright, you may proceed.

MR. WRIGHT: Thank you, Mr. Chairman. I do have an exhibit that I would ask be marked --

CHAIRMAN CARTER: You may proceed.

MR. WRIGHT: -- as Exhibit 90.

CHAIRMAN CARTER: That will be Exhibit 90.

MR. WRIGHT: Exhibit 90.

CHAIRMAN CARTER: Title?

MR. WRIGHT: 1993 Tampa Electric FERC Form 1 excerpt.

CHAIRMAN CARTER: '93?

MR. WRIGHT: Yes, sir.

CHAIRMAN CARTER: 1993 TECO FERC Form 1. Is that what you said?

MR. WRIGHT: Excerpt, yes, sir. I'm trying to save as many trees as possible. The whole document is 150 pages.

CHAIRMAN CARTER: Okay.

(Exhibit 90 was marked for identification.)

BY MR. WRIGHT:

Q. Mr. Black, I'm confident that you're familiar with the company's FERC Form 1s; is that accurate?

A. I'm familiar with the FERC Form 1s. I'm not familiar with the 1993 version of it.

Q. Okay. Let me just direct your attention first to what is actually the third page in the packet. It's a signature page averring the veracity of the filing by Mr. L. L. Lefler; is that accurate?

A. Yes.

Q. And if I could ask you now to turn to the page that is third from the last, at the bottom of the page in the FERC Form 1 system, it says page 304A.

A. Okay.

Q. If I could ask you to look at the column headed Revenue, also headed C, and look down to line 70 -- actually, if you would look at line 82, does that show that the company's total retail revenue for 1993 was approximately $946 million?

A. That's what's indicated on this form. Again, I can't speak to what's included in that or the basis of that reporting.

Q. But these are forms that the company routinely files with the Federal Energy Regulatory Commission?

A. That's correct.

Q. Did you know Mr. Lefler in your career?

A. I did.

Q. Have you heard the proposition or what you might call the old saw that public utilities typically ask the regulatory authorities for twice as much as they need?

A. I've heard that. I would not agree with it.

Q. Fair enough. Before we go on to discuss your 1992 rate case and its outcome, I would like to discuss the 1985 rate increase request briefly. Have I given you a copy of Order 15451 yet?

A. I don't think so.

MR. WRIGHT: Mr. Chairman, my colleague has just given the witness a complete copy of Order 15451.

BY MR. WRIGHT:

Q. Mr. Black, fortunately for all of us, I only want you to look at page 2 of this order, and I just want to ask you to confirm that in its 1985 filing, the company requested an increase of $136 1/2 million. For your convenience, you can see that in the first paragraph below Roman numeral II, Background of Proceedings, on that page 2.

A. Yes, that's correct.

Q. And if you look in the next to last line of that paragraph, will you also confirm that the company's requested increase was based on a rate of return on equity of 16 percent?

A. That's correct.

Q. Looking at the first paragraph on that page, will you confirm -- actually, the first and third paragraphs, will you confirm that the Commission granted an initial increase plus two subsequent year rate increases that totaled approximately $63.8 million?

A. I'm sorry. I don't see that number.

Q. Well, if you look in the third line of the first paragraph, it will say Tampa Electric -- it says the company shall receive an increase in gross revenues of $45,663,000.

A. Correct.

Q. So far so good? Now if you'll look at the last three lines of the third paragraph, I would ask you to confirm that the order says that it awards the company subsequent year revenue increases of $10,408,000 and $7,688,000 for 1997 and 1998 respectively.

A. That's correct. That's what it says.

Q. And if you want to verify my arithmetic, you're welcome to, but I submit to you that if you add those numbers together, you get $63,779,000. Does that sound about right?

A. Sounds about right.

Q. Okay. And will you also agree that the Commission based rates and revenues for Tampa Electric in its 1985 case on a rate of return on equity of 14 1/2 percent?

A. That's correct.

Q. I want to ask you about the 1992 case. And I believe you still have a copy of the whole order there.

A. What was the order number on that one?

Q. 93-0165.

A. I have a 920324.

Q. That's docket number. The order number is right above that, 93-0165.

A. Okay.

Q. If I could ask you to look at page 3 of that order.

A. Okay.

Q. I just want to ask you to confirm that the company's requested increases totaled $63.5 million in 1993, with a subsequent year step increase in 1994 of $34.4 million.

A. That's correct.

Q. And the company -- is it also true that the company asked that a 13.75 percent return on equity be used to set its revenue requirements and rates in that case?

A. Yes.

Q. If I could ask you to look at page 10 of that order, I would like to ask you to confirm that the Commission granted the company a total increase of $18,575,000 spread over the two years, 1993 and 1994.

A. That's correct.

Q. And that the Commission used a rate of return on common equity for purposes of setting rates and determining revenues at 12 percent.

A. That's consistent with the order. I think it's important to realize that all of these cases were set in a specific time with specific issues associated with them, and that the case we have before us now needs to be looked at in the context of the current conditions and the current situation. But I would agree these numbers are correct.

Q. Thank you. To try to expedite things, are you familiar with the company's performance during the 1990s, Mr. Black?

A. Specifically what did you have in mind?

Q. Are you aware that in -- that the company agreed to reduce its rate of return on equity to 11.35 percent in -- I'm sorry. The year has escaped me. In 1994.

A. That may be correct, but I don't have any knowledge of it, and I wasn't involved with that activity.

Thank you.

MR. WRIGHT: Mr. Chairman, my colleague has just handed Mr. Black a copy of Commission Order 94-0337-FOF-EI.

BY MR. WRIGHT:

Q. I would like to ask you to look at page 2 of that order, Mr. Black. If you'll look at the second paragraph, will you agree that the order recites that TECO filed a formal proposal on October 7th, 1993, to reduce its ROE to 11.35 percent and implement a storm damage reserve of $4 million a year for the succeeding four years?

A. That's correct.

Q. And are you aware that the company agreed to absorb that $4 million storm accrual out of existing rates without increasing those rates?

A. My understanding is that the $4 million was roughly equivalent to the insurance premium that we had been paying for T&D insurance that was no longer available, so it was somewhat of an offset.

Q. Understanding that it was an offset, isn't it true that the answer to my question is yes?

A. Yes.

Q. Are you aware of the company agreeing to stipulated refunds for overearnings for 1995, 1996, 1997, and 1998?

A. I'm aware that there was a stipulation. The details of that stipulation I wasn't involved with and really am not in a position to speak to the details of it.

Q. Well, subject to -- I'm trying to be as efficient as I can, Mr. Chairman, without trying to hand out six more orders. Will you agree, subject to verification by reference to Commission orders, that in 1996, the company agreed to a one-time refund of $25 million for 1995 and 1996 overearnings?

A. Subject to verification, yes.

Q. And also, in 1997, the company agreed to an additional refund of $25 million for 1996 overearnings, and subject to verification by reference to the appropriate Commission order?

A. Yes.

Q. And that in 2000, the company agreed to a one-time refund of $13 million for 1997 and 1998 overearnings?

A. Yes.

Q. And in 2002, pursuant to a hearing, the company was ordered to make a further one-time refund of $6.3 million for 1999 overearnings? Again, all this is subject to verification by the orders.

A. Yes.

Q. Okay. So the company was really doing fine, at least into 2001 and 2002, wasn't it?

A. Well, I think the company has been able to manage since 1992 without having to come back and ask for a base rate increase. There have been several things that occurred in the interim that you've referenced that have been part of how we've been able to stay out. But the situation was such that we did not need to come and seek base rates under that period, so if that's what you mean by doing fine, I guess I would agree.

Q. Well, I think what I would ask you is this. Isn't it true that you were doing so well that not only you didn't have to come back and ask for a rate increase, you had to give money back during that time?

A. There were some refunds. My understanding was that some of those were associated with new large capital units coming into service, and those refunds served to smooth the rates a little bit. There were a lot of very specific things going on during that time, and I think it's important as we look at those situations in those particular orders to completely understand the comprehensive sets of circumstances that were in play at the time.

Q. Will you agree that the company was earning near, at, or above its authorized rate of return for most of the time period from 1993 through at least 2002?

A. I can't verify that.

Q. Isn't it true that the company was earning within its authorized range as recently as last year?

A. That's correct.

Q. At page 20 -- I'm changing lines, just so everybody will know. At page 20, Mr. Black, you make the statement that the company has carefully evaluated all options before making this request; correct?

A. I'm sorry. Page 20 of the order we're looking at?

Q. I'm sorry, Mr. Black. Page 20 of your testimony.

A. Yes.

Q. I want to ask you some specific questions about what you did or did not consider. Did you consider not asking for the combustion turbines to be included in rate base?

A. We considered not asking for that, but we felt that since the gas combustion turbines were being placed in service in the test year and would provide benefits to our customers for every year thereafter, it was appropriate to include them. But it was considered.

Q. Did you consider at least not asking for the total annualized revenue requirements to be included in 2009?

A. We also considered that. But again, we believed that since they are going in service in the test year, but more importantly, will provide benefits to our customers every year thereafter, that it was appropriate to seek annualization of those.

Q. In response to a question by Ms. Christensen, I believe you indicated that the company is considering deferring the in-service dates of the combustion turbines; is that accurate?

A. That's one of the options we're currently evaluating.

Q. And the company does have control over that decision such that you could make the decision not to bring them on line at all in 2009?

A. We have some flexibility with the turbines that are scheduled to go in service in September. The ones that are scheduled to go in service in May are far enough down the construction road that I don't know that there's a whole lot of savings associated with not bringing those into service. But we do have some flexibility with the units scheduled for September.

Q. Did I understand some earlier testimony correctly that -- or maybe it was Mr. Willis's opening statement, that there are two combustion turbines scheduled to come on line in May and three in September?

A. That's correct.

Q. Thank you. Considering that the rail facilities won't be in service until December, did you consider not asking for the rail facilities to be included in rate base for the test year in this case?

A. Again, we did consider that. The logic was similar. The rail facilities provides very significant fuel benefits to our customers and will provide those benefits from the time it goes in service going forward. If we had not included it, we basically would be in a situation where we would not be getting rates to cover that investment which are benefiting in a significant way our customers, so we felt the annualization again was appropriate.

Q. Well, you'll agree they're not providing benefits at all before December, won't you?

A. That's correct. It's going to go in service in December.

Q. And we also agree that the company, Tampa Electric Company, chose the test year upon which it filed its case?

A. Yes, we did.

Q. So wouldn't it be true that you could have waited for a rate increase altogether and filed for a 2010 test year?

A. That was an option. But when considering the financial deterioration of the company and the projected return on equity for 2009 that we were looking at, we felt that it was a situation that we could not defer the test year for another year.

Q. And when you say you made the decision you could not defer the test year, does that include your making the determination that you considered but rejected the option of waiting to file a rate case --

A. Yes.

Q. -- until later in 2009?

A. Yes.

Q. Thank you. Is it the company's position that you would rather increase rates now in order to increase the company's storm reserve so that you wouldn't have to resort to seeking a surcharge in the aftermath of a storm?

A. As described by Mr. Carlson and Mr. Harris, we believe that the recovery through the storm damage accrual on an annual basis is a more cost-effective way to fund any potential storm damages, particularly if the total amount is less than the 120 to $150 million range. So we did consider the other options available to us, that being a surcharge and securitization, but we believe that recovery through a storm damage accrual is a smoothing and a more appropriate way to recover those costs.

Q. Did you consider the prospects both of a surcharge, such as was implemented by Progress Energy, and securitization, such as was implemented by Florida Power & Light Company?

A. Yes, we did.

Q. Would it be your opinion or policy that Tampa

Electric doesn't want to raise rates when your customers are hurting?

A. Our policy would be that we have an obligation to provide service to our customers over a long period of time, and we need to do that in the lowest cost way that we can. We recognize that the economic times are tough, but it's important to maintain the economic viability of the company on a long-term basis.

Q. Tampa Electric serves pretty much all of Hillsborough County, does it not?

A. That's correct.

Q. And a substantial amount of what is generally known as the Tampa Bay area?

A. We serve all the areas of Hillsborough County and portions of Polk, Pasco, and Pinellas County.

Q. Are you generally familiar with economic situation in the Tampa Bay area, Mr. Black?

A. Yes.

Q. Are you familiar with the level of foreclosures on real estate?

A. I know that it's gone up considerably.

MR. WRIGHT: Mr. Chairman, I'm having another exhibit distributed.

CHAIRMAN CARTER: You need to mark --

MR. WRIGHT: Ninety-one, I believe.

CHAIRMAN CARTER: Ninety-one. Title?

MR. WRIGHT: News article re Florida foreclosure rates, January 16, 2009.

(Exhibit 91 was marked for identification.)

BY MR. WRIGHT:

Q. Mr. Black, are you familiar with the tampabay.com website?

A. No, I'm not.

Q. I would like to ask you to look at the second -- well, actually, the third page of the handout, counting the cover sheet as the first page. Starting from the top, if you would look at the item numbered 4, it states that the Tampa Bay area ranked 13th in 2008 among major metro areas in foreclosure filings. That is what the article says; correct?

A. I'm sorry?

Q. It is correct that this article says that the Tampa Bay ranked 13th in 2008 among major metro areas with regard to foreclosure filings?

A. Yes, it is.

Q. Is that generally consistent with your knowledge of the real estate market in the Tampa Bay area?

A. It is. As I discussed earlier, the consideration of foreclosures and the general economic condition is an issue that we considered as we put this case together. And through our conservation efforts and our rate design, we've tried to mitigate the impact of that to the extent that we can.

We believe, again, that over the long term, it's important for us to be able to access the capital markets and to do that at rates that provide our customers the lowest cost. If we are not able to access the capital markets, we cannot make the investments that we need to make to provide the reliable service to our customers. And that's the balance that we try to strike, and that's the basis on which we've gone forward with this rate case.

Q. Mr. Black, did you attend the service hearings in Brandon or Winter Haven in this rate case?

A. No, I didn't. I did not.

Q. Are you aware that the majority of the citizens who spoke opposed the company's rate case?

A. I'm aware that those that appeared generally were not supportive of the rate base. It's also my understanding that between the two service hearings, we had roughly 40 of our 667,000 customers appear.

MR. WRIGHT: I'm changing lines, Mr. Chairman.

BY MR. WRIGHT:

Q. I want to ask you a few questions about what you testify, Mr. Black, regarding an appropriate rate of return on equity. My first question for you is this: What risks does Tampa Electric Company face that you as the president of the company would assert justify a 12 percent after-tax return on common equity?

A. Mr. Gillette and Mr. Murry can speak to the details of how we arrived at the 12 percent, but the basis, the policy is that we want to have a return on equity that allows the company to achieve an A bond rating. We believe that maintaining an A bond rating is an essential factor for us to be able to access capital markets for the lowest costs for our customers. The major disruptions that we've seen in the financial markets recently have indicated that companies that have higher credit ratings have significantly more access and significantly lower costs in the capital markets.

So the strategy is to identify a return on equity that's necessary to move our company to an A bond rating, and we believe that's necessary to fund our capital expansion program going forward. So that's the basis for the 12. How the 12 was arrived at technically is better addressed by Mr. Gillette and Dr. Murry.

Q. I did ask you a specific question, and if you could either say yes, no, or I don't know, or I have no opinion, I would appreciate it. The question was, what risks does the company face that you as the president of the company would assert justify a 12 percent after-tax return on common equity?

A. I think our risks are, number one, the risk that we have access to the capital markets, and that's the basis of my previous answer. We also suffer the risk of hurricanes. We have the risk of economic downturns that affect our business, increases in our costs. We have normal business risks included in our business, and those are all things that go into the calculation.

Q. Do you believe that the company faces any significant risk of not being able to cover your operating costs?

A. Again, if the question is in the context of are we going to have a positive net income, I think I would feel comfortable that we're going to have a positive net income.

Again, just covering our operating costs I don't believe should be the basis of our discussion here. We need the ability to fund our extensive capital program, and that's the requirement associated with the return on equity. Many of the capital programs that we face are not a function of customer growth. Things like the transmission and distribution hardening activities, some of the environmental work that we're doing, some of the efficiency improvement things are not associated with customer growth, and therefore, they need to go forward, and we need to have the financial strength to be able to accomplish that.

Q. Mr. Black, I understand your justification for the return on equity. If you answered my last question, I did not hear the answer. And my question was, do you believe the company faces a significant risk of not being able to cover its operating costs?

A. I do not believe the company has a significant risk with respect to covering our operating costs.

Q. Thank you. Do you believe that the company faces any significant risk of not being able to pay its debt service?

A. Based on the economic conditions that we're facing now, ability to support the debt service may be an issue. Currently it's not. We don't believe it will be, but it's not beyond the realm of possibility.

Q. In your 35 years with the company, has Tampa Electric ever defaulted on its debt?

A. Not that I'm aware of.

Q. I want to put a proposition to you and ask whether you agree with it. Here it is. Absent a finding of gross imprudence, the Florida Public Service

Commission would ensure that Tampa Electric Company or any other Florida investor-owned utility would have sufficient funds available to pay its debt service.

A. I believe that's correct.

Q. Are you familiar with the relationship between the after-tax ROE of 12 percent that the company is asking for and the pre-tax ROE necessary to generate that after-tax return?

A. No, I'm not. That would be better dealt with with Mr. Gillette or Dr. Murry.

Q. You made the statement in some of your explanatory remarks in response to my questions that you believe that customer costs will be the lowest if you have a high bond rating. My question -- that's an accurate characterization of what you said, is it not?

A. Yes.

Q. My question for you is, have you analyzed the difference between the total cost to the customer of having a rate of return on equity of 12 percent as compared, say, to 9.75 as advocated by our witnesses, versus the increased borrowing costs that you might incur if your bond rating stayed about where it is?

A. I believe we have, and Mr. Gillette and Dr. Murry can speak to that. I would offer that in addition to a total cost analysis, it's also important to have access to the markets, and some of the disruptions in the markets that we've seen over the last two, two and a half months, there have been times when access was not available in the markets for people that had lower credit ratings. So it's not only a cost, but it's an access issue.

Q. Are you specifically aware of any public utility company in the United States with a BBB rating that was not able to access capital in the last two and a half months?

A. My understanding was that there was some, but I would defer to Mr. Gillette on the specifics for that.

Q. In response to an earlier question regarding risks that the company faces, you mentioned the risk of exposure to storm damage, hurricanes and tropical storms.

A. Yes.

Q. Is it your observation that the Florida Public Service Commission ensures that the companies it regulates recover one way or another the reasonable and prudent costs associated with restoring service following storms?

A. That has been the history. At the same time, there have been situations like the Katrina storm in New Orleans where the damage was so great, it was a matter that the customer base did not exist to fund any surcharges or securitization that may be out there and available. So under those type of circumstances, it could be a situation where there would not be a mechanism for recovery. However, we've never seen that in the state of Florida.

Q. We didn't see it with Andrew?

A. Not --

Q. We didn't see it with Wilma?

A. -- to my knowledge.

Q. We didn't see it with Ivan?

A. Not to my knowledge.

MR. WRIGHT: Madam Chairman Pro Tem, I am having distributed --

COMMISSIONER EDGAR: Yes, Mr. Wright.

MR. WRIGHT: I am having distributed an exhibit that I would ask me marked as Exhibit 92.

COMMISSIONER EDGAR: We will mark it as 92. Will you give us a title?

MR. WRIGHT: Yes. Florida PSC typical residential bill summaries.

COMMISSIONER EDGAR: So titled.

MR. WRIGHT: Thank you.

(Exhibit 92 was marked for identification.)

BY MR. WRIGHT:

Q. Mr. Black, this brief line of questions goes to your testimony at page 23 of your testimony where you claim that Tampa Electric has worked very hard to establish itself as a low cost provider of high quality electric service, while being sensitive to the interests of our customers and the environment in which we live. I'm sure you're familiar with that testimony.

A. Yes.

Q. I'm going to ask you to look at the three pages that are included in this exhibit. I will aver to you that these are printed from the Florida Public Service Commission's website at different times during 2008. Actually, the last one was printed this month in January of 2009. Have you seen documents like this before?

A. I haven't seen this particular document, but I've seen rate comparison sheets like this, yes.

Q. Okay. Will you agree that early in 2008 before what we all experienced as the big fuel cost run-up, Tampa Electric's rates were the highest of the four major investor-owned utilities in Florida?

A. The numbers would indicate that that's correct. However, I need to point out that the Florida Power & Light and the Progress Energy rates are already inverted, which causes the 1,000 kWh bill to appear lower than the Tampa Electric rate, which is flat during 2008.

Q. Same question for the period August through December of 2008. After Florida Power & Light and Progress Energy implemented mid-course fuel charge corrections, will you agree that Tampa Electric's rates were still the highest?

A. I would, with the same modifier that both Power & Light and Progress had inverted rates in 2008, and we did not.

Q. And will you agree that as of today, Tampa Electric still has the second highest rates, behind only Progress Energy Florida, of the four major IOUs?

A. I would. But again, only the fuel portion of our rate is currently inverted, and when the base rate -- if that is approved, that would also change the relationship here.

Q. Well, in fact, but for Progress Energy's 11-plus dollar nuclear cost recovery surcharge, Tampa Electric would be higher than Progress too, wouldn't it?

A. Yes. Again, I don't know what that would look like with the inversion, but based on the current rates, that's correct.

Q. Yes, sir. I just have I think one or possibly two final questions, Mr. Black. Would you agree with me that when Tampa Electric Company filed its rate requests in 1985 and 1992, the company believed that it needed every cent of what it asked for and that it needed the rates of return on equity that it asked the Commission to approve in those cases?

A. I wasn't directly involved with those cases, and I really can't make that assessment. But what I can attest to is that the case that's before us now is a very reasonable and credible representation of what we believe our requirements to be. I'm sorry. I wasn't involved with those cases and really can't speak to the basis of how they were put together.

Q. Well, would you agree that the company believed it needed all the money it asked for?

A. I'm sorry?

Q. Would you agree that the company believed when it made those filings that it needed all the money it asked for?

A. I believe that they did think they needed all the money that was being requested. At the same time, as I discussed earlier, I think you have to look at what was going on at that time and some specific events that may have made those reductions in the request workable for both the company and our customers. And I think you have to look at it comprehensively. You can't just go in and pick out specific relationships without looking at the whole case.

MR. WRIGHT: Thank you very much. Madam Chairman, I have no further questions of Mr. Black. Thank you, Mr. Black.

COMMISSIONER EDGAR: Thank you, Mr. Wright. Mr. Twomey, do you have questions on cross?

MR. TWOMEY: Yes, Madam Chair, just briefly.

CROSS-EXAMINATION

BY MR. TWOMEY:

Q. Good afternoon, Mr. Black. I'm Mike Twomey for AARP again.

A. Good afternoon.

Q. Were you in -- did you hear that portion of my prehearing statement where I averred that I believed your cost in terms of the annual revenue requirements for one percentage point of your equity was in the neighborhood of $20 million?

A. Yes, sir, I did.

Q. And that consequently, the spread between the 12 percent testified by your expert and the 9.75 percent testified to by Office of Public Counsel's expert would equate to about $45 million?

A. I did.

Q. I was wrong, wasn't I?

A. At least with the 100 basis points of ROE.

Q. I've been shown a Late-filed Deposition Exhibit Number 4 produced by your witness Chronister, which, if my math is correct, suggests that -- well, states that a drop from 12 percent return to 10 percent would be about 29.9 million per percentage point. Is that correct to your knowledge, per point?

A. The rule of thumb that I normally use is one percent point is about $30 million.

Q. And if that's correct, then the spread between your expert's 12 percent and Public Counsel's expert of 9.75 would be more on the order of 67.5 million, correct, if my math is right?

A. That sounds right if the math is right, yes.

MR. TWOMEY: Thank you very much. That's all.

THE WITNESS: Thank you.

COMMISSIONER EDGAR: Mr. Moyle, I believe you did not ask questions previously on cross; is that correct?

MR. MOYLE: I have a few, if I could.

CROSS-EXAMINATION

BY MR. MOYLE:

Q. Just to follow up on Mr. Twomey's, Mr. Herndon, the expert for FIPUG, has suggested a 7 to 8 percent return. If the Commission went with 8, the difference between 8 and 12 is 4. Four times 30 million would be a $120 million spread; correct?

A. That's the correct math.

Q. So that would take your rate increase from 228 down to, I guess, 108 million or so, give or take?

A. Again, the math is correct. As we have stated and will follow up with our subsequent witnesses, we don't believe the 7 1/2 percent return on equity is at all reasonable and will provide testimony that supports that. But the math is correct.

Q. Have you read the Prehearing Order in this case?

A. Yes.

Q. So you're aware that there has been an order entered that says witnesses -- I quote, "Witnesses are reminded that on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer." You're familiar with that; correct?

A. Yes.

Q. I'm going to ask you some yes or no questions. I would ask you, if you would, to comply with the order when answering those, and your counsel will have a chance afterwards to clear things up if need be on redirect. That's typically how it works, so I would --

MR. WILLIS: I would also point out, Mr. Moyle, that the witness has been given the latitude to explain an answer and not required just to provide a yes or a no. They're able to explain their answer afterwards.

COMMISSIONER EDGAR: Mr. Willis, through the Chair, please.

Mr. Moyle, I obviously have also read the Prehearing Order and agree that it does direct a yes or no if possible to begin with, but I will give the witness latitude to explain his answer if indeed he feels the need.

MR. MOYLE: Sure. And I don't think I was trying -- I mean, I read the portion of the order that says you can explain, but please give use a yes or no.

COMMISSIONER EDGAR: Okay. Questions for the witness?

BY MR. MOYLE:

Q. A couple of things. I have some prepared questions for you, but I want to clear up a couple of points that were raised. As we sit here today -- and I don't really want to get into your personal business, but since the ratepayers help contribute, what is your total compensation package for 2008? You know, without having to look at an interrogatory or anything, can you tell the Commission what your total compensation package for 2008 is?

A. Those were the numbers that I responded to Commissioner Argenziano's question.

Q. Okay. So what's the number?

A. It's right around $900,000.

Q. Okay. Now, as president, are you sort of the quarterback of this rate case, if you will? Would that be a fair characterization?

A. I'm more like the head coach, I think, than the quarterback.

Q. Okay. And we'll assume that the head coach is sort of the one making the calls, that we don't have to go to the general manager. Is that okay for this analogy?

A. Okay.

Q. Mr. Wright asked you questions about your previous rate cases that Tampa Electric has been in and showed you orders. Were you aware before today that those were the results of Tampa Electric's previous rate case filings?

A. Yes, I was. I've been employed with the company for a long time and was part of the company when those actions were taken. So I was aware of them, but I'm not aware of the details that surrounded the circumstances.

Q. I presume that in preparing for this case that the previous actions of this Commission informed your judgments. Am I correct in that presumption?

A. No. In preparing for the case, we really looked at the situation that we have at hand, what our situation is and what we believe we need to have going forward, and that's the basis of the case that we presented.

Q. So you didn't look at it and say, "Well, geeze, in '85 we took a 50 percent haircut, and in '92 we took an 80 percent haircut. You know, we need to be prepared to take somewhat of a haircut in this proceeding"? You didn't go through that type of analysis at all in this case? Is that your testimony?

A. Absolutely not.

Q. Okay. So then you're telling us that -- I mean, there were questions about these CTs coming on line, and I thought you said that, well, maybe three CTs can be pushed back, that you're considering contingency plans for that; is that correct?

A. That's correct. That contingency occurred after we made our filing, and we continue to evaluate that.

Q. Okay. As we sit here today, you're going to have to make a judgment on that. Hasn't your growth slowed down considerably in terms of new customers?

A. Our new customer growth has slowed down. That's a yes. However, our peak demand has not slowed down commensurate with the slowdown in customer growth and energy sales.

Q. As we sit here today, if you had to make a call, are we going to put those additional three CTs in in 2009, could you make it?

A. I don't know. We'll have to take a look at the demand and energy forecasts in the full-blown analysis work that we do in support of our Ten-Year Site Plan, and we should be able to know at that time where we need to slot those units.

Q. Okay. So since you don't know, I'm correct to say it's uncertain as to whether those three CTs need to come in in '09 or not; correct?

A. I think that's correct, yes.

Q. Okay. Now, a similar question about the rail facilities. Those are looking to come in in December of 2009, correct, so you've got one month of the test year where the rail facilities would be in service?

A. That's correct.

Q. And that wasn't an issue that was looked at as maybe a place where there could be some trimming of hair, the rail facilities?

A. No. The basis for the rail facility was that we have a contract with CSX to begin to take deliveries beginning January the 1st. In order for us to be prepared to execute our part of that contract, we had to have facilities in service prior to January the 1st, which currently means our plan is to have them in service in December.

Q. Now, in response to a question Mr. Wright asked you, he asked you, I think, about what risks you face, and I wrote down the notes on your answer, but tell me if I'm characterizing sort of an essential position of TECO in this case. You think a 12 percent return is necessary to get an A rating, which will ensure access to capital markets. Is that essentially correct or essentially TECO's position?

A. Essentially provide access and lower costs for our customers.

Q. Okay. Has TECO ever been rated -- and TECO, I say Tampa Electric, the regulated company. Has that ever been rated A previously in its history?

A. I believe that it has. Mr. Gillette can speak to that. I don't know the specifics, but I believe we have achieved an A rating at certain times in the past.

Q. Do you know if you have recently, since you've been with the company?

A. Well, I've been with the company for 35 years, and during that period, I believe we've achieved an A rating.

Q. I'll get into some of that with Mr. Gillette.

2008 has just concluded. You're on an accounting year that coincides with the calendar year; correct?

A. That's correct.

Q. Did Tampa Electric do okay in 2008?

A. We're still in the process of finalizing our year-end numbers and are not prepared to release those numbers at this time. But reporting through three quarters, which is public information, our revenues were considerably off of our projection, and we would expect that the year-end numbers are going to represent that as well.

Q. And you also projected a return on equity of about 9.4 percent for 2008?

A. That's correct, based on our latest assessment. Again, until our books are closed and the auditors have finished their work, we can't really certify it, but at this point, it looks like that number is closer to 8.7 as opposed to 9.4.

Q. And you haven't been downgraded by any rating agencies in the last 12 months, have you, Tampa Electric Company?

A. No, I don't believe we have.

Q. And those rating agencies, they track things like projected return on equity; correct?

A. I'm not clear on what their basis is. Again, Mr. Gillette and Ms. Abbott would be able to speak to the specifics of what the rating agencies really use in the determination for their ratings.

Q. All right. I have some questions that center on some of your direct testimony. But since the last rate case, Tampa Electric has made considerable investments in new generation; correct?

A. That's correct.

Q. And also in transmission and distribution system?

A. That's correct.

Q. And Tampa Electric -- if I say Tampa Electric or TECO, it's the same thing. If I say TECO Energy, I'm referring to the parent. Are we okay on that?

A. That's fine.

Q. Tampa Electric was able to access capital markets to help finance its generation projects; correct?

A. That's correct.

Q. And it was also able to access these financial markets for its transmission and distribution?

A. That's correct. That was also done in a time period where our ROE was considerably higher than what it is -- what it was for 2008 or what we project it to be for 2009.

Q. Let me direct you to page 19 of your testimony, specifically, line 20. You point to the direct testimony of witness Abbott and seem to indicate that being unable to access capital markets and fund company needs will increase costs, decrease reliability, and eventually result in higher costs to consumers. Do you see that?

A. I do.

Q. Okay. I'm a little unclear. Is that your testimony, or are you just pointing out that that is the testimony of Ms. Abbott?

A. I'm pointing out that that's the testimony of Ms. Abbott.

Q. So you're not offering that as your testimony; correct?

A. I believe that to be true in a general sense, but the specifics of the details of how you arrive at that are included in M. Abbott's testimony.

Q. Okay. So I would be probably better off digging into that with Ms. Abbott than you in terms of access to markets and things like that?

A. Yes.

Q. Tampa Electric was founded in 1899; correct?

A. That's correct.

Q. To your knowledge, has Tampa Electric ever been completely shut out of the capital markets?

A. I know that in the recent past, we've considered moving up some debt issues that we had in our plan, and because of the situation in the debt markets, we were not able to get that done. So, yes, recently we have had some interest in doing some debt, but we did not feel that the market would allow us access.

Q. I'm unclear on that. Have you ever gone to the market with an offering and have been unable to place the debt?

A. We've not.

Q. Okay. So with respect to being unable to access capital markets since 1899, then the answer would be that you've been able to access capital markets for over 100 years as far as you know with respect to Tampa Electric's history; correct?

A. We've been able to access the markets, but as I discussed, recently as we looked at the markets, the access and the rates that were out there were such that we decided not to go forward. Whether or not we could have had access, I don't know, but we've not actually made a filing that I'm aware of and not had access to the capital markets.

Q. Do you have current plans to go into the debt markets as we sit here today?

A. We have some debt scheduled to be issued later this year.

Q. When?

A. I believe it's November.

Q. And in the period to which you are referring where you had some thoughts about maybe trying to go in, is that for a two-week period in September of 2008 that you're referring to when there was a severe tightening of credit markets?

A. I believe it was later than that, but Mr. Gillette could provide the specifics on it.

Q. But the period of time which you're talking to was limited; correct?

A. Yes.

Q. Are you aware whether the debt markets for triple-B rated companies are currently functioning?

A. My understanding is that they're functioning. There is access for triple-B companies, but the rates are higher than historically you would expect to see there.

Q. And you've been with the company for 30 years. I mean, rates fluctuate, do they not?

A. They do.

Q. Have you done any kind of an analysis or probability study to indicate what chances there may be that Tampa Electric with a triple-B rating is unable to access the capital markets?

A. Ms. Abbott can speak to the specific analysis. I'm not aware of a probability type analysis, more just a general knowledge that lower rated companies in times that the markets are in disruption are going to have access issues before higher rated companies.

Q. And I think that's sort of consistent, is it not? I mean, if I were going to a bank to borrow money and I had a net worth of $10 million as compared to a net worth of $50,000, the bank would be more inclined to make a loan to someone with a higher net worth, correct, all things being equal?

A. All things being equal. I think in the context of companies as opposed to individuals, it drives off the bond rating.

Q. The question about the probability study, I would think that with the electric company being an electric company that has capital needs, that if you had a concern about being able to access capital markets at all, there would be some effort to quantify that. As you sit here today, you haven't made any effort as president of the company to quantify that risk?

MR. WILLIS: I object to Mr. Moyle's question, which contained his own testimony before he asked a question.

COMMISSIONER EDGAR: Mr. Moyle, can you rephrase?

MR. MOYLE: Sure. All I'm trying to do is understand. I mean, TECO is suggesting that there's a concern about accessing capital markets, that they may not be able to get there without an A, and I'm trying to understand whether TECO has informed itself with any kind of a study or an analysis or a document --

COMMISSIONER EDGAR: So the question for the witness is?

MR. MOYLE: Yes, that would put the probability of TECO being denied access to the capital markets.

A. I'm not aware of a study that provided a quantitative probability as much as a qualitative assessment of the markets, particularly based on their recent volatility.

Q. Okay. Again on page 19, this is the quote I read you, but you talk about the inability to access capital markets could eventually result in higher costs to customers. Do you have information as to when customers might eventually see increased costs as a result of inability or having to pay higher interest rates in the capital markets?

A. To the extent that our debt costs are higher, then that will ultimately result in our projects, our capital investments costing more, and through rate proceedings such as this one that would ultimately flow back to the customers. It would depend on when we filed a case.

Q. Okay. But if I understand it, then, the higher potential debt costs wouldn't be realized by my clients and AARP's clients and others unless and until you file another rate case; correct?

A. That would be correct. However, the magnitude of that premium that we had to pay may cause us to take rate action that we might not otherwise have to do.

Q. Okay. And I'm just -- you know, at this point, I'm talking about a timing aspect. Customers, if you have to pay a little higher on the debt because you're triple-B and not A, they would see that increase cost at your next rate case?

A. They would see it at the next rate case, and they would see it over the life of those bonds, which is a very substantial period of time.

Q. Okay. And Mr. Wright asked you if you had done an analysis to compare, you know, higher ROE requirements as compared to what you might pay in higher debt costs, and I think you said check with Ms. Abbott or Mr. Gillette; correct?

A. That's correct.

Q. All right. And we'll do that.

With the ROE request, which you said is $30 million per point, wouldn't ratepayers see that -- if the Commission approved the 12 percent, wouldn't they see that in their rates this summer?

A. That would be correct.

Q. So from a consumer's standpoint, the consumer would prefer lower ROE, I'll take the risk on the debt that may go up, and I'll see it in my next rate case, as compared to getting hit with higher ROE this summer, wouldn't you agree?

A. No, not necessarily. I think from the customer's perspective, a lot of the decisions that utilities make are based on total life cycle costs, not what the cost is right now. And I think to the extent that a higher bond rating translates to lower total capital investment costs, it may be in the customer's long-term best interest to go ahead and pay those additional funds now.

Q. But there's no analysis on that that you can point to as we sit here today; correct?

A. Not that I can point to, no, sir.

Q. Going back to Mr. Wright's previous rate cases -- I use the term "haircut." That's colloquial. We'll just agree it's less than asked for. How's that?

A. Okay.

Q. On your ROE, you received less than asked for in both your previous rate cases; correct?

A. It would seem that way from the orders, yes.

Q. And did that fact inform any of your decisions and judgments in this case with respect to where you might come in on an ROE request?

A. No, it did not.

Q. So are you aware that you're requesting this Commission to grant a ROE that, as I understand it, would be the highest ROE presently approved for any regulated utility in the country?

A. I'm not aware of that. I'm not sure of the accuracy of that.

Q. You don't know one way or the other?

A. I do not. My understanding is that there are other utilities with that high an ROE. Mr. Gillette can address the specifics, but I don't believe that's a correct statement.

Q. Okay. Do you have any understanding of any utilities outside of the state of Florida that have that high of an ROE, or is that just Florida utilities?

A. I believe there are some outside the state, but Mr. Gillette has the details.

Q. Okay. Did you personally approve the 12 percent ROE request?

A. I approved the case strategy development in total, which the 12 percent was part of.

Q. Were there specific discussions about that?

A. Yes, there was.

Q. Do you take that to your board? Do you take that request to your board, and do they have to approve that, that 12 percent ROE request, or is that delegated to you as the general manager? I'm sorry, the coach.

A. The decision to go forth with a rate case proceeding was taken to our board of directors. But as far as the specifics of the rate case filing itself, that was left to management.

Q. And you had said that there were some discussions about the 12 percent ROE request. During those discussions, was there any argument or suggestion that a rate less than 12 percent be pursued?

A. There was discussion, yes.

Q. I think that may be just about it. If you would give me just a minute to check my notes, I would appreciate it.

A. Okay.

Q. I had asked you about when you were going to go into the market for debt, and I think you had said toward, I guess, the fourth quarter of 2009.

A. Yes.

Q. Did Tampa Electric have occasion to go into the debt market in 2008?

A. We did.

Q. When did you go into that market?

A. I believe we went in in May.

Q. Do you know how much money you raised in debt?

A. It was $100 million.

Q. Do you know what rate you paid?

A. Not off the top of my head.

Q. Did you have difficulty raising that $100 million?

A. I think Mr. Gillette probably ought to address how difficult or not it was.

Q. Okay. And are you aware of a recent renewal of a credit facility for debt that Tampa Electric executed?

A. Yes.
Q. What caused that to be renewed or executed?
A. I think that's with respect to our short-term credit line.
Q. How much is that for? Do you know?
A. We have two lines, a primary line that's $325 million and an additional credit line of $150 million that's secured by our accounts receivable.
Q. And the credit facility that was reauthorized, which was that? Was that for both of them or for the 325 or the 150?
A. I believe it was for the 150. I'm not sure about the 325, but Mr. Gillette could provide the details.
Q. And you did that in the fourth quarter of 2008; correct?
A. Correct. We also paid a significantly higher price than we had with the prior renewal.
Q. Right. It struck me as curious, because we're talking about credit being tight and whatnot. Congratulations on being able to go into the market and get a $150 million credit facility extended.
Those are all the questions I have. Thank you.
COMMISSIONER EDGAR: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Yes. I just have some questions that briefly may be part of what was already asked. I believe I heard you say before that, of course, you must maintain the economic viability of the company, and of course, I think everybody agrees with that.

But as a monopoly with a high degree of revenue certainty and very reduced risk -- you know, I guess it's greatly reduced with the regulatory scheme that's in place that basically ensures that your company recovers a high percentage of its total costs through the clauses and so on.

Wouldn't that plus -- and I was reading in the direct testimony of Ms. Abbott, who I will ask when she comes up. Hopefully she's feeling better -- about the Regulatory Research Associates, and it basically goes on that they're an entity that has been created for 20 or 30 years that basically provides extensive research on rates and cases throughout the nation. And basically, if I may steal a line here from her testimony, and I'm quoting on line 4, "But if they're concerned about regulation, they might want to go to somebody who has an Above Average 2 rating like Wisconsin." And as I look at the rating for Florida, it is an Above 2 rating.

So with all those things combined, and with the certainty that you have here and the low risk, doesn't that help maintain your economic viability of your company? Isn't that a substantial -- isn't that what makes common stocks, I guess, an attractive investment?

THE WITNESS: It puts us in a better position. But I think you also have to look at it in the context of what our company requirements are. And as I mentioned, we're seeing very significant capital investments that are not being driven by customer growth, transmission additions that are being required to satisfy new federal reliability standards, capital expenditures and O&M expenditures that we're making to comply with Commission orders relative to storm hardening and things like that. And in that same context, we're in a time period when our customer growth numbers and our energy sales numbers are not continuing to grow as they historically have. So when you look at all of that together, we believe that the 12 percent return is what we need to achieve the A rating, and that the A rating will provide benefits to our customers over the long term.

COMMISSIONER ARGENZIANO: Let me see if I can -- well, I guess maybe I'll ask, out of all the companies to look at in the State of Florida, I would think that a utility in the state of Florida, especially an electric utility, is probably the safest investment out there. Do you agree with that?

THE WITNESS: I think it's a relatively safe investment, yes, ma'am. I think at the same time, as you look at the property insurance issues that we have in the state and the property tax issues and the declining growth rate of our state as a whole, those are all things that affect the businesses that operate in our state, and the utilities are not immune from that impact as well.

COMMISSIONER ARGENZIANO: But I guess your difference is that you're a monopoly with no competition -- I guess that's what a monopoly is -- and that your risks are so minimal compared -- extremely minimal compared to other businesses. And I just look at if I wanted to invest, and in looking at all the entities that are available, such as the Regulatory Research Associates, I would think that you're still viably healthy, even given those circumstances that you explained.

And I guess there are some other questions I'll ask some of the other witnesses when they come up. Its just seems that it would be where I would want to invest, and it would be, I think, a place where there would be, I guess, viability, a certainty there. And I know what you're saying. I'm trying to grasp the other things you're saying. But I just see you as being so strong, in this environment especially.

THE WITNESS: And I think the performance over our last 16 years with the cost controls that we've implemented, plus that good strong growth in customer growth and usage per customer, I think that really created the situation that you're describing.

The other thing I would point out is that what the ROE should be is not only relative to the strength of our company, but it's looked at in the context of the overall economy and the overall debt markets and the overall requirements for debt. So that's the other piece that Ms. Abbott can kind of fill the blanks in on there. But there's a couple pieces to it.

COMMISSIONER ARGENZIANO: I guess depending on which formulas that Ms. Abbott depends on.

THE WITNESS: Yes.

COMMISSIONER ARGENZIANO: Okay. Thank you.

COMMISSIONER EDGAR: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Good afternoon, Mr. Black.

THE WITNESS: Good afternoon.

COMMISSIONER SKOP: I guess it goes without saying that ROE is definitely at issue, if not hotly contested, within this case, and there has been a lot of discussion this morning and through the afternoon. And based on current economic conditions and the change over the past year, I think that requires the Commission to take a critical look at what ROE is appropriate on a forward-going basis for each of our respective utilities.

But in that regard, there has been a lot of discussion this morning about past decisions of the Commission. And since each case stands on its own individual merits, I think that it's important that we limit the discussion to the facts in this particular case. And in that regard, the one question I had regarded the increase in the financing or the interest rates on the credit facility, and I think that you answered Mr. Moyle's question, so that was one less question I had. And I think the record reflects that those borrowing costs have actually gone up due to the tightening of the credit markets. Would that be correct?

THE WITNESS: Yes, they have.

COMMISSIONER SKOP: And then with respect to some of the other discussion that was made -- and I'll temper that with the premise from two United States

Supreme Court cases, which should be binding precedent on the Commissioners. But under the United States Supreme Court decisions in Bluefield and Hope, a public utility is entitled to earn a fair and reasonable rate of return on the value of property placed in service for the convenience of the public that is sufficient to ensure the financial integrity of the utility, maintain its creditworthiness, and to attract capital.

So with that central premise and that case law in mind, or the holdings of the case law, the discussion -- I believe Mr. Wright had asked with respect to would TECO be able to have a positive NOI or net operating income under its current rates, and I think that you mentioned that the answer to that was yes, but that the effective ROE would be somewhere in the 4.5 percentage range; is that correct?

THE WITNESS: That's correct.

COMMISSIONER SKOP: Okay. And do you feel that a 4 1/2 percent ROE comports with the decisions under those two United States Supreme Court cases, Bluefield and Hope, to the extent that it would allow a utility to attract capital at that return on equity rate?

THE WITNESS: I don't think so, and I don't think it's comparable to other utilities either in the state or in the country. The specifics as to how that might limit our access to the capital markets Ms. Abbott can speak to, but I'm quite sure in a general sense that that's a true statement.

COMMISSIONER SKOP: And if that were indeed the case and the ROE, the equivalent ROE or effective ROE was 4 1/2 percent, would you expect to see a flight of capital to other investments offering a higher return for investors?

THE WITNESS: Yes, I would.

COMMISSIONER SKOP: Okay. Moving on to, I guess, another witness that will be testifying, I guess it's witness Herndon, and I guess some discussion has been mentioned that he'll suggest that an ROE of 7 1/2 percent would be appropriate, and I guess that would be 425 basis points lower than the existing ROE that was previously set by the Commission. Do you feel that that would be an appropriate ROE in light of the decisions in Bluefield and Hope to the extent that it would maintain the creditworthiness of the utility and allow the utility to attract capital?

THE WITNESS: I do not.

COMMISSIONER SKOP: All right. And I guess I'm reserving judgment, because I know ROE is hotly contested, and I appreciate the concerns raised by the consumer advocate, and we'll get to that. But again, I'm trying to separate the wheat from the chaff to the extent that, again, there has been a lot of discussion on past precedent and things that just don't seem to be realistic, so I thought it was important to get your opinion on the record with respect to that. So I'll leave ROE for the moment.

I did want to touch briefly upon the issue of storm reserves. And I know historically Florida has had many hurricanes, and there has been times where reserves were not adequate to cover the repairs that were necessary to restore or harden the system and maintain the level of reliability that Florida consumers and ratepayers have come to expect.

In this tight economy or the current economic challenges that many consumers are facing, and noting that the storm reserve may or may not be adequately funded, would you consider funding in the near term of that reserve to be discretionary in the sense that it could be temporarily suspended to provide some small measure of rate relief to consumers and then maybe reinstated to the extent that, you know, maybe it's suspended for a year or two, and then, you know, under this case perhaps allowed to kick in when -- you know, at a period of time in the future where economic times may not be as challenging?

THE WITNESS: I think that would be an option for us. One of the other concerns on the storm damage is that while there are other options for dealing with the costs, like surcharges or securitization, if we have a very significant event, the company is going to need liquidity at that time, not recovered over some period through a surcharge or through a long, drawn-out bond process. And the storm reserve provides ready access to those funds, which may be important. But as far as a suspension, that's something we could certainly take a look at.

COMMISSIONER SKOP: Okay. And I think the point that you made is well taken, to the extent that you need the liquidity and immediate access to funds to the extent that it would be necessary to effect repairs should a major storm come through, so I think that's a good countervailing consideration.

I'm just looking for, for lack of a better word, low-hanging fruit or opportunities that, you know, are there that are purely discretionary, to the extent that the consumer ratepayer may be willing to bear -- I don't want to say bear the risk, because that's probably a bad thing, but basically forgo having to pay more now as opposed to being, you know, on the hook for it later should a storm arise.

But, you know, to the extent that the utility doesn't earn a return on reserves, storm reserves or anything like that, it's not detrimental to the utility. It's just a policy decision as to whether consumers should be asked to pay more now as an insurance policy versus, you know, saving for a rainy day versus taking the rainy day when it comes and having to pay more later.

But again, I think in light of the current economic or prevailing economic conditions, I think that's a consideration that the Commission might want to take a look at one way or the other.

THE WITNESS: It's certainly an option, yes, sir.

COMMISSIONER SKOP: Thank you.

COMMISSIONER EDGAR: And I understand no questions from staff?

MR. YOUNG: No questions.

COMMISSIONER EDGAR: No questions from staff. Okay. I would like -- before I go for redirect, I would like to ask one or two questions myself.

Mr. Black, earlier, a little while ago this afternoon, you answered some questions, I think, posed by Ms. Bradley on the issues having to do with the annualization, the request for annualization of the five CT and the rail facilities.

THE WITNESS: Yes.

COMMISSIONER EDGAR: Could you -- and you may have already answered this, but could you again if you didn't, or if you did, speak to what, in your opinion, would be the advantages both to the customers and to the company for that to be accounted for in the way TECO has requested?

THE WITNESS: The CTs going in service in May are basically coincident with the same time the new rates would be in effect, so that timing ties up pretty well. With the other three CTs in September, the logic is that those are going to provide very significant benefits to our customers for many years, and if we get less than a full year revenue requirement associated with those, then the company has invested into an asset that's providing value to our customers that's not fully being represented in our rate base. And our position is that it's logical to annualize those costs and recognize that they do provide benefits on a long-term basis and that we should have a full year's rate base impact from those assets.

COMMISSIONER EDGAR: So if the annualization of those, the five CT and the rail facilities, were not to be included in the annualization based upon the 2009 test year, then how would the company handle that in the future? Would you come in with a request to add those after they have gone on line?

THE WITNESS: We would have to look at the magnitude of the impacts and the other things going on in the business. I think it's fair to say it would cause us to come back in sooner than we might otherwise.

COMMISSIONER EDGAR: Thank you. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair.

Just as a follow-on to the question that Commissioner Edgar asked, because I had the same question, but I just did not think -- there may be more appropriate witnesses to ask that of, but since the question was asked, and it's a question that I think was well posed.

To the point you made that it may cause TECO to come back in sooner rather than later to seek an adjustment to rate base for those assets, has any analysis been given on the incremental cost of going through that process versus the incremental cost on including them now within the proceeding? I know this is a hotly contested issue, but again, I think earlier in opening statements, the discussion was made that they may have to come in sooner rather than later if those are left out. And anytime there's a rate case proceeding, obviously, there's significant cost to the consumers of having to go through those rate case proceedings. So I was just wondering, has any analysis been done on the cost of having a whole 'nother proceeding as opposed to trying to find some sort of -- either via a stipulation or something that could accommodate or encompass those at the appropriate time when they do come into service?

THE WITNESS: Yes. I think to the extent that there could be consideration for inclusion into rate base at the time that they went into service, that would certainly be something that would be agreeable to the company.

As far as an incremental cost analysis, it really kind of depends on the other factors going on in the business. I don't think either of these investments are large enough to cause an additional rate case standing alone just because of themselves, but they would be additive to the other things going on with the business. So it is hard to quantify when exactly we would have to come back in if we did not annualize these.

COMMISSIONER SKOP: Okay. Thank you for that clarification, because, again, what I had heard earlier made me think that it might require a little bit more effort on that part. But thank you.

THE WITNESS: Thank you.

COMMISSIONER EDGAR: Thank you. And I agree. I think that may be a point for further discussion with another witness in addition to the discussion we've had.

Mr. Willis, redirect?

MR. WILLIS: No redirect, but we would ask that Exhibit 14 be received into evidence.

COMMISSIONER EDGAR: Do we want to do 14 through 17?

MR. WILLIS: Yes.

COMMISSIONER EDGAR: Okay. Seeing no objection, then Exhibits 14, 15, 16, and 17 will be entered into the record, which brings us to Mr. Wright.

(Exhibits 14, 15, 16, and 17 were admitted into the record.)

MR. WRIGHT: Madam Chairman, I would move the admission of Exhibits 90, 91, and 92.

COMMISSIONER EDGAR: Seeing no objection, Exhibits 90, 91, and 92 will be entered into the record.

(Exhibits 90, 91, and 92 were admitted into the record.)

COMMISSIONER EDGAR: And the witness may be excused. Thank you.

Commissioners, this seems like perhaps a good time for a short stretch, and so I would say let's come back at 10 minutes to by the clock on the wall, and we are on break.

(Short recess.)

COMMISSIONER EDGAR: We will go back on the record, come back from our break. And, Mr. Willis, it is your witness.

MR. WILLIS: I call Mr. Gordon L. Gillette.

Thereupon,

GORDON L. GILLETTE

was called as a witness on behalf of Tampa Electric Company and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WILLIS:

Q. Could you please state your name, business address, occupation, and employer?

A. I'm Gordon L. Gillette, 702 North Franklin Street, Tampa, Florida, 33602. I'm the senior vice president and CFO of Tampa Electric and the executive vice president and chief financial officer of TECO Energy.

Q. Did you prepare and cause to be prefiled on

August the 11th, 2008, prepared direct testimony consisting of 38 pages entitled "Testimony and Exhibit of Gordon L. Gillette"?

A. I did.

Q. Do you have any corrections to your direct testimony?

A. I do not.

Q. Do you have any corrections to your exhibit which is attached to your testimony?

A. Yes, I do. Document Number 5 of my exhibit was revised and refiled on January 9rd, 2009. And my Document 1 describes MFR schedules that I sponsor, and MFR Schedules D-2 and D-9 were refiled on October 3rd, 2008.

MR. WILLIS: Mr. Gillette's exhibit to his direct testimony has been identified as Exhibit 18, and we would request that his corrected Document 5 be substituted for the document originally filed.

COMMISSIONER EDGAR: So noted for the record.

BY MR. WILLIS:

Q. If I were to ask you the questions contained in your prefiled direct testimony today, would your answers be the same?

A. Yes.

MR. WILLIS: I would ask that Mr. Gillette's prepared direct testimony be inserted into the record as though read.

COMMISSIONER EDGAR: The prefiled testimony will be entered into the record as though read.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PREPARED DIRECT TESTIMONY

OF

GORDON L. GILLETTE

Q. Please state your name, business address, occupation and employer.

A. My name is Gordon L. Gillette. My business address is 702 N. Franklin Street, Tampa, Florida 33602. I am Senior Vice President and Chief Financial Officer of Tampa Electric Company ("Tampa Electric" or "company") and Executive Vice President and Chief Financial Officer of TECO Energy, Inc ("TECO Energy" or "Parent Company").

Q. Please provide a brief outline of your educational background and business experience.

A. I received a Bachelor of Science in Mechanical Engineering in 1981 and a Masters of Science in Engineering Management in 1985 from the University of South Florida. In 2007, I completed the Advanced Management Program at Harvard Business School. I am a registered professional engineer in the state of Florida.

I joined Tampa Electric in 1981 as an engineer and worked in the production and planning areas. I was promoted to Manager of Generation Planning in May 1986 and later served as Manager of Bulk Power and Generation Planning. I then became Director of Project Services for TECO Power Services ("TPS"), responsible for fuel procurement, environmental permitting and compliance, and power sales contract administration.

In November 1994, I was promoted to Vice President of Regulatory Affairs for Tampa Electric, and in November 1995, was named Vice President of Regulatory and Business Strategy for Tampa Electric. In March 1998, I was appointed Vice President of Finance and Chief Financial Officer of TECO Energy and Tampa Electric. In 2001, I was appointed Senior Vice President and Chief Financial Officer for TECO Energy.

I was promoted to my current position of Executive Vice President and Chief Financial Officer of TECO Energy in July 2004. I also serve as the Senior Vice President and Chief Financial Officer of Tampa Electric. As Chief Financial Officer, I am responsible for financial planning and reporting, financing strategies and activities, and contact with the financial community, including investors and rating agencies.

Q. What is the purpose of your direct testimony?

A. The purpose of my direct testimony is to provide financial background on Tampa Electric's base rate request by discussing some of the key financial, business and regulatory events that have occurred at the national and state levels and their impacts on Tampa Electric since its last base rate proceeding in 1992. I will describe how these events have affected the company's capital spending and the cost to serve customers. I will also explain the reasons for the requested base rate increase and the key financial components on which it is based. In addition, I will describe how Tampa Electric's projected 2009 through 2013 capital expenditure program will impact the need for external capital and explain the company's capital structure and financial targets. Finally, I will explain why a parent company debt adjustment is unwarranted.

Q. Have you prepared an exhibit for presentation in this proceeding?

A. Yes. Exhibit No. ____ (GLG-1) entitled "Exhibit of

Gordon L. Gillette", was prepared under my direction and supervision and consists of five documents. These documents include:

Document No. 1	List Of Minimum Filing Requirement Schedules Sponsored Or Co-Sponsored By Gordon L. Gillette
Document No. 2	1992 - 2007 Relative Rate Base And Base Revenue Comparison
Document No. 3	1992 - 2007 Relative Non-Fuel O&M And Base Revenue Comparison
Document No. 4	Utility Credit Ratings
Document No. 5	Tampa Electric's Credit Metrics (2004 - 2009 Test Year)

BACKGROUND

Q. Provide a brief overview of the major changes in the electric industry since Tampa Electric's last rate case and how they have impacted the company and its customers.

A. Since the company's last rate case in 1992, there have been major industry developments in the areas of environmental regulation and legislation, generation pricing, national and state requirements for generation and transmission reliability, and transmission and distribution ("T&D") storm hardening. These developments have impacted Tampa Electric's historical and current capital spending, operations and maintenance ("O&M") spending, and overall risk profile. As a result of these changes, Tampa Electric operates in a much riskier and more challenging environment than it did in 1992.

Q. How have environmental legislation and regulation affected Tampa Electric's cost of serving its customers?

A. Environmental legislation and regulation have affected the company in numerous ways, including in the areas of power plant site selection and permitting, new generating unit type selection, and transmission siting. For example, in response to claims by regulators under the Clean Air Act and New Source Review, the company settled with the Florida Department of Environmental Protection ("FDEP") in 1999 and with the U.S. Environmental Protection Agency ("EPA") in 2000, and began implementing a comprehensive $1.2 billion capital program to dramatically decrease emissions from the company's coal-fired power plants, becoming the first utility in the country to resolve the issues raised by these environmental agencies. These settlements and the associated benefits are discussed in more detail in the direct testimonies of Tampa Electric witnesses Charles R.

Black and Mark J. Hornick.

Q. Please describe how generation costs have affected Tampa Electric.

A. As discussed in more detail by witness Hornick, per unit generation construction costs have increased significantly for all types of power plants due to increases in the price of steel and other construction materials and labor. These increasing costs affect all of Tampa Electric's planned and proposed future generation additions. For example, in 2000, the installed cost of a General Electric 7F based combustion turbine was approximately $300/kW. Today, the projected installed cost for a similar turbine is approximately $500/kW, which represents more than a 60 percent increase. Similar increases have been experienced for the costs of combined cycle units.

Q. Please describe how T&D costs have affected Tampa Electric.

A. As discussed in the direct testimony of Tampa Electric witness Regan B. Haines, the approximate per mile cost of a 230 kV transmission line has increased from $700,000 per mile in 2000 to almost three times that amount today. Moreover, the company has experienced dramatic increases in the cost of basic components essential to T&D construction and operations. In addition, the siting of transmission lines has become more challenging for the entire industry.

Q. Please provide an overview of the changing national and state requirements for generation and transmission reliability and T&D storm hardening and how they have impacted the cost to serve customers.

A. In Florida, the requirements for generation and T&D system reliability have increased and become more codified in state and federal legislation. This, in turn, has led to a need for increased investment in generation and T&D infrastructure. In 1999, the required aggregate reserve margins for Tampa Electric and other Florida utilities increased from 15 to 20 percent as a result of the Florida Public Service Commission's ("Commission") investigation into electric generation planning reserves. Transmission has received significant scrutiny over the past several years, which has resulted in new Federal Energy Regulatory Commission and North American Electric Reliability Corporation mandates aimed at strengthening the reliability of the current transmission system through expansions and upgrades.

As discussed in more detail by witness Haines, the extensive storm damage and resulting power outages in the 2004 and 2005 hurricane seasons led to an increased focus on T&D system hardening. The Commission issued a series of orders in an effort to improve the resilience of electric utility infrastructure to withstand severe weather. This has resulted in significant O&M and capital spending to comply with the required guidelines, which in turn, has increased external financing needs. As a result of these changes along with others, Tampa Electric currently operates in a much more costly and more risky environment than it did at the time of its last rate proceeding in 1992.

NEED FOR BASE RATE INCREASE

Q. Describe any significant investments the company has made since its last rate proceeding in 1992.

A. Tampa Electric has grown substantially since its last rate case due to significant investments, some of which were driven or impacted by the changes I described earlier. These investments have included the addition of

Polk Unit 1, the repowering of Gannon Station to the H. L. Culbreath Bayside Power Station, the addition of four combustion turbines at Polk Power Station, as well as numerous transmission, distribution, environmental and storm hardening projects.

Q. How has Tampa Electric avoided a base rate proceeding for the last 16 years?

A. The company has taken numerous actions and made significant changes to avoid a base rate increase. They include sound cost management, strong customer and revenue growth, innovative regulatory settlements, lowering of O&M costs through technology and process improvements, and the legislature's creation of the environmental cost recovery clause for recovering certain environmental related costs and investments that are not recovered through base rates.

Q. Why is Tampa Electric making its base rate request now after so many years of successfully avoiding an increase?

A. Tampa Electric is facing an extremely large capital expenditure program over the next five years. As a result, its credit parameters and return on equity

("ROE"), which have been declining in recent years, are expected to decline even further absent rate relief. As discussed in the direct testimony of Tampa Electric witness Susan D. Abbott, a continuing decline in credit quality could threaten the company's ability to raise the capital needed to serve customers reliably. The company needs sufficient new revenues to ensure its credit rating and ROE are adequate to provide the company the necessary access to external debt and equity capital markets and to maintain its financial integrity.

Q. Have you prepared any documents to help further explain the drivers causing this base rate filing?

A. Yes. Document Nos. 2 and 3 of my exhibit compare historical non-fuel O&M and rate base to base revenues as reported on the company's Surveillance Report filings. The analyses illustrate the trends that helped the company during the 1990's and early 2000 timeframe to avoid a base rate increase. During this timeframe, the increase in customers resulted in base revenues keeping pace with, and even exceeding in some years, the increase in non-fuel O&M and rate base. However, the analyses also show that the increases in rate base and non-fuel O&M started to exceed the increases in base revenues in

2004 and 2006, respectively. This recent trend has led to declining credit parameters and lower returns on equity and is expected to accelerate, given the company's significant capital spending program planned for 2009 through 2013, combined with slower base revenue growth.

Q. What is the company's requested revenue requirement increase and what are the key components of the increase?

A. The company is requesting a base revenue increase of $228,167,000. The increase represents the amount necessary to raise the company's projected 2009 net operating income ("NOI") level to the required amount of $322.5 million. The required NOI is based on the company's projected 2009 13-month average jurisdictional adjusted rate base of $3.657 billion and a weighted average cost of capital of 8.82 percent. The 8.82 percent weighted cost of capital assumes a jurisdictional adjusted 13-month average capital structure consisting of 55.3 percent equity, assuming investor sources of capital, including off-balance sheet purchased power obligations. It also includes a ROE of 12.00 percent, a long-term debt rate of 6.80 percent, and a short-term debt rate of 4.63 percent. Tampa Electric witness Dr. Donald A. Murry, Ph.D. provides the support for the company's requested ROE in his direct testimony and witness Abbott supports the need to improve the company's financial integrity profile. Tampa Electric witness Jeffrey S. Chronister's direct testimony explains the details of the company's revenue requirement based on the 2009 projected test year, as well as the budget process used to develop sound and reliable projected test year financial statements.

Q. How will this base rate increase affect Tampa Electric's financial integrity?

A. The requested base rate increase will place Tampa Electric in an appropriate financial position to fund its significant capital program. Without the increase, the company will not be in a position to effectively raise the necessary capital to continue providing the high level of reliable service to its customer base that it has in the past. In order to raise the required capital, the company must be able to provide fair returns to investors commensurate with the risks they assume. The lowest cost and most reliable stream of external capital is achieved by maintaining a strong financial position, so that, in turn, the company's capital spending needs can be met in the most cost-effective and timely manner.

Financial strength is often referred to in regulatory circles as "financial integrity". If the company and its regulators act in ways that maintain or enhance the company's financial integrity, customers will ultimately benefit. The Commission has a history of performing the delicate balancing act between rate increases and maintaining financial integrity very well. The rating agencies and Wall Street alike have long recognized the Commission for its constructive regulatory decision making. The Commission is viewed by Wall Street and the public as being tough but fair in reaching an appropriate balance between the interests of customers and investors.

CREDIT RATING OBJECTIVE

Q. What is Tampa Electric's current credit rating?

A. Tampa Electric is currently rated in the BBB range by the three major rating agencies: Standard & Poor's ("S&P"), Moody's Investor Service ("Moody's") and Fitch Ratings ("Fitch"). In her direct testimony, witness Abbott explains in more detail how the rating agencies currently view Tampa Electric and how they have derived their ratings for the company.

Q. What credit rating is the company targeting in the future and why?

A. The company is targeting ratings in the single A range for two reasons. First, Tampa Electric is facing higher capital spending requirements and debt ratings in the single A range would ensure that Tampa Electric has adequate credit quality to raise the capital necessary to meet these requirements. Second, having ratings in the single A range will provide a ratings "safety net" in the event of a catastrophe, such as a hurricane.

Q. Why is a ratings "safety net" important?

A. Given the capital intensive nature of the utility industry, it is paramount that utilities maintain credit ratings well above the investment grade threshold to retain uninterrupted access to capital. The breakpoint between investment grade and non-investment grade is such that BBB- (S&P/Fitch) and Baa3 (Moody's) is the lowest investment grade rating and BB+ (S&P/Fitch) and Ba1 (Moody's) is the highest non-investment grade rating. A company raising debt that has non-investment grade ratings is subject to occasional lapses in availability of debt capital, onerous debt covenants and higher borrowing costs. Given the high capital needs and the obligation to serve existing and new customers that electric utilities have, having non-investment grade ratings is unacceptable. Since ratings in the single A range are above the BBB range, there would be sufficient room if an unanticipated event occurs, for the ratings to slip before becoming non-investment grade.

Document No. 4 of my exhibit shows overall industry credit ratings along with the ratings of the southeastern U.S. utilities. Utilities across the southeast are confronted with hurricane risk and have maintained ratings that, on average, are higher than the electric industry as a whole. In addition to hurricanes, these utilities have experienced higher customer growth compared to the rest of the industry. The stronger credit ratings help ensure that the utilities in the southeast can meet the required capital spending levels associated with this growth and have a "safety net" in the event of a catastrophic hurricane.

Q. Why are ratings in the single A range important in light of the company's future capital needs?

A. In order to reliably serve its customers, Tampa Electric is planning a very substantial construction program for the period 2009 through 2013. This capital expenditure program is driven by several factors including: 1) the need for continued investment in generation, 2) needed investment in hardening the T&D system to improve overall reliability, 3) funding the company's share of investment in transmission facilities supporting peninsular Florida and 4) continued compliance with environmental requirements mandated by the EPA and FDEP. The magnitude of this capital program is compounded by the impact of the significantly higher costs of materials and labor that have occurred in the last several years.

Q. How will this substantial construction program impact Tampa Electric and its need for external capital?

A. Tampa Electric has funded large capital programs in the past, but never as large as the one the company currently faces. Without base rate relief, only about half of the funding will come from internally generated funds on average over the next five years, with only 40 percent being internally generated in 2009 and 2010. The remainder of the funding must come from externally generated funds including debt from external capital markets and equity infusions from TECO Energy.

Q. Do the credit rating agencies publicly announce or publish what it takes to achieve certain credit ratings?

A. No. The processes used by the rating agencies to determine credit ratings are complex and consider many qualitative and quantitative factors. The ratings process typically provides little transparency, and the rating agencies publish no precise guidelines regarding how to achieve a certain rating. S&P is the only rating agency that has even attempted to provide some level of quantitative guidance. Some years ago, S&P published a matrix that identified ranges of credit parameters, such as coverage ratios, necessary to achieve certain credit ratings. However, S&P has recently modified this matrix, broadening the ranges for the ratings and leaving more room for judgment on their part, but creating greater uncertainty on the part of debt issuers, like Tampa Electric, on the exact quantitative targets needed to achieve certain credit ratings. In addition, since the rating agencies consider qualitative factors as well, achieving the quantitative parameters does not ensure that a particular rating will actually be achieved.

CAPITAL STRUCTURE

Q. What capital structure is Tampa Electric proposing in its test year?

A. Tampa Electric is projecting, for the 2009 test year, a jurisdictional adjusted 13-month average financial capital structure consisting of 44.7 percent debt, including off-balance sheet purchased power obligations, and 55.3 percent common equity. This 55.3 percent equity ratio is necessary since the company believes the combination of this capital structure and the resulting coverage ratios should enable the achievement of credit parameters commensurate with debt ratings in the single A range.

Q. What coverage ratios are important to rating agencies?

A. As part of their quantitative analyses, rating agencies focus on cash coverage ratios to determine a company's ability to meet its interest payments and debt obligations. Typical coverage ratios reviewed by the agencies are Funds from Operations to Interest (FFO/Interest) and Funds from Operations to Total Debt (FFO/Debt). Document No. 5 of my exhibit shows Tampa Electric's credit parameters on a historical and projected basis. It shows that there has been a significant deterioration in Tampa Electric's credit metrics as used by the credit rating agencies. If Tampa Electric's requested rate increase was not granted and the capital structure remained at the 2007 level, there would be another significant decline in the credit parameters. For Tampa Electric to improve its credit metrics, equity infusions from TECO Energy and base rate relief are needed. In her direct testimony, witness Abbott further addresses these credit parameters and the effect these factors have on Tampa Electric's credit ratings.

Q. Did you consider other credit parameters when targeting ratings in the single A range?

A. Yes. Although the rating agencies tend to focus on cash coverage ratios, another commonly used parameter in the utility industry is an Earnings Before Interest and Taxes to Interest (EBIT/Interest) coverage ratio. This coverage ratio is included in the company's MFR Schedule D-9 and is reported in Schedule 5 of the company's monthly Surveillance Report filings. Tampa Electric's coverage ratio for EBIT/Interest has been declining and is projected to be 2.1 times in 2009. This same coverage ratio averaged 4.6 times in 1992 through 2000 and 3.5 times in 2001 through 2007. The 2.1 times represents an unacceptable level and is expected to continue to decline without rate relief. The company believes that, given its extensive five-year capital spending program, a more appropriate coverage ratio for 2009 is in the range of 4 times, which can be achieved by providing the company's requested rate relief.

Q. How does the company's proposed 55.3 percent equity ratio compare with the allowed capital structures of other investor-owned electric utilities in Florida?

A. The proposed 55.3 percent equity ratio is consistent with past Commission decisions that approved equity ratios above the level requested in this case. In Tampa Electric's 1996 earnings review, the Commission capped the company's equity ratio at 58.7 percent. In Florida Power & Light's ("FP&L") recent rate settlement, the Commission confirmed an equity ratio of 55.83 percent. The Commission as part of Progress Energy Florida Inc.'s ("PEF") recent rate case settlement approved a similar equity ratio, capped at 57.83 percent.

Q. Has Tampa Electric included in its capital structure the effect of off-balance sheet obligations, like long-term purchased power agreements?

A. Yes. Since the rating agencies consider portions of long-term fixed payments associated with purchased power agreements as debt and analyze company credit profiles with an adjustment to its credit parameters, the company's proposed capital structure reflects an adjustment for this imputation of additional debt.

Q. Using the S&P methodology, please describe the calculation for the additional debt that reflects the associated risk of long-term purchased power agreements in Tampa Electric's capital structure.

A. S&P discounts future capacity payments using a discount rate based on the cost of debt, and then applies a "risk factor" to determine the amount of imputed debt to include in the adjusted debt to total capital. For similarly situated electric utilities as Tampa Electric, S&P uses a risk factor of 25 percent. S&P also imputes an annual amount for interest expense in cash coverage ratios for the imputed debt.

Q. Using S&P's methodology, how much debt and interest expense has been imputed to recognize the impact of purchased power agreements on Tampa Electric's capital structure for 2009?

A. The present value to January 2009 of Tampa Electric's future capacity payments for its purchased power agreements is $307 million, when multiplied by the S&P risk factor of 25 percent, results in approximately $77 million of imputed debt and $5 million of additional interest expense.

Q. Has the Commission recognized the effect of off-balance sheet obligations like purchased power agreements on a utility's capital structure in the past?

A. Yes. Rule 25-22.081(7), Florida Administrative Code ("F.A.C."), Contents of Petition requires utilities to include a discussion of the potential for increases or decreases in its cost of capital associated with purchased power in a petition for determination for need for new generation. Also, in both FP&L's and PEF's recent rate settlements, the Commission allowed off-balance sheet obligations for purchased power to be incorporated into the capital structure and weighted average cost of capital.

Q. Was Tampa Electric's capital structure adjusted to mitigate the effect of imputed debt associated with long-term purchased power contracts?

A. Yes. As the Commission has seen in the cases of other utilities in rate proceedings, Tampa Electric has adjusted its weighted average cost of capital to mitigate the effect of imputed off-balance sheet debt associated with long-term purchased power agreements. This was accomplished by recognizing, on a pro forma basis and as included in the direct testimony of witness Chronister, $77 million of additional equity necessary to offset the imputed debt. This, in effect, leaves the capital structure at the same common equity ratio before and after the imputation of the debt to account for purchased power obligations.

Q. Given the company's proposed capital structure of 55.3 percent equity, what are the equity infusions from TECO Energy for 2008 and 2009 that are necessary to achieve this capital structure?

A. The 2008 and 2009 planned equity infusions from TECO Energy to Tampa Electric are $350 million and $285 million, respectively. These significant equity infusions are in addition to the 2007 actual equity infusion of $82 million. Through July 2008, $150 million of the total $350 million of equity for 2008 has been contributed.

Q. What are TECO Energy's plans for making the remaining equity infusions in 2008 and 2009?

A. The remaining 2008 equity infusions of $200 million and the 2009 contribution of $285 million will be made from available operating cash flows of TECO Energy. TECO Energy is committed to making these contributions and anticipates they will be completed by year-end 2009. The timing of these contributions will depend on TECO Energy's actual monthly cash flows, which can be impacted by unexpected events, such as higher under-recoveries of fuel at the utility companies. Hence, the timing of the actual equity contributions may not occur precisely as assumed in Tampa Electric's 2009 test year and could result in the company not reaching its targeted 13-month average 55.3 percent equity ratio. However, the company believes that with adequate levels of fuel recovery and base rate increases, the 55.3 percent equity ratio can be achieved before year-end 2009.

PARENT COMPANY DEBT

Q. Did Tampa Electric make a parent company debt adjustment in accordance with F.A.C. Rule 25-14.004 F.A.C. ("Rule 25-14.004" or "the Rule")?

A. No. As in Tampa Electric's last rate case, an adjustment is inappropriate. Although the TECO Energy parent company currently has $404 million of long-term debt, this debt is related to TECO Energy's investments in its failed TPS merchant power projects and was not used to invest as equity in Tampa Electric. TPS was a subsidiary of TECO Energy that is no longer in existence.

The intent of the rule is to require an adjustment to the income tax expense of a regulated company to reflect the income tax expense benefit of the parent debt that may have been invested as equity of the subsidiary. The rule also states that it shall be a rebuttable presumption that a parent's investment in any subsidiary or in its own operations shall be considered to have been made in the same ratios as exist in the parent's overall capital structure. However, the rule allows a utility to demonstrate to the Commission that in certain circumstances it is appropriate not to make the adjustment. TECO Energy did not raise debt to invest in Tampa Electric, nor did it invest the proceeds of the debt it did raise as equity in Tampa Electric. Therefore, a parent company debt adjustment is not appropriate.

Q. Please explain further why the Commission should not make the parent company debt adjustment in this proceeding.

A. The Commission should not make the adjustment for the following reasons: 1) as stated above, the debt that exists at the parent was raised for TECO Energy's merchant power plant investments at TPS and was not used to invest in Tampa Electric, 2) imputing parent debt would result in an inappropriate imputed capital structure given how TECO Energy raises capital on behalf of its regulated and unregulated companies, 3) imputing debt for the cumulative equity infused to Tampa Electric over time ignores that the vast majority of the equity that exists at Tampa Electric was invested by TECO Energy in Tampa Electric during times when either no parent debt existed or at a time when parent debt was actually being repaid, and 4) TECO Energy's internal subsidiary 100 percent net income dividend policy results in an overstatement of the paid in capital equity amounts that have required the investment of parent capital as used in the parent company debt rule calculation.

Q. How does TECO Energy support the funding needs for Tampa

Electric?

A. TECO Energy provides only equity contributions to Tampa Electric. Tampa Electric raises its own debt and has separate credit ratings for this purpose. Tampa Electric's credit ratings have been and are expected to remain higher than TECO Energy's ratings.

Q. How does TECO Energy fund its unregulated operations?

A. Since TECO Energy's unregulated companies do not have their own credit ratings, TECO Energy raises both debt and equity capital for these companies. A large amount of both equity and debt capital was raised at the parent company for investments in TPS to fund significant merchant power plant investments from 1998 through 2003, which subsequently failed and/or were sold. Some of this debt remains at the parent company, but should be ignored when considering the capital structure used to fund equity for Tampa Electric since this debt was raised for investment in TPS.

Q. Please describe the debt at TECO Energy.

A. Prior to 1998, the only debt at the parent was $100 million and it was specifically related to the company's Employee Stock Option Plan trust. This debt existed during the time of the company's last rate case in 1992, and it was not imputed as debt to Tampa Electric. TECO Energy currently has about $400 million of debt at the parent level associated with its investments in TPS. This debt is part of a larger amount of capital (both equity and debt) raised for investment in TPS.

Q. You mentioned the $400 million of existing debt was part of a larger overall capital amount raised for investment in TPS. Please describe this further.

A. Beginning in 1998 and through 2003, the parent company raised a total of $3.4 billion of external capital (both equity and debt) to invest in TPS and other unregulated operations. Specifically, the parent company raised approximately $2.1 billion of debt and $1.3 billion of equity and also had internally generated funds of $300 million.

During this very same period, TECO Energy invested $3.3 billion in its unregulated operations. About $3.1 billion of the $3.3 billion went to TPS, with the remainder being invested in the other unregulated entities. During this time, $285 million of equity was infused to Tampa Electric and $119 million to Peoples Gas, the other regulated utility company. Since only $2.1 billion of the total $3.3 billion invested in the unregulated companies was raised in the form of debt, the remainder of the unregulated investment was made from external equity capital and internally generated funds. In addition, since Tampa Electric raised its own debt, the $285 million of equity that it received from the parent company represented only a small portion of the $1.4 billion of externally raised equity capital and $300 million of internally generated funds.

Q. Has the parent company raised any debt outside of this timeframe?

A. No. The period from 1998 through 2003 was the only period of time since the company's last rate case when the parent company raised any amount of new incremental external debt. During the period from 2004 to 2007, the parent company actually paid down significant amounts of debt and wrote off equity associated with its failed TPS merchant power investments. Since 2003, TECO Energy has not increased and, in fact, has significantly decreased its debt obligations. Thus, the $285 million of equity infused to Tampa Electric during 1998 through 2003 represents the only equity infusions that could have been possibly funded from debt at the parent level. Tampa Electric is projected to have a 13-month average paid in capital balance in 2009 of $1.9 billion or $2.0 billion by year-end 2009. Hence, the vast majority of the equity that exists at Tampa Electric was infused by TECO Energy during times when either no parent debt existed or at a time when parent debt was actually being repaid. Out of the total paid in capital, the amount infused in 1998 through 2003 total $285 million.

Q. Was any part of the debt raised during 1998 through 2003 actually used by TECO Energy to invest the $285 million of equity in Tampa Electric?

A. No. Although tracing funds is a complicated and difficult exercise, it is clear that the need for external capital was driven by the large investments in TPS. The equity infusions to Tampa Electric were funded with the parent company's internally generated funds and externally raised equity.

Q. How much of the total $2.1 billion of debt raised by TECO Energy still remains at the parent company?

A. Only $400 million. Since 2003, the parent company has reduced the debt associated with the merchant power investment through a comprehensive debt management plan. Many unregulated operating companies of TECO Energy, including various subsidiaries of TPS and TECO Transport, were sold to generate cash to reduce the debt burden. Most recently, TECO Energy used the proceeds from the sale of TECO Transport to execute a debt redemption and exchange offer that reduced the overall debt balance by another $300 million, extended the maturity of $300 million of debt and transferred, as part of a bond exchange offer, $900 million of TECO Energy debt to TECO Finance.

Q. Why wasn't the $400 million transferred to TECO Finance along with the $900 million?

A. The majority of the $400 million was included as part of the exchange offer to bondholders in 2007; however, not all bondholders chose to exchange their TECO Energy bonds for TECO Finance bonds. Therefore, the $400 million of the debt raised at TECO Energy for TPS remains.

Q. You stated that TECO Energy's internal subsidiary 100 percent net income dividend policy results in an overstatement of the paid in capital equity amounts that have required the investment of parent capital as used in the parent company debt rule calculation. Please explain.

A. TECO Energy's internal 100 percent dividend policy ("dividend policy") requires all subsidiaries, including Tampa Electric, to dividend to TECO Energy cash amounts equal to 100 percent of each subsidiary's net income. TECO Energy uses these internally generated funds for two purposes. It uses the majority of these funds to pay dividends to its shareholders. TECO Energy pays about 60 to 80 percent of its consolidated net income to its external shareholders in the form of a quarterly dividend. The remainder of the internal dividends from TECO Energy's subsidiaries is invested back in the subsidiaries.

Although these funds are invested back in the regulated companies in the form of equity infusions, the accounting treatment changes the equity classification of this amount from retained earnings to paid in capital at the subsidiary level. By doing so, this inappropriately increases the impact of a parent company debt adjustment under the rule. In other words, this simple reclassification of funds that were paid out of and then invested back into Tampa Electric causes the paid in capital balance at Tampa Electric to be effectively overstated and, in turn, the balance of retained earnings to be understated for these purposes. The accounting for the dividends and equity contributions does not change the source of these funds, i.e., the funds that were paid as dividends to TECO Energy and, in turn, reinvested, were actually internally generated by Tampa Electric and, in essence, did not require funding from the parent company.

From most financial and regulatory perspectives, the distinction between retained earnings and paid in capital are not important. For instance, both retained earnings and paid in capital are considered to be owner's equity within the capital structure for regulatory and financial integrity purposes. However, in the instance of the parent company debt rule, the distinction is very important, due to the focus on paid in capital.

Since the parent company debt rule excludes retained earnings and focuses solely on paid in capital, the relative amount of owners' equity that is classified as retained earnings versus paid in capital becomes important. TECO Energy's internal dividend policy creates a situation whereby the imputation of any parent debt percentage would be incorrectly applied to a portion of owners' equity that has actually been internally generated.

Q. What is Tampa Electric's paid in capital balance, and how has it been impacted by TECO Energy's dividend policy?

A. The company's paid in capital balance is expected to be approximately $1.9 billion by 2009. Because of the dividend policy, Tampa Electric's retained earnings balance has remained relatively flat since 1981, the year that TECO Energy was formed, and all of the company's growth in common equity has occurred in the form of paid in capital. Had Tampa Electric paid less dividends and "retained" more of its earnings, "paid in capital" would be less and, therefore, any potential adjustment under the rule would be less.

Q. Why does the parent company debt rule focus solely on paid in capital?

A. The intent of the rule is to focus on the external capital of the parent that may have been raised to support the external capital needs of the utility. To accomplish this goal, Rule 25-14.004 excludes the retained earnings of both the utility and the parent company. Since TECO Energy's dividend policy overstates paid in capital and the external capital needs of Tampa Electric, applying the Rule overstates the intended impact of the Rule. Hence, before any type of adjustment is considered under Rule 25-14.004, an adjustment should be made to reduce the paid in capital balance to reflect a dividend based on Tampa Electric's share of TECO Energy's dividend.

As I stated above, of the $1.9 billion of the "paid in capital" expected to reside on Tampa Electric's books by 2009, only $285 million was infused as equity by TECO Energy during the 1998 through 2003 period when it was raising debt and equity. If this $285 million were adjusted using the Massachusetts Method of allocation to reflect only Tampa Electric's allocated share of TECO Energy's dividend, the net equity infusion requirement would be $72 million. Thus, Tampa Electric's equity needs from 1998 through 2003, when adjusted to remove the dividend policy effects and net out internally generated funds, were $72 million. Even if a parent debt adjustment was to be applied, it should be applied to only $72 million of "paid in capital".

Q. Please summarize your position on the parent company debt adjustment.

A. Although the TECO Energy parent company currently has $400 million of debt, this debt is related to TECO Energy's investments in its failed TPS merchant power projects. When all of the facts and circumstances are considered, it is clear that this debt was not used to invest as equity in Tampa Electric. This debt exists because of the parent company's investments in its unregulated subsidiaries, specifically the failed TPS merchant power investments. The intent of Rule 25-14.004 is to adjust the tax expense of the regulated company when the holding company raises debt to invest as equity in the regulated company. TECO Energy did not raise debt to invest in Tampa Electric nor did it invest the proceeds from the debt it did raise as equity in Tampa Electric. Furthermore, given TECO Energy's and Tampa Electric's internal and external dividend policies, the application of the rule would impute parent company debt to an overstated paid in capital balance. A parent company debt adjustment is inappropriate.

SUMMARY

Q. Please summarize your direct testimony.

A. Since its last base rate case in 1992, Tampa Electric has had significant customer and revenue growth and has worked to manage costs and undertake innovative regulatory settlements to avoid the need to raise base rates. This has been done in an environment in which significant generation additions were required to meet customer growth. The company has made these significant generation additions and other asset additions while being able to keep itself within its allowed ROE range and maintain its financial integrity until recently.

More recently, the company has faced new environmental, reliability and storm hardening requirements. In addition, the cost for new equipment has increased considerably in recent years.

These factors have now come together to make an increase in Tampa Electric's base rates necessary in order to stop significant recent erosion in Tampa Electric's financial integrity. Tampa Electric needs to be financially strong to be able to raise the capital required to meet its significant capital investment requirements in 2009 and beyond.

Tampa Electric is requesting a base revenue increase of $228,167,000. The financial basis for this revenue requirement is a weighted cost of capital of 8.82 percent, which includes a 12.00 percent ROE and a financial equity ratio, with appropriate purchased power adjustments, of 55.3 percent. The requested ROE and equity ratio are important for the company to maintain and enhance its financial position to target credit parameters and debt ratings in the single A range. Finally, a parent company debt adjustment is inappropriate in the case of Tampa Electric and TECO Energy, as all equity infusions to Tampa Electric in the relevant time periods were made from internally generated funds or externally raised equity at the parent level.

Q. Does this complete your direct testimony?

A. Yes.

BY MR. WILLIS:

Q. Did you prepare and cause to be prefiled on December the 17th the prepared rebuttal testimony and exhibit of Gordon L. Gillette consisting of 25 pages of testimony and a rebuttal exhibit containing two documents?

A. Yes, I did.

Q. Do you have any additions or corrections to your rebuttal testimony or rebuttal exhibit which has been identified as Exhibit 80?

A. No, I do not.

Q. If I were to ask you the questions contained in your rebuttal testimony, would your answers be the same today?

A. Yes, they would.

MR. WILLIS: I would ask that Mr. Gillette's prepared rebuttal testimony be inserted into the record as though read.

COMMISSIONER EDGAR: The prefiled rebuttal testimony of the witness will be entered into the record as though read.

TAMPA ELECTRIC COMPANY
DOCKET NO. 080317-EI
FILED: 12/17/08

BEFORE THE PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY

OF

GORDON L. GILLETTE

Q. Please state your name, business address, occupation and employer.

A. My name is Gordon L. Gillette. My business address is 702 North Franklin Street, Tampa, Florida 33602. I am employed by Tampa Electric Company ("Tampa Electric" or "company") as Senior Vice President Finance and Chief Financial Officer.

Q. Are you the same Gordon L. Gillette who 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 address issues in the prepared direct testimony of witnesses J. Randall Woolridge and Hugh Larkin, testifying on behalf of the Office of Public Counsel, Kevin O'Donnell, testifying on behalf of the Florida Retail Federation, Thomas Herndon, testifying on behalf of the Florida Industrial Power Users Group, and Stephen Stewart, testifying on behalf of AARP.

Q. Have you prepared an exhibit supporting your rebuttal testimony?

A. Yes I have. My Rebuttal Exhibit No. __ (GLG-2) consists of two documents that were prepared under my direction and supervision. These consist of:

Document No. 1 Standard & Poor's Methodology for Imputing Debt for U.S. Utilities' Power Purchase Agreements

Document No. 2 New Issue Summary - 2008 Utility New Issuance

Q. Please summarize the key concerns and disagreements you have regarding the substance of the various witnesses' testimony.

A. My key concerns and disagreements are with the following matters:

- Dr. Woolridge challenges the level of support provided by Tampa Electric to justify its targeted single A bond rating;

- Dr. Woolridge and Mr. O'Donnell suggest alternatives to the capital structure proposed by Tampa Electric. Dr. Woolridge also takes issue with the company's proposed power purchase agreement ("PPA") adjustment to the capital structure;
- Dr. Woolridge and Messrs. O'Donnell and Herndon suggest that utility bonds are cheaper in the current market than in the past and make assertions on the cost of short-term debt;
- Dr. Woolridge claims that Tampa Electric witness Susan Abbott did not compare the magnitude of Tampa Electric's construction program relative to those of other electric utilities;
- Messers. Larkin and Stewart argue that the company's recommended annual storm damage reserve accrual is inappropriate and, rather than changing it, it would be better to rely on surcharges and securitization to recover costs in the event of a storm;
- Mr. O'Donnell suggests that Tampa Electric's witness Abbott provides no substantive contribution to the case.

Because of the overlap of topics and issues, I have divided my testimony into six sections: 1) Single A Bond

Rating, 2) Capital Structure, 3) Recent Market Effects on Debt and Equity Costs, 4) Relative Capital Expenditures, 5) Storm Damage Cost Recovery, and 6) Testimony of Susan Abbott.

SINGLE A BOND RATING

Q. Dr. Woolridge challenges the level of support provided by Tampa Electric to justify its targeted single A bond rating. Do you take issue with this?

A. I do. On pages 86 and 87 of his direct testimony, Dr. Woolridge makes three points with which I disagree. He states that: 1) Ms. Abbott's ratings parameters exhibit shows that Tampa Electric is on the high end of the BBB range, even without rate relief, 2) neither Ms. Abbott nor I have performed a cost benefit analysis of Tampa Electric targeting a single A rating, and 3) the rating agencies have affirmed or enhanced their outlooks on Tampa Electric, with an important driver being the de-leveraging of the parent company, TECO Energy. I disagree with all three points.

Q. What is your comment on Dr. Woolridge's assertion that Ms. Abbott's ratings parameters exhibit shows that Tampa Electric is on the high end of the BBB range even without rate relief?

A. Ms. Abbott and I had complementary exhibits in our direct testimonies showing projected coverage ratios. Her exhibit showed coverage ratios with Tampa Electric at the targeted 55.3 percent equity ratio, with and without the proposed rate increase. The exhibit in my testimony had an additional column showing the coverage ratios with the equity ratio at the 2007 level of about 46 percent and without the proposed rate increase. This column shows coverage ratios in the low BBB range. My exhibit illustrates that the company needs both rate relief and the proposed 55.3 percent jurisdictional financial equity ratio in order to be more certain of achieving credit rating parameters commensurate with its targeted single A debt rating.

Q. Please comment on Dr. Woolridge's assertion that no cost benefit analysis of Tampa Electric targeting a single A rating was preformed.

A. Dr. Woolridge seems to be implying that the company was remiss in not performing a cost benefit analysis of its targeted single A credit rating versus, I presume, staying at the current BBB rating or going lower in the credit ratings spectrum. Whether or not the company targets an A rating is not simply a question of costs and benefits. It is a broader and more challenging question of risks, rewards, and access to capital. Within reasonable ranges, the cost of equity is higher than debt and, therefore, more equity in the capital structure costs more. However, a balance must be maintained. Carrying too much debt will cause lower credit ratings, higher debt costs and limit overall access to capital. Given the extensive construction program and need for access to maintain the capital spending planned by Tampa Electric over the next several years, the realization of significant risk of hurricanes, the unprecedented upheaval that is currently occurring in the financial markets, and the significant amount of fuel the company buys, Tampa Electric needs to have strong investment grade ratings in order to ensure that it will have access to the debt capital markets as needed to fund its construction program. I believe that targeting credit ratings in the A range is appropriate for these purposes.

Q. Please describe why an A rating is so important to maintain access to the credit markets.

A. The utility sector is very capital intensive and relies heavily on the capital markets to provide funding for growth, system reliability and environmental compliance. While utilities have been able to meet their short-term funding needs during financial market disruptions by issuing highly-rated, short-dated commercial paper or tapping existing credit lines, access to longer-term financial markets is essential to fund long-term projects and maintain financial flexibility. The current financial crisis has impacted and disrupted all sectors of the capital markets, not only on the cost side but with regard to access to capital as well. As Ms. Abbott discusses in her rebuttal testimony, access to the credit markets has recently been especially challenging. During recent months, there have been periods of time when the debt capital markets were ostensibly closed for all new issuance, as was the case from September 10 through 22. When the debt capital markets eventually opened, providing small windows of opportunity for new issuances beginning in late September, only highly rated (strong single A or better) issuers were able to access the markets. It was several weeks later before a BBB rated utility was able to access the bond market, and the deals that were done by BBB issuers were mostly secured and at very high interest rates. This most recent period of financial market distress highlights the fact that highly rated issuers have more efficient and consistent access to the capital markets than lower rated issuers. It further supports the company's conclusion that the single A rating is necessary and indeed critical during times of national and international financial distress in order to maintain access.

Further, as I describe in my direct testimony, a single A rating leaves a "safety net" in the event of a significant hurricane. With single A ratings, the company would be less likely to be downgraded to below investment grade, a close to catastrophic occurrence for a utility company, than if the company were maintaining a BBB rating before a major storm event occurred. I believe this is the reason more utilities in the southeast maintain debt ratings in the A range. On average, 58 percent of the electric utilities in the southeast have single A ratings or above. This compares to 28 percent across the U.S.

Q. Messrs. Woolridge, O'Donnell and Herndon question the benefits of being an A rated utility. Did they provide any evidence to suggest that a lower rating would provide adequate financial integrity and access to the capital markets?

A. No. None of these witnesses provide any evidence to suggest that a rating lower than single A would provide adequate financial integrity and appropriate and consistent access to the capital markets.

Q. Please describe the types of ratings that rating agencies use.

A. The rating agencies have two categories in which they provide information on a company. They provide an actual debt rating, which when changed up or down is termed a "ratings action". They also provide outlooks, typically either "positive", "stable", or "negative," to give institutional investors a sense of the direction that the rating might go in the future, pending certain future events such as key regulatory decisions.

Q. Dr. Woolridge states "the three major rating agencies have most recently affirmed or enhanced the outlook for the ratings of Tampa Electric," and that "an important factor in these decisions appears to be the deleveraging of the parent company, TECO Energy." How do you respond?

A. Dr. Woolridge is correct in his first statement where he indicates that "the three major rating agencies have most recently affirmed or enhanced the outlook for the ratings of Tampa Electric." I disagree, however, with his second statement where he indicates that this is driven by the deleveraging of TECO Energy. While this may be partially the cause, the rating agencies are very focused on the outcome of this proceeding as well. They know that the company is moving aggressively to improve its equity ratio, capital structure, and overall financial integrity. I believe that an affirmation of the appropriateness of these actions by the Commission will potentially allow the agencies to take actions to upgrade Tampa Electric. By the same token, if the Commission were to accept the capital structure recommendations of the intervenors' witnesses in this case, I am very concerned that the rating agencies could downgrade Tampa Electric.

The most recent ratings changes by the rating agencies have been as follows:

- On November 27, 2007, S&P upgraded the unsecured debt of TECO Energy to BB+ and maintained the rating at Tampa Electric at BBB- (one notch above non-investment grade), citing TECO Energy's commitment to credit quality by shedding most of its unregulated businesses and restoring its balance sheet;

- On December 5, 2007, Moody's upgraded the unsecured debt of TECO Energy to Baa3 (investment grade) reflecting the company's reduced business risk profile resulting from the sale of unregulated businesses and retirement of parent company debt. In the December 5, 2007 report, Moody's maintained the rating at Tampa Electric at Baa2, indicating that Tampa Electric's ratings could move up with additional clarity on the size and timing of its capital expenditure program and the magnitude and regulatory response to potential rate increases related to these capital expenditures; and
- On March 26, 2008, Fitch upgraded the unsecured debt of TECO Energy to BBB-, citing reduction in business risk and retirement of parent debt and affirmed the BBB+ unsecured debt rating of Tampa Electric, citing credit concerns for Tampa Electric, including an increasing reliance on gas-fired generation capacity, more stringent environmental regulations, lower sales growth and the need for base rate relief.

So while all three agencies upgraded TECO Energy, all three left Tampa Electric's ratings where they had been. This indicates that, as one would expect, deleveraging TECO Energy is driving TECO Energy's ratings more than it is Tampa Electric's. Additionally, recent discussions with the rating agencies suggest that Tampa Electric's current credit parameters, including its equity ratio, are not sufficient to justify a single A rating. Hence, the more important factors for Tampa Electric to obtain stronger debt ratings are for the company to receive the rate relief requested, including the proposed equity ratio and return on equity.

CAPITAL STRUCTURE

Q. Messrs. Woolridge and O'Donnell suggest alternatives to the 55.32 percent equity ratio proposed by Tampa Electric. Why should the Commission reject their recommendations and use the company's proposed equity ratio?

A. In the interest of lowering the revenue requirement, the intervenor witnesses have recommended much lower equity ratios than the company has proposed. Although they derived their recommended equity ratios using different arguments or justifications which I will discuss later in my testimony, their recommendations were similar (48.9 percent and 49.6 percent) compared to the company's proposed 55.32 percent. While Mr. O'Donnell's 49.6 percent recommendation was not stated directly in his testimony, I calculated it using his proposed overall capital structure, which used all regulatory sources of capital. If the Commission were to adopt these significantly lower equity ratios, the company would not be able to achieve its goal of having credit parameters in the single A range. As discussed in both Ms. Abbott's and my direct testimony, the 55.32 percent equity ratio the company has proposed should result in credit parameters that best enable the company to achieve a single A rating.

Q. How do the equity ratio recommendations of Messrs. Woolridge and O'Donnell of 48.9 percent and 49.6 percent, respectively, compare to the allowed capital structures of other investor-owned utilities in Florida?

A. The recommended equity ratios are substantially lower than the most recently approved capital structures for Progress Energy Florida, Inc. ("PEF") and Florida Power & Light Company ("FP&L"). In their recent rate case proceedings, the Commission approved PEF and FPL's equity ratios at 57.83 percent and 55.83 percent, respectively. Furthermore, in Tampa Electric's 1996 earnings review, the Commission capped the company's equity ratio at 58.7 percent. These equity ratio decisions demonstrate the long history of this Commission's support for utility financial integrity and the reasonableness of the company's requested 55.32 percent equity ratio.

Q. Dr. Woolridge states that the 48.89 percent equity ratio more accurately reflects how the company has been financed in the past. Is he correct?

A. No. He used an outdated time period that is not reflective of how the company is currently financed and will be financed in the future. By using the 2007 and 2008 13-month average capital structures to derive his proposed ratio, Dr. Woolridge did not account for the full effect of the equity infusions TECO Energy has already made and plans to make to Tampa Electric. The difference can be better understood by comparing the year-end equity ratio in the company's September 2008 Surveillance Report to the 48.89 percent recommended equity ratio by Dr. Woolridge. The company's equity ratio as of September 2008 is 51.9 percent. While this ratio only reflects equity infusions made through September, it will continue to increase as TECO Energy makes additional equity infusions.

As I stated earlier in my testimony, given what we know about the current situation in the financial markets, the risk of hurricanes and the extensive capital expenditure needs of Tampa Electric going forward, it would be a mistake to leave the capital structure and resulting debt ratings where they were in 2007 and early 2008.

Q. Dr. Woolridge also states that the 48.89 percent equity ratio more accurately reflects the capitalization of other electric utility companies. Is he correct?

A. No. Dr. Murry's rebuttal testimony addresses the problems associated with Dr. Woolridge's proposed proxy group; however, I would like to address one of the particular proxy companies selected by Dr. Woolridge. Progress Energy, Inc. (the holding company) is listed in his proposed proxy group exhibit and it is shown to have an equity ratio of only 43 percent. It evidently does not reflect PEF's most recent Commission approved 57.83 percent equity ratio, which is more comparable to and supportive of the 55.32 percent equity ratio requested by Tampa Electric in this proceeding.

Q. Dr. Woolridge takes issue with the company's proposed PPA adjustment to the capital structure. What is your response?

A. Dr. Woolridge makes three basic points in support of his position that a PPA adjustment is not warranted; 1) the risk factor is not defined, 2) the adjustment is not in accordance with GAAP accounting, and 3) the PPA payments are unlike debt. While Ms. Abbott addresses some of these issues in her rebuttal testimony, I have a few additional comments regarding his first and third points.

In his first point, Dr. Woolridge questions the use of the 25 percent risk factor in calculating the imputed debt amount and he states that the "S&P risk factor for imputing debt is not well defined and cannot be assessed in this situation." To the contrary, through direct discussions with S&P, the company is aware that S&P has been and continues to impute debt for PPAs in its credit rating analysis of Tampa Electric by applying a 25 percent factor to the present value of the PPA capacity payments. This is exactly what Tampa Electric has done in preparing the projected adjustment in this proceeding. This is further supported by Document No. 1 of my Rebuttal Exhibit No. __ (GLG-2) which is an article that suggests that S&P would use a 25 percent factor for companies with recovery clause mechanisms similar to Tampa Electric's.

With regard to Dr. Woolridge's third argument, I believe he ignores this Commission's history of recognizing the S&P imputation of off-balance sheet debt for PPAs in its prior rulings. As I mention in my direct testimony, Rule 25-22.081(7), Florida Administrative Code, Contents of Petition, requires utilities to include a discussion of the potential for increases and decreases in its cost of capital associated with purchased power in a petition for determination of need for new generation. Also, in both FP&L's and PEF's recent base rate proceedings, the Commission approved off-balance sheet obligations for PPAs to be incorporated into the capital structure and weighted average cost of capital.

Q. Do you agree with Mr. O'Donnell's statement that his adjustment in the proposed capital structure for this issue is "in keeping with Commission Rule 25-14.004"?

A. No. Mr. O'Donnell's proposed adjustment to the capital structure is not consistent with the Commission's parent company debt rule. Furthermore, Mr. O'Donnell's recommended adjustment to the equity in the capital structure is neither supportable nor appropriate.

RECENT MARKET EFFECTS ON DEBT AND EQUITY COSTS

Q. Messrs. Woolridge, O'Donnell and Herndon suggest that interest rates and equity risk premiums are currently at historically low levels and therefore, the return on equity set in this case should be lower. Do you agree with these assertions?

A. No, I do not. While it is true that current interest rates on Treasury securities have been bid down to historically low levels, credit spreads, which are the amounts added to the Treasury rate to derive the "all-in" price of corporate debt, are at historically wide levels resulting in yields for bonds, including utility bonds, at significantly higher than historical levels. Recent trading yields of 10-year utility debt are higher than any period since 2000 and since 1992 before that. In addition, recent new utility debt issues have been priced with significant new issue premiums over and above current trading yields. The cost of capital for debt and equity issuers has increased in response to the current financial market crisis and investors' quest for quality. In Document No. 2 of my rebuttal exhibit GLG-2, I provide a list of the various utility bond deals that have been recently executed along with the respective company's credit rating. This list clearly demonstrates the higher rates associated with debt in this current financial market.

Q. Please address the difference between Dr. Woolridge's proposed cost of short-term debt compared to the company's.

A. Because of the volatility and uncertainty surrounding short-term interest rates, the company utilized average historical LIBOR rates in developing its proposed short-term interest rate of 4.5 percent based on a LIBOR rate of 4.37 percent. Dr. Woolridge indicates that the more appropriate LIBOR rate should be based off of the November 13, 2008 rate of 2.15 percent which happens to be near the absolute lowest rate seen in the last four years. Dr. Woolridge's Exhibit JRW-4, page 5 of 6, shows LIBOR rates from January 2, 2004 to November 2, 2008. The average rate over this selected time period is 3.8 percent. However, over the last three years, LIBOR rates have averaged 4.5 percent. Current LIBOR rates have been driven down by the billions of dollars of liquidity the Federal Reserve, Treasury Department, and U.S. Government have flooded into the market to entice banks to begin lending to each other in the current financial crisis. As evidenced by the significant spike in LIBOR rates in September to 4.75 percent, these rates have been extremely volatile and presumably will continue to be volatile for the foreseeable future. It is therefore prudent to use a historical average LIBOR rate as the company proposed rather than a rate at a particular point in time as Dr. Woolridge has done to determine future short-term funding costs.

RELATIVE CAPITAL EXPENDITURES

Q. Dr. Woolridge alleges that Ms. Abbott made no comparison of the magnitude of Tampa Electric's construction program to those of other electric utilities and/or to the electric utilities included in Dr. Murry's proxy group. How do you respond?

A. While Ms. Abbott may not have discussed the company's capital expenditure program in relation to the requirements of the industry, I did. In my direct testimony, I discuss the significant capital expenditures since Tampa Electric's last base rate case in 1992 along with the more recent capital spending trends that have affected the electric industry and, specifically, the company's levels of capital spending. I discuss the significant recent increase in Tampa Electric's rate base and the significant needs over the next several years for capital spending. I describe that only about half of

Tampa Electric's projected construction expenditures over the next five years will be made with internally generated funds and the remainder must be made with external funding.

For 2008 through 2010, Tampa Electric's projected capital expenditures are estimated at $1.8 billion, and more than 60 percent of this amount will need to be sourced externally. According to a recent report prepared by an investment bank, the electric utility industry's capital expenditures for 2008 through 2010 are estimated at $276 billion which represents about 41 percent of the industry's market value. This same report cites Tampa Electric's 2008 through 2010 capital expenditures representing about 44 percent of market value. This clearly illustrates that the company's capital expenditure needs are significant relative to the industry's significant needs and it underscores the importance of maintaining a high level of financial integrity and a strong credit rating going forward.

STORM DAMAGE COST RECOVERY

Q. Messrs. Larkin and Stewart argue that the level of Tampa Electric's proposed storm damage accrual and reserve is inappropriate and they support surcharges and securitization for future needs. Do you agree?

A. No. Since Florida's 2004 hurricane season experience, three storm cost recovery mechanisms have been used: an annual reserve accrual included in base rates, a storm surcharge or pass-through added to base rates for two to three years, and securitization, which is a financing mechanism that effectively spreads a surcharge over a longer period of time. Both witnesses state that the company's existing annual accrual and reserve target are appropriate and recommend, in the event that the reserve is not adequate following a significant storm, the company can simply rely on a surcharge and securitization. In his rebuttal testimony, Tampa Electric witness Jeffrey Chronister addresses why their recommendation is not appropriate nor is it in the best interest of customers. However, I would like to address the limitations of securitization as a financing mechanism for storm costs.

While securitization can be a very effective financing mechanism, it may not be economic or feasible for amounts less than $150 to $200 million. The fixed costs of the securitized debt issuance and the ongoing cost of administration, which are higher than for unstructured financings, would make a small issue size very expensive. More importantly, it is difficult to attract investors to small issue sizes, primarily because investors desire the liquidity of a large transaction. Because of the size considerations, securitization represents a realistic solution for only the large and low probability events, such as Category 3 or higher storms. At the current accrual and reserve level, this would leave a fairly large gap that would fall to a short-term surcharge. As Tampa Electric witness Stephen Harris states in his rebuttal testimony, at the current annual accrual of $4 million, there is a greater than 50 percent chance of a negative reserve balance within the next five years. The company's recommended increase to the storm damage accrual is necessary and appropriate.

TESTIMONY OF SUSAN ABBOTT

Q. Mr. O'Donnell suggests that Tampa Electric's witness Abbott provides no return on equity or capital structure recommendation and makes no substantive contribution to the case. Do you agree?

A. No, I do not. Ms. Abbott's role is not to testify in support of the company's requested return on equity and its requested capital structure. Dr. Murry and I provide complete testimony in these areas. Ms. Abbott was hired because of her background and expertise on rating agencies and her understanding of how regulatory commissions' base rate decisions can impact a company's ratings. She has provided insight into rating agencies' processes and perspectives, analyzed the company's current creditworthiness, helped determine a necessary rating to ensure access to the debt and equity markets, and provided direct and rebuttal testimony. The Commission has a long history of considering the testimony of financial integrity witnesses similar to that provided by Ms. Abbott.

Q. Do you agree with Mr. O'Donnell's recommendation that Ms. Abbott's fees should be excluded from rate case expense because she makes no substantive contribution to the case and they are too high?

A. No, I do not. She is an integral part to the company's comprehensive case and her fees are competitive and appropriate. Mr. Chronister addresses overall rate case expense in his rebuttal testimony and, while he does not specifically address Ms. Abbott's fee, he addresses the appropriateness of the company's proposed rate case expense.

SUMMARY OF REBUTTAL TESTIMONY

Q. Please summarize your rebuttal testimony.

A. My rebuttal testimony has addressed the primary concerns and disagreements I have regarding the testimonies of the intervenors' witnesses Woolridge, Larkin, O'Donnell, Herndon, and Stewart. They all make assertions that are not accurate, not appropriate or not applicable to the issues in this proceeding. While they raise a variety of issues including the company's proposed capital structure, its targeted credit rating, the recent market effects on the cost of debt and equity, and other various projected costs such as storm damage accrual and rate case expense, none of them present sufficient evidence to support any adjustments to the company's proposed revenue requirement. The company has presented facts and information that support its petition and the appropriateness of the revenue requirement contained in its filing.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

BY MR. WILLIS:

Q. Please summarize your testimony.

A. Good afternoon, Commissioners. My testimony focuses on the financial aspects of Tampa Electric's proposed rate increase.

Mr. Black has described some of the significant changes that have occurred at Tampa Electric over the 16 years since we were last in for a base rate increase, so I won't repeat them. Over the last few years, the company has entered a period of unprecedented needs for capital expenditures and operations expenditures for generation additions and transmission and distributions additions as well for storm hardening and reliability. Adding to this challenge is the fact that the cost of new equipment has increased very significantly, in some cases, almost doubling in recent years.

These factors have come together to cause the recent and expected future rate of growth of our rate base to be much greater than the expected growth in base revenues. This makes an increase in Tampa Electric's base rates necessary to stop a significant erosion in Tampa Electric's return on equity and overall financial integrity.

Tampa Electric needs to be financially strong to be able to access the capital markets when necessary in order to procure the capital required to meet its significant capital expenditure needs in 2009 and beyond. Over the next few years, Tampa Electric's needs for external financing will exceed its internally generated funds to the point that 60 percent of its financing will need to be done externally. This higher percentage -- this percentage is much higher than in the past for Tampa Electric, and it's also in general high for electric utilities.

Tampa Electric is requesting a rate increase of $228 million in this proceeding. The financial basis for the proposed revenue increase is a weighted average cost of capital of 8.82 percent, which includes a 12 percent return on equity and a financial equity ratio of 55.3 percent.

The requested return on equity and equity ratio are important for the company to maintain its financial integrity and for the company to reach its targeted credit ratings parameters and targeted debt ratings of single-A. Consistent with the majority of other utilities in the Southeast, debt ratings in the single-A range are necessary, given the company's future capital spending program to maintain reliable service, and acknowledge the risks, the risk of things like hurricanes, and especially the very high financial market uncertainty that we face today. With your approval of the requested rate increase, the company's coverage ratios should fall within the range necessary to achieve the targeted single-A credit ratings.

Another area that I address in my testimony is parent company debt and Rule 25-14.004. It is our position that an adjustment under this rule is not appropriate for Tampa Electric. Under the rule, Tampa Electric has the opportunity to rebut the presumption that any debt at the parent company was raised to support equity infusions to the utility. All of the debt that currently exists at the TECO Energy parent level was raised on behalf of TECO Power Services for its investments in merchant power projects, and no amount of this debt was raised to infuse equity into Tampa Electric. Therefore, A parent company debt adjustment is not required or warranted.

My rebuttal testimony addresses numerous deficiencies in the direct testimony of the intervenors' financial witnesses. The intervenor witnesses have coalesced around a 49 to 50 percent equity ratio on a financial basis that I believe is insufficient for Tampa Electric to achieve its targeted single-A credit ratings. This combined with the intervenors' proposal on return on equity and other factors would cause a significant degradation in Tampa Electric's financial integrity. Our requested 55.3 percent equity ratio is appropriate and consistent with the approved equity ratios of other electric utilities in Florida.

Finally, contrary to the assertions of the intervenor witnesses, the financial crises that we're now seeing in the world and in the nation have served to limit our access to debt and equity financing and have served to cause interest rates and the overall cost of capital to rise very significantly. Rather than supporting a lower return on equity as the intervenors suggest, today's conditions underscore the need for a strong return on equity like our proposed 12 percent.

Commissioners, your decisions in this proceeding are critical to Tampa Electric's financial integrity. Granting Tampa Electric's requests in the area of capital structure and cost of capital is especially important in this tenuous financial market environment that exists today.

That concludes my summary.

MR. WILLIS: I tender the witness.

COMMISSIONER EDGAR: Ms. Christensen.

MS. CHRISTENSEN: Thank you.

CROSS-EXAMINATION

BY MS. CHRISTENSEN:

Q. Good afternoon, Mr. Gillette. I just have a few quick questions for you.

Is it correct that TECO Energy has written off its investment in the TPS merchant power plants?

A. That is correct.

Q. And is it also correct that you stated the company has $404 million of long-term debt on TECO Energy's balance sheets?

A. That's correct.

Q. Okay. And wouldn't you agree the Generally Accepted Accounting Principles do not allow a company to maintain equity or debt on its books for an investment that has already been written off?

A. Well, no, I don't agree with that, and I'll supplement my answer by saying in the case of the write-offs, we wrote off equity. We didn't write off debt. And that in fact is the reason that the $400 million of parent debt remains.

Q. Okay. If you had written off the debt, you would not be allowed to maintain that on your books; is that correct?

A. Well, you really can't write off debt, and the reason is that that debt still exists.

Q. Let me move on. In order for a company to keep debt on its books, it has to support an asset that's currently used and useful; is that correct?

A. No. Debt is a liability of the company, and the debt that remains on TECO Energy's books is in fact a carry-over from our investments in merchant power. But it is still an obligation of the company, one that we pay debt service on on a regular basis.

Q. Let me ask you this, changing subjects. Have you requested recovery for storm hardening activities in this rate case?

A. We have.

Q. Okay. And regarding the 12 percent ROE that the company is requesting in this case, is that an after-tax ROE number?

A. It is.

Q. And then that would be grossed up at approximately a 1.6 percent rate for taxes?

A. That's correct. On a pre-tax basis, the return would be approximately 19 percent.

MS. CHRISTENSEN: Thank you. I have no further questions.

THE WITNESS: I would just supplement my answer by saying that the returns on equity are generally quoted after tax. And the returns on equity of some of the other companies that exist in Florida, for instance, Publix Super Markets, is about 20 percent on an after-tax basis, and Mosaic recently is at about a 54 percent return on equity.

MS. CHRISTENSEN: I have no further questions.

COMMISSIONER EDGAR: Ms. Bradley.

MS. BRADLEY: Thank you.

CROSS-EXAMINATION

BY MS. BRADLEY:

Q. Mr. Gillette, Mr. Black indicated that you were going to talk about a fair and reasonable return on equity. Is that fair or reasonable for TECO or for your customers?

A. It's fair and reasonable in order for us to be able to attract the capital that we need in order to finance our investments going forward. What we're, I think, attempting to do in this proceeding is establish a cost of capital that on the one hand is as low as possible for ratepayers, but on the other hand, allows the company to access the capital markets in ways that it can compete for equity capital. And in that context, we believe that the 12 percent equity is appropriate.

Q. So going back to my question, that would be fair and reasonable for TECO?

A. Fair and reasonable for TECO and the other utilities that are requesting rates at this point in time. There are numerous rate cases that are under way across the United States at this point in time, several in the Southeast, and there are five utilities in the Southeast that have requested returns on equity in the 12 percent range.

Q. And looking at the return on equity, did you do an analysis of how many customers you might lose because of this increase?

A. I'm having trouble getting the correlation here. You're talking about rate increase and loss in customers?

Q. Yes. Did you do an analysis? As you were looking at this return on equity and requested rate increase, did you analyze how many customers that might cost you?

A. We did not. However, we do track bad debt expense very closely, and our bad debt expense has, even in these times when fuel costs have increased fairly significantly, stayed fairly low. And so we don't see ourselves, in effect, losing customers due to cost.

Q. So you did not analyze that?

A. Well, I think bad debt expense is a fairly good way to analogize what's going on in the customer base. The customers --

Q. Did you go to --

A. -- that are in our service -- we don't track the customers that move out of our service territory due to electric rates. And I would venture to say that it's unlikely that there were many that moved out of the service territory just due to electric rates.

Q. Did you go to the public hearings that were held in Tampa?

A. I did not.

Q. Have you reviewed the testimony from the public hearings?

A. I have reviewed summaries of the public hearings.

Q. Did those summaries indicate that there were people that testified they could not afford the rate increase?

A. Yes.

Q. And did you then do an analysis of how many customers you might lose because they couldn't pay for your utility?

A. We did not, or I did not.

MS. BRADLEY: Nothing further.

COMMISSIONER EDGAR: Mr. Moyle.

MR. MOYLE: Thank you, Madam Chairman.

CROSS-EXAMINATION

BY MR. MOYLE:

Q. Mr. Gillette, good afternoon. Jon Moyle on behalf of FIPUG.

In preparing some questions to ask you, I read your testimony to be offered as the chief financial officer of TECO Energy and the CFO of Tampa Electric. Is that correct?

A. That's correct.

Q. And in your summary on page 37, you provide background about what the company has faced since 1992, and you go through the customer and revenue growth, some of the regulatory settlements that you've done with the Florida Department of Environmental Protection and EPA, and some storm hardening requirements, and what you need to be financially sound. That's generally correct, isn't it?

A. The first part of my testimony speaks to those points, yes.

Q. I'm correct then, am I not, to assume that you're testifying as a fact witness in this case?

A. I'll look to my attorneys on that.

Q. Well, I guess the question is, do you consider yourself -- have you given any opinions or do you think you're an expert and you're going to give opinions, or are you kind of testifying about here's the road TECO has traveled to get to this point today? And you can answer. I mean, if you consider yourself an expert, then I'll have some questions on that. If you don't, tell me you don't.

MR. WILLIS: Madam Chairman, Mr. Gillette is offered both as a fact and as an expert. He has --

MR. MOYLE: Well, let --

MR. WILLIS: -- a lot of experience as a chief financial officer of both Tampa Electric and TECO Energy and is eminently qualified as an expert to express his opinions in this case.

COMMISSIONER EDGAR: Mr. Moyle.

MR. MOYLE: Can I voir dire him, then?

BY MR. MOYLE:

Q. What areas do you have expertise in, do you consider yourself to have expertise in?

A. On general utility business management and financial issues. I've been with the company for 26 years.

Q. Is there anything beyond that?

A. All my experience has been with TECO Energy and Tampa Electric. I joined the company when I was 21 years old.

COMMISSIONER EDGAR: Mr. Moyle, where are we going?

MR. MOYLE: Well, here's the thing. I mean, you read his direct testimony, and he tells you all these facts about what TECO is doing. You're preparing -- you know, I don't perceive him as being an expert. I'm trying to confirm he's not an expert, and then his --

MS. HELTON: Madam Chairman.

MR. MOYLE: -- lawyer is saying, well, he is an expert. So if he is an expert, I want to know what he contends he's a expert in so that we can limit the opinion testimony. I don't think he's an expert in what the bond rating agencies will do, so if he's not, then I want to -- you know, I want to confine it a little bit.

COMMISSIONER EDGAR: Ms. Helton.

MR. WILLIS: Mr. Moyle, he is an expert --

COMMISSIONER EDGAR: No, no, no. Hold on. Ms. Helton, did you want to speak?

MS. HELTON: Yes, ma'am, I would appreciate that. If you'll hold on one minute, I'm looking for a reference in the order establishing procedure.

COMMISSIONER EDGAR: Mr. Willis, I will come back to you in just a moment.

MS. HELTON: On page 5 of the Order Establishing Procedure issued in this docket, and it's

Order No. PSC-08-0557-PCO-EI, the parties are directed in their prehearing statements to address certain matters, and subsection (8) of those matters is, "Any objection to a witness's qualifications as an expert. Failure to identify such objection will result in restriction of a party's ability to conduct voir dire absent a showing of good cause at the time the witness is offered for cross-examination at hearing." And I'm not sure that I've heard Mr. Moyle express good cause for the need for us to go through this exercise this afternoon.

MR. MOYLE: Well, I guess --

COMMISSIONER EDGAR: Just a moment. Mr. Moyle, what I heard you say is that in your opinion -- is that the same as good cause?

MR. MOYLE: Well, I guess here's sort of the problem. Mr. Gillette, you know, he has prefiled testimony. You can read it.

COMMISSIONER EDGAR: I have.

MR. MOYLE: And I think fairly it characterizes what the history of Tampa Electric has been since the last rate case, their deal with the -- I mean, it's a lot of factual stuff that he has information of, having served as the CFO, distinct materially from Dr. Murry, who is a professor at

Oklahoma who says, "Here. Here's your ROE. Here's a discounted cash flow model." I mean, that puts me on notice that Dr. Murry is an expert. I don't have that notice with Mr. Gillette. I'm assuming that he's testifying as a fact witness based on what I read.

You know, there can be a fuel witness, here's what we've done with respect to fuel, and all of a sudden, you know, they're going to offer an opinion, and we're not clear. It's mushy as to who's an expert and who's not. I looked at his testimony, and I think it's factual, and I just want to try to confirm it's factual. Now his lawyer -- he kind of said, "Well, I'm not really sure. Let me ask my lawyer," and then his lawyer says, "Well, you're an expert in finance." So if he's an expert in finance, I want to limit it to that. I think it's fair game.

COMMISSIONER EDGAR: My opinion --

MR. WILLIS: May I respond?

COMMISSIONER EDGAR: Yes, in just a moment, Mr. Willis. My thinking is that our time is better spent with you asking your questions to the witness and the witness responding, with an opportunity, of course, for the same with the future witnesses.

Commissioner, let me hear from Mr. Willis, and then I absolutely will come to you. Mr. Willis.

MR. WILLIS: Not only was he required to do this previously, but he has raised a motion to strike trying to strike this testimony, which has been denied by the Prehearing Officer here.

And in fact, a witness is qualified not only through educational background but through experience, and he has certainly shown that he has the experience to express the opinions, and all the opinions that he expresses in his testimony he's qualified to give.

COMMISSIONER EDGAR: I have not heard anything that rises to the level of good cause in my mind to change the way that we would proceed with this witness.

Commissioner Argenziano, did you have any additional comments?

COMMISSIONER ARGENZIANO: Yes, I do. Since I'm not an attorney, I would like to know -- I mean, I'm looking at -- I'm reading and I'm trying to figure out what is factual, what isn't, who is qualified to give me factual information, and I think it is pertinent to me making a decision to find out.

I mean, I'm confused as to whether the gentleman has the expertise to give the information or not, so somebody needs to better explain to me why it's not important to figure out whether it's factual or not factual or what his experience is in his testimony, or does it not matter? Or just me saying that on the record, does that indicate that I'm not sure that the individual has the background -- and I don't know. I'm not saying he doesn't. But how would it be not pertinent to making a decision? And when I'm reading his statements in his direct testimony as factual, am I supposed to take them as factual or not?

Staff is saying yes.

MR. WILLIS: The testimony has already been inserted into the record, so it is in evidence.

COMMISSIONER ARGENZIANO: And his expertise?

MR. WILLIS: His expertise is established through his testimony. He testifies that he has been the chief financial officer since 1998, I believe, and in that capacity, he knows and has personal knowledge of the things that he is testifying on and has formed opinions based on facts.

This was raised previously to this hearing by Mr. Moyle. It was denied by Commissioner Skop, and he was required to challenge in the procedural order before now, so --

COMMISSIONER ARGENZIANO: Well, can I do this? Not getting into all the legalese of everything, because I would much rather have it not get to that part, what you're indicating to me is that through his experience, that makes him --

MR. WILLIS: Yes.

COMMISSIONER ARGENZIANO: Okay. That's what I needed to know.

MR. WILLIS: Yes, absolutely.

COMMISSIONER ARGENZIANO: And all the legalese -- through his years of experience, that is what brings him to testify, and that is what I'm taking to the bank.

MR. WILLIS: Yes.

COMMISSIONER ARGENZIANO: Okay. That's what I needed.

COMMISSIONER EDGAR: And then, of course, Commissioner, as with every witness and every bit of evidence that comes before us, you in your independent capacity give it the weight that you deem it to deserve.

COMMISSIONER ARGENZIANO: Trust me, I will.

COMMISSIONER EDGAR: And Mr. Willis will, of course, have the opportunity on redirect as well.

Mr. Wright.

MR. WRIGHT: May I just be heard briefly on this issue?

COMMISSIONER EDGAR: I have recognized you.

MR. WRIGHT: Thank you very much.

The problem is this. Normally in a DOAH type hearing, one is put on notice. All the parties are put on notice as to whether a witness is tendered as an expert. In a DOAH proceeding, it's live testimony, and you go through a bunch of questions and qualify the expert, and then you ask the administrative law judge to accept the witness as an expert, and people have the opportunity to voir dire and object and all that stuff.

Now, we don't object to Mr. Gillette's testimony, but Mr. Moyle's point goes to the question whether his testimony is just fact testimony or whether it's expert testimony. In a due process sense, I don't believe we were put on notice that Mr. Gillette is being offered as an expert. There's no question in there that says, "Are you an expert in utility bond ratings," or in what the financial agencies do, or whatever else. That's the point.

My own belief is that, following what you said, Madam Chairman Pro Tem, is that Mr. Moyle could probably ask all the questions he wants to ask in any event. They're just not necessarily voir dire. They're appropriate questioning that would go to the witness's credibility as to opinion testimony.

Thank you for hearing me.

COMMISSIONER EDGAR: Thank you, Mr. Wright. Which brings me back to where I was a few moments ago, which is, I think our time would be better spent with each of the parties posing their questions to the witness, affording then that same opportunity to Commissioners and to staff and then on redirect. So, Mr. Moyle, let's move along. Do you have questions for this witness?

MR. MOYLE: Sure. I'll be fine. Just for purposes that we have a clear record, because I don't think it is clear, there's nothing in his direct testimony that indicates he professes to have expertise in any particular field, and so that was the reason why I asked the question. His lawyer says he has expertise in finance. I can ask him the question, what does he have, you know, expertise in, and he can answer it if --

COMMISSIONER EDGAR: Mr. Moyle, if you have questions for this witness that you would like to ask as to his background, education, work experience, et cetera, we can certainly do that for a short period of time. However, you have made your point. I think it is clear on the record what your point or question is, and I would like to move along.

MR. MOYLE: That's fine. And so the ruling is that he is admitted as an expert?

COMMISSIONER EDGAR: The ruling is that you have made your point on the record. We will as decision-makers give the weight of -- the testimony the weight that we deem it to require, deserve.

MR. MOYLE: Okay. I'll move on.

COMMISSIONER EDGAR: Thank you.

BY MR. MOYLE:

Q. Mr. Gillette, your educational background is in engineering; correct?

A. That's correct.

Q. It's not in finance?

A. That's correct.

Q. Now, in your testimony, you talk about rating agencies. Do you communicate regularly with rating agencies either by speaking with them or e-mailing them?

A. I do. In my capacity as CFO for the past 10 years, I've regularly communicated with the rating agencies.

Q. Do you speak to them more often than you e-mail them, or do you e-mail them as well?

A. For the most part, my contacts with the rating agencies are either in face-to-face meetings in New York or occasional conference calls.

Q. You would agree that the rating process is quite complex; correct?

A. I would.

Q. And also that it's not very open or transparent; correct?

A. I agree with that statement. I would supplement my answer by saying that to varying degrees, the rating agencies have attempted to be more transparent. S&P, for instance, one of the three rating agencies, has issued lists of guidelines and ranges of various ratings parameters to achieve ratings of various levels over time. And in meetings between the company and the rating agencies, I think we get a pretty good sense of what's important to the rating agencies in terms of things like coverage ratios and capital structure.

Q. You talked about S&P issuing a matrix. That's a financial matrix; is that right?

A. That's correct.

Q. The other two rating agencies that follow Tampa Electric are Fitch and Standard & Poor's; correct?

A. Standard & Poor's is the one that publishes the ratings matrix. Moody's and Fitch are the other two rating agencies.

Q. I'm sorry. Moody's and Fitch, neither one of them publish any kind of similar financial matrix; correct?

A. No, they do not. However, I would say, just as a point of information for the Commissioners, as an industry group, periodically we go to presentations by rating agencies and get a sense for their views on the utility industry and understand that the rating agencies attempt to be very consistent in their ratings methodology as it applies to utility companies across the industry.

Q. And when you say consistent, you're not talking about -- they don't try to be consistent with one another, do they?

A. No, they don't.

Q. Because, really, what rating agencies do is form opinions on the creditworthiness of a company.

A. That's correct.

Q. And some rating agencies will form different opinions than others; correct?

A. That's correct. They are all independent of one another.

Q. And at the end of the day, a rating agency judgment about whether to grant a triple-B or an A or whatnot, that is not a function of any kind of a formula. It's a judgment that's made by each rating agency independently; correct?

A. It is, that's correct. However, I would say that, again, in the instance of S&P, they have been pretty transparent in publishing ranges which are included in Document 4 of Ms. Abbott's testimony that state the ranges on coverage ratio and capital structure needed to obtain certain ratings levels. And we have a pretty good sense of what's required with Moody's and Fitch as well.

Q. All right. As we sit here today, nobody with Standard & Poor's, Moody's, or Fitch -- those are the three rating agencies that track you; is that right?

A. That's correct.

Q. Nobody with those agencies has told you what subsequent action the agency would take as a result of the PSC's action in this case; correct?

A. That's correct.

Q. And --

A. I would say, however, in their published documents, they've been very clear that the outcome of this case is very important to them, and in fact, two of the three rating agencies have us on positive outlook for ratings upgrade pending the outcome of this case.

Q. Again, I just want to be clear on that. They publish things that people can look at, but as we sit here today -- because a lot of testimony as I read it says, you know, we need this 12 percent ROE because it will help us get an A rating, and an A rating will lower our debt rating. But as we sit here today, nobody in any rating agency has told you or guaranteed or assured you or signaled to you that if you got a 12 percent ROE as requested, that you would get an A rating as a result; is that correct?

A. That's correct. And it's my testimony that it's going to take more than just ROE. It's also going to take capital structure as well. We proposed a 12 percent ROE and a 55.3 percent capital structure. And what we have done is, we've actually taken a look at on a projected basis for the test years what the coverage ratios will be and what the capital structure will be for the company, and we've determined that it takes both a strong ROE and a strong capital structure in order for us to lie within the ranges that are commensurate with S&P's published parameters for an A rating.

Q. I appreciate that, and a lot of that was in your direct testimony.

A. Yes, sir.

Q. You know, I'm cross-examining you, so I'm trying to get you to try to admit some points that I think help my client's case. And as we sit here today, you know, I think that there's guidelines that say it's unethical for rating agencies to tell anyone what their future actions may be. And I'm just trying to get you to confirm that if everything you asked for in your filing, 228 million, the capital structure, the ROE, no one has told you in any rating agency that that's going to translate into an A rating; correct?

A. That's correct. And in my experience --

Q. Thank you.

A. -- with the rating agencies, the way they work is, they meet with the company, they monitor the external environment, and then they have a committee of professionals, not just the analysts that we meet with, but a group that reviews all of the quantitative and qualitative thinking on the company before they make a change in rating.

Q. Do you know how rating agencies make their money?

A. Issuers pay them fees.

Q. So Tampa Electric pays them when they issue debt?

A. Tampa Electric does pay fees to the rating agencies.

Q. And is that fee based on how much debt you issue them -- I mean, how much debt you're going to issue? Let's say you're going to issue 100 million in debt. If they go in and look at it and rate it, then you pay them some percentage of the 100 million for the purposes of providing a rating; is that correct?

A. There are two types of fees that issuers pay the rating agencies. And this is not just electric utilities. This is across broad industry. And those two types of fees, there's an annual retainer fee, and in addition, on an issue-by-issue basis, because the rating agencies have to make sure that the rating is what they've been saying it is before an issuer issues debt, a second fee for the -- when an issuer issues debt.

Q. How much is the annual retainer that you pay Standard & Poor's?

A. For Tampa Electric Company, I've got the figures someplace here, and I could get them, but I would say it's on the order of about $60,000.

Q. How about Moody's and Fitch? When we talked in our deposition, you thought it was low six figures?

A. Yes. And when we talked in the deposition, I was quoting both TECO Energy and Tampa Electric. Since Tampa Electric is the subject of this case, the numbers that I'm quoting now are Tampa Electric. Moody's is about the same. Fitch is a little lower.

Q. So Tampa Electric is 60,000, but if you combine TECO Energy, it's the six-figure number?

A. Just a little over 100,000 on the fixed fee.

Q. Isn't it true that rating agencies share copies of their reports and releases with Tampa Electric prior to issuing them to investors who subscribe for those reports?

A. It's partially true. The practice has changed substantially over the time that I've been dealing with the rating agencies. The rating agencies want to be sure that there is no illusion of any influence on the part of the issuer when they are issuing a report. At the same time, they want to make sure that it's factually correct, and so the typical practice nowadays is that they will give a report to an issuer no more than an hour before it is released to the public in order for the issuer to quickly scan it to make sure that there are no factual misstatements. But there's no ability on an issuer's part to make any changes in the outcome or changes in the way that -- changes in what the rating agency is saying in general.

Q. Do you know if that's the same practice for all three ratings agencies that track you?

A. It absolutely is.

Q. And that's a change from what it used to be previously, where they would provide you copies of their reports and give you time to review them?

A. I would say many years ago when I first started with the rating agencies, they would sometimes give us two or three hours to make the review. But they are very cautious on that, and that has really been since about 2002.

Q. Ms. Abbott in her deposition testimony indicated from her perspective that rating agencies would allow companies that they were following to present new information in response to a draft report. Was she incorrect in that testimony?

A. I don't recall her saying that. I know the admonishment that we get from the rating agencies that we deal with is that they're only looking for factual corrections.

Q. Are you aware of the criticism that rating agencies are too close to the companies that they follow and track?

A. I'm aware of that criticism. I generally disagree with it. In my experience in dealing with the rating agencies, their ultimate client is the institutional investor, is the large investor that is actually buying the debt the companies are issuing. The way the system works, the companies -- the issuers pay, but the institutional investor is in fact the ultimate client. And I will tell you from dealing with institutional investors, they are very sophisticated and really keep the rating agencies on their toes.

Q. And when you talk about institutional investors, that's things like pension funds and insurance companies; is that right?

A. That's correct.

Q. Mr. Herndon, he was an institutional investor when he headed SBA, from your perspective; is that right?

A. I don't know a great deal about his background.

Q. Assuming he headed the State SBA, is that -- are you familiar with the State Board of Administration?

A. Yes. And it is my understanding that they do invest in securities on behalf of the state pension plan.

Q. And that would be an institutional investor, according to your definition; correct?

A. Correct.

Q. Let me refer you to page 22 of your testimony. This is a discussion about an adjustment, a capital adjustment related to purchased power agreements, so we'll shift gears a little bit and get away from the rating agencies and talk about an adjustment to the purchased power contracts.

Isn't it true that you're asking this Commission to charge ratepayers approximately

$5 million in additional rates as a result of your current purchased power agreements?

A. Yes, it is. We filed a late-filed exhibit to that effect. We are requesting a $77 million adjustment to equity associated with offsetting the imputation of debt that Standard & Poor's does and the other rating agencies do in their ratings processes to account for the fact that purchased power has debt-like characteristics.

Q. And the debt-like characteristics is essentially that you have to pay for the power you get. If you have a 20-year purchased power agreement, you've got to pay for the power over 20 years; correct?

A. That's correct. Most purchased power agreements, and in fact, the four that we have are with entities that are structured in ways that have capacity charges that require essentially a fixed payment over the duration of the contract, and that fixed obligation looks an awful lot like the fixed obligations associated with interest expenses and debt.

Q. Okay. And --

COMMISSIONER EDGAR: Mr. Moyle, I'm sorry. I'm going to interrupt you for a moment.

Commissioner Skop, did you have a question at this time?

COMMISSIONER SKOP: Yes, Madam Chair. Thank you.

To Mr. Moyle's point, I had a concern, and I wanted to flesh this issue out a little bit more. Why is such an adjustment appropriate? I know that you've hinted towards how Standard & Poor's imputes the debt, but I'm trying to rationalize that to the extent that for purchased power, you know, basically, prudently incurred costs are recovered annually to avoid regulatory lag through the cost recovery proceedings. So if you could flesh that out a little bit, I would appreciate that.

THE WITNESS: Sure. I would be happy to. What S&P has done is, they've issued a ratings paper or a ratings directive, which I did include as an attachment to my rebuttal testimony, that describes their process. But essentially, their process is to take the present value of the capacity payments that are paid, or those fixed obligations that are paid under power purchase agreements and then affix a risk factor to that present value number in order to determine an amount of debt that they impute when they calculate internally their coverage ratios for purposes of rating a company.

And so in our case, the process is essentially this. When we present value under the Standard & Poor's methodology, all of the capacity payments under the four contracts that we have with Hardee, Calpine, Reliant, and Pasco Cogen, we come up with a present value of about $300 million when we present value at our average cost of debt, which is what S&P prescribes in their document.

In turn, S&P affixes different risk levels to the recovery of those capacity charges through rates. In cases where it's only in a rate case that a utility would be able to recover the cost of those payments, S&P will affix a risk factor of anything from 50 to 100 percent. But because in Florida we in fact do have the capacity recovery clause, S&P in our case -- and they've been very specific with us and told us this is exactly what they do -- they affix a 25 percent risk factor, because to your point, Commissioner Skop, there's less lag, there's less risk of recovery through the regulatory process. And that's in fact the lowest percentage or risk factor that they affix. So when you take our $300 million times 25 percent, you come up with a $77 million adjustment.

And the only thing I would, Commissioner, is that --

COMMISSIONER SKOP: Actually, I think it would be 75 million.

THE WITNESS: The other -- and by the way, I was generalizing. I think it's -- $308 million is the total present value.

But the only other thing I would add is that in Florida, for some time the utilities have been under this methodology by S&P, as utilities have throughout the United States, and this Commission has acknowledged that process in previous orders before this Commission on such topics as equity ratio and ROE and in the various stipulations that have been reached in various base rate proceedings before the Commission.

COMMISSIONER SKOP: I'm going to stop you there and do some quick follow-up so Mr. Moyle can get back to his questions. I know that you mentioned how Standard & Poor's imputes it for power purchase agreements. Do Fitch and Moody's do the same thing, or is Standard & Poor's the only rating agency that would do that?

THE WITNESS: Interestingly enough, and Mr. Moyle has pointed it out in his questions, Moody's and Fitch in this area as well are a little less transparent in terms of exactly how they treat the purchased power. S&P again has been more transparent and has actually published papers on it. I do understand, though, from talking with our contacts at Moody's that they in fact do make a similar type of adjustment, and so they impute debt in calculating their coverage ratios to determine how well the company is meeting its fixed obligations for purchased power agreements. Fitch, I'm not sure.

COMMISSIONER SKOP: Okay. But in that equal regard, as you mentioned, such rating agencies would take into account states like Florida that have a cost recovery provision, I mean, a clause for cost recovery provision to the extent that there is no regulatory lag. So again, that substantially mitigates any perceived risk; would that be correct?

THE WITNESS: I think that's generally correct, but I would just clarify by saying, in my mind, apparently S&P still perceives a certain amount of risk, because they attach that 25 percent risk factor.

COMMISSIONER SKOP: Okay. And just one quick follow-up. I guess to the extent that the equity adjustment would be allowed that would increase the equity ratio or result in a higher equity ratio, and essentially if the ROE is set at whatever constant number is warranted, the higher amount of equity, obviously, you're earning larger earnings based on the higher equity. How would you rebut OPC's concern in that regard to the extent this would not impact or favorably impact the overall capital structure for TECO by allowing such an adjustment to be made?

THE WITNESS: You know, I think the facts are clear. We filed a late-filed exhibit that shows that revenue requirements do increase to the tune of $5 million as a result of this.

I would point out, though, that in the ratings context, the rating agencies are less concerned about earnings and ROEs and more concerned about cash flows. And what the rating agencies want to do is, they want to make sure that you've got enough cash coming in the door to be very, very sure that you're going to be able to meet your fixed obligations. And those fixed obligations include both interest expense, which we're talking about today in part as part of our cap structure in this rate case, and we contend those fixed obligations also include the capacity payments under power contracts.

COMMISSIONER SKOP: Thank you. And, Madam Chair, at the appropriate time, at the end of the questioning, I have additional questions on the debt issue that was previously raised.

COMMISSIONER EDGAR: Sure. Thank you. Mr. Moyle, thank you.

MR. MOYLE: Thank you. And I appreciate that.

BY MR. MOYLE:

Q. I think some of the questions we touched on. Fitch, you don't know whether they have any imputation or not; correct?

A. I do not.

Q. Okay. And then on Moody's, you've reviewed Mr. Woolridge's testimony. I think you filed some rebuttal testimony on that; correct?

A. I have.

Q. All right. I'm going to read something to you. If you want to see it, we can dig up a copy of his testimony, but he talks about that, and he references guidance that Moody's has provided, and I'm going to quote. "If a PPA is entered into for the purpose of providing an assured supply of electricity and there is a reasonable assurance that the regulators will allow the cost to be recovered in regulated rates, Moody's may view the PPA as akin to an operating cost. In this case, there most likely will be no imputed adjustments to the obligations of the utility."

Are you familiar with that statement as being made by Moody's?

MR. WILLIS: Excuse me, Madam Chairman. Could you -- I would like to request Mr. Moyle give a reference to that testimony, the page that he's reading from.

MR. MOYLE: Sure. Mr. Woolridge's testimony, and it's page 57, lines 9 through 14, if I copied it down properly.

MR. WILLIS: Okay.

COMMISSIONER EDGAR: Okay. Thank you.

BY MR. MOYLE:

Q. Do you want to see a copy of it?

A. I don't have a copy of it in front of me.

Mr. Moyle, I'm sorry. What page was that on?

Q. Page 57.

A. Thank you.

Q. I think it was lines 9 through 14.

A. Thank you.

I'm sorry, Schef. This is Mr. Larkin's testimony.

COMMISSIONER EDGAR: We'll give it one more try.

THE WITNESS: Thank you. I've got it.

Yes, I've read it, and I think my suggestion on this would be that this might be a question better addressed to Ms. Abbott on behalf of the company. Witness Abbott worked for Moody's for a long period of time and in fact rated our company when she was employed by Moody's, and I think she can maybe speak specifically to what they do.

As I testified, it's less transparent to us exactly what Moody's does, but it's our understanding that Moody's does in some way take into account the fact that we have purchased power obligations when they do the debt ratings on Tampa Electric.

BY MR. MOYLE:

Q. You follow the rating agencies' pronouncements, do you not?

A. I do, especially as they relate to our company.

Q. Okay. Do you know as we sit here today whether the quoted language is a true and accurate pronouncement of Moody's? I can ask Ms. Abbott those questions. I have a few for you.

A. Well, I would say that, you know, provided that the cite is right, because there is a cite to Moody's rating methodology, Global Regulated Electric Utilities, March 2005, that that looks like it's something that came from Moody's.

Q. And the reason I'm asking is because, you know, it's a $5 million issue to the customers, 77 million in imputed debt. It seems that Standard & Poor's is the only one for sure that makes an adjustment; correct?

A. We know that Moody's and Fitch consider it, but it's not clear to us in our case exactly how they consider it. In the case of S&P, it's clear to us. We know exactly what they do. But it's my understanding that both -- either on a quantitative basis or a qualitative basis, Moody's and Fitch both make assessments of the amount of purchased power we have and the viability of recovery of purchased power costs through our clauses, and as a result, factor that into their ratings process.

Q. And just so I'm clear, I thought you said you didn't know what Fitch did in terms of imputing debt. Is that --

A. Well, I don't know the specifics of Fitch's methodology, and I don't know whether Fitch, when they take our funds from operation and divide it by interest expense to come up with a coverage ratio, make any specific adjustments for purchased power. I do know, however, in the case of Fitch that they consider our purchased power obligations, because they ask us about them.

Q. All right. And with respect to Moody's, you're not exactly sure what Moody's does either with the information. They consider it, but you don't know if they apply any kind of calculus like the Standard & Poor's 25 percent; correct?

A. I do not know. We have been told, however, in the case of Moody's that it is a definite consideration in their ratings process for our company.

Q. So for purposes -- just a few more questions on this, and I'm sorry we're kind of getting bogged down. But if you assume the statement referenced in here as attributable to Moody's is true, you would agree, would you not, that the Florida Commission allows purchased power costs to be recovered on an annual basis and is -- has done so in a way that purchased power is regularly and routinely recovered through the clause; correct?

A. Well, you know, obviously, the statement that's in Mr. Woolridge's testimony is taken somewhat out of context from a whole report here. Reading what's shown here, they say that Moody's may view the PPA as being akin to an operating cost. And in that context, it's not exactly clear to me, you know, whether it's treated as a fixed obligation or not.

Q. Has this Commission ever denied TECO's request for recovery of a purchased power expenditure?

A. Not to my knowledge. I would say, on the other hand, there is a certain amount of lag associated with that recovery.

Q. Okay. With respect to saying, "You know what? We're not going to allow you to recover a contracted-for energy and capacity price," this Commission has never disallowed that, correct, to your knowledge?

A. Not to my knowledge.

Q. You interact with CFOs from around the country, don't you? Don't you all have conferences and occasions when you get together?

A. I do.

Q. You're not aware of any other commission in the country which allows for an imputed debt adjustment related to purchased power agreement obligations, are you?

A. I wouldn't say that has been a topic of discussion with my colleagues in the industry. I am aware in Florida it is a practice. I'm also aware that the rating agencies on this issue are very consistent in what they do with utilities across the United States, and so I would suspect that it has been dealt with in some way in other regulatory jurisdictions.

Q. When I asked you the question in your deposition, you weren't aware. I can show you your deposition. But as you sit here today, you're not aware of any other regulatory jurisdiction in the country which allows for an adjustment for imputed debt related to purchased power agreements, are you?

A. I'm not aware, but I haven't researched it.

Q. Okay. Just a couple more questions on these purchased power agreements, because it's a policy issue in a lot of respects. Let's take Standard & Poor's. They make a 25 percent adjustment; correct?

A. That's correct.

Q. And do you know if there is a commission -- let's say it's the Georgia Commission, and the Georgia Commission has an annual recovery clause, but if you looked at their history, they have a situation where they've denied requests for purchased power 50 percent of the time. Do you have know if Standard & Poor's simply looks at whether there's a recovery clause in place, and if there is, then they apply the 25 percent, or whether they do a more detailed analysis?

A. My understanding is that S&P does in fact analyze fairly rigorously what the regulatory mechanism is. And I would point to page 29 of my rebuttal testimony, Document 1, page 2 of 5, in which S&P clearly articulates in paragraph 3 of their risk factor discussion what their methodology is. And I would assume that for Georgia Power or Mississippi Power or Pacific Gas & Electric, they do the same thing.

Q. Now, with respect to benefits of a purchased power agreement, would you agree, would you not, that the construction risk associated with building a plant is something that is shifted from Tampa Electric in a purchased power agreement?

A. I would agree with that.

Q. And the same with the permitting risk? That's a risk that you don't have to bear?

A. I would agree with that.

Q. And you don't have to raise the capital for energy coming from a purchased power relationship; correct?

A. That's correct. I would say, though, that there are risks associated with ongoing performance of power generators. There are also risks on the front end of a contract when you sign it with a potential person that's going to provide power or an entity that's going to provide power under a PPA that they will actually get over the hurdles that you just mentioned to get the plant built.

Q. Do you know if Standard & Poor's takes into account those things I just mentioned, the shifting of risk to the entity building the plant through the purchased power agreement?

A. Reading their methodology, it speaks more to the regulatory recovery of such costs. But I think behind their methodology, the application of a risk factor speaks not only to the ability to recover costs vis-a-vis the regulatory mechanism, but the ability to get the power that you're in fact purchasing. That would be my feeling.

Q. Based on your experience with the Florida PSC and your purchased power agreements that you have -- you've identified them with Calpine and some others -- wouldn't you agree that the risk of you not being able to recover those purchased power agreements is not significant?

A. No, I wouldn't agree with that. And the reason I wouldn't agree with it is, all manner of power plants are subject to problems and issues and breakdowns and those kinds of things, and I could posit a scenario where a power supplier doesn't perform under the agreement, contends we should continue to pay them, we get into litigation with them, the Commission isn't sure whether the costs should be passed through to ratepayers, and there's regulatory lag associated with recovery of those costs. It doesn't get heard until the November fuel adjustment time period. And so I could posit a scenario where there is a risk to the company in being caught in the middle, if you will, between regulation and the performance of a power generator.

Q. Have you had any litigation in any of the current purchased power agreements that you currently have such as you just described in your hypothetical?

A. Not that I'm aware of in the case of Tampa Electric, but I'm generally aware of such litigation with those types of agreements.

Q. Well, it may have happened with other companies. I'm asking you specifically related to your company. And the answer is no; correct?

A. That's correct.

Q. Now, let me try it this way. Assume that the power plants don't break down and that they work. Given your knowledge of the Public Service Commission and how it handles purchased power agreements, wouldn't you agree that the risk associated with recovering that is not significant? When I say that, that's the purchased power expenditures that Tampa Electric Company makes.

A. I think this Commission has been very fair and balanced in its decisions on pass-through costs like purchased power agreements. But I would hasten to say that S&P is very aware of the regulatory situation as it exists in Florida, and nonetheless, they continue to impute this debt when they do ratings on our company.

Q. Would you assess it at 25 percent, that there's a 25 percent chance that the Commission may not approve a purchased power contract expenditure?

A. I don't think that's mine to speculate on. I think that's S&P's to speculate on. This is their adjustment. And I don't even know that that's the way they came about their 25 percent, was to say that there was a 25 percent chance that it wouldn't be recovered. I think S&P in an abundance of conservatism is simply attempting to quantify the fact that fixed obligations under PPAs are large and represent potential risks. And I would hasten to say -- we've spent a lot of time on this issue. In our case, the amount of purchased power that we buy on a proportional basis to the other Florida utilities is very small. FP&L and Progress for many years have had much greater amounts of purchased power and have had this type of mechanism in their regulator stipulations.

Q. So the fact that you have smaller purchased power, that would even reduce that risk further, would it not?

A. No, not that I -- I mean, the risk is the risk. They're independent events.

MR. MOYLE: Let's talk a little bit -- Madam Chair, I'm sorry it's taking a while?

COMMISSIONER EDGAR: That's okay.

BY MR. MOYLE:

Q. ROE. You were in the room for the opening statements, were you not?

A. I was.

Q. Did my hamburger analogy generally accurately portray the return on equity?

A. Well, I guess I heard the hamburger analogy. I think in this context, a very important thing for this Commission to consider if we want to use the hamburger analogy is that if you or I wanted to start a hamburger stand and we didn't have any money to invest in the hamburger stand, and it was going to be a big hamburger stand, $100,000 investment, do you think if we weren't putting any of our own money at risk that a bank would lend us $100,000 to build the hamburger stand? In my opinion and my experience, they wouldn't.

And I would go a step further. When you consider the fact that we are as investors in our hamburger stand behind the bank in terms of being able to collect if anything bad happens at our hamburger stand and it goes out of business, I would think that you or I would want to have a higher return than the bank, because we are subordinated. And I think that's a pretty central concept to this case.

Interest rates in the last few months have risen to a very high rate. Triple-B issuers are issuing debt at 8, 9 percent. Single-A issuers even are issuing debt at 6 and 7 percent. And so debt rates have risen very significantly. And as you'll hear from witness Murry, that overall increase in the cost of debt also implies that if equity is behind debt in the capital structure, that the cost of capital and in fact the cost of equity capital has increased as well.

Q. Okay. Maybe you didn't hear. The example I had was the bank was going to loan 60, and 40 was going go in as equity. So that makes it a little bit more like your electric company, correct, in terms of the capital structure?

A. Yes. In this case, we're asking for a 55 equity and 45 debt.

Q. Right. And with respect to the earnings on the hamburger, if you got -- I think you answered the question, but the earnings that you all are seeking, the 12 percent, is net of taxes, correct, so that the real rate of return is around 19 percent?

A. It is in fact net of taxes, as those other ROEs for Moasic and Publix are that I quoted.

Q. That Publix you quoted, how did you calculate their ROE? I thought they were a privately traded company.

A. Their data -- they actually file with the SEC their earnings, and we used a source called Capital IQ for those figures.

Q. All right. I have some ROE questions for you.

COMMISSIONER EDGAR: Mr. Moyle, let me just ask, since I think the Chairman had said earlier that he wanted us to wrap up around 5:00 for today, but I hate to interrupt in the middle of a stream of questioning.

MR. MOYLE: That's fine. I'm okay on doing that.

COMMISSIONER EDGAR: Let me ask, if I may --

MR. MOYLE: This is a great point from a subject matter area.

COMMISSIONER EDGAR: Commissioner Skop, did you have --

MR. WILLIS: Can you --

COMMISSIONER EDGAR: Just a moment. Did you have other questions that you want to pose to this witness at this time?

COMMISSIONER SKOP: I'll reserve those questions until the end of Mr. Moyle's direct and other questions.

COMMISSIONER EDGAR: Okay. Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Just one question, if you could help me, because if I wait till tomorrow, I'm going to lose it. And I don't know, maybe both of you can answer it, and it has to do with the hamburger stand. Okay? Not only am I getting hungry now, but I guess what I want to know, and I guess both of you can answer. And I may be totally off the mark, but if the hamburger stand is guaranteed a certain return and guaranteed a recovery of most of its costs, wouldn't the bank be more likely to lend it money? Doesn't that change the scenario you and even you had suggested?

THE WITNESS: Yes. I think, Commissioner, obviously, the bank would look at the certainty of the revenue stream associated with the hamburger stand.

COMMISSIONER ARGENZIANO: And risk is a factor that has to be --

THE WITNESS: No question. But I would say as we kind of take that over to the electric utility side, having been in the business for 26 years, you're right, the fact that we're a natural monopoly and those kinds of things does afford us certain knowledge about our customer base and those kinds of things that other businesses don't have.

Having said that, there are no guarantees. And as a for instance, in our case, we saw much, much lower customer growth in our service territory in 2008, and we expect much lower customer growth in 2009 than we expected when we filed this case. And so our revenue stream, in effect, at Tampa Electric for our hamburger stand is going to be lower than we expected.

COMMISSIONER ARGENZIANO: I appreciate that. Madam Chair, I won't ask this today, but is it appropriate to ask you tomorrow about I guess the differences between the way the ROE is configured, the formulas, CAPM and risk premium and the beta factor, because I have questions that go deep into that. Would you be the person --

THE WITNESS: Actually, that gets into witness Murry's testimony, and he is, depending on whether Ms. Abbott is able to come back, either going to be right after me, or Ms. Abbott will be in between, as I understand it.

COMMISSIONER ARGENZIANO: Okay. Thank you.

COMMISSIONER EDGAR: Thank you. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. Just to Mr. Gillette, again, I appreciate the discussion that we've had on this issue, Mr. Moyle for raising it and fleshing it out. I think that this issue is one of first impression upon the Commission. I think under generally accepted accounting practices, certainly the

PPAs would not be treated as debt. If rating agencies are extending the doctrine to look at imputation as a way that they view ratings, then it's certainly relevant in the discussion. But I think a critical vetting of this is in due course, and I'm happy that we've had an extensive discussion and hope to continue that tomorrow. Thank you.

COMMISSIONER EDGAR: Thank you. Mr. Moyle, you had indicated this might be a good breaking point. Is that still your thinking?

MR. MOYLE: Yes, ma'am.

COMMISSIONER EDGAR: All right. With that, again, as the -- I would kind of like to keep rolling myself, but the Chairman had indicated he would like us to break around 5:00, and I want to honor that direction, of course. So, Mr. Gillette, we are going to ask you to join us back right there in that same seat at 9:30 tomorrow morning.

Mr. Willis, did you have a comment or a question?

MR. WILLIS: I was just going to see if Mr. Moyle was close to finishing his questions, if we could wind up at least his questions.

COMMISSIONER EDGAR: Mr. Moyle, can you give us an indication for --

MR. MOYLE: I have probably 20 or 30 minutes. ROE is going to -- and candidly, the answers are --

COMMISSIONER EDGAR: Of course. Of course. Mr. Willis, does that help you for kind of planning purposes?

MR. WILLIS: Yes. Thank you.

COMMISSIONER EDGAR: Thank you. Okay. Any other comments? Anything from staff before we break for the evening?

MR. YOUNG: No, ma'am.

COMMISSIONER EDGAR: Okay. Seeing none, then we will pick up at this point, Mr. Moyle, with you, and then you will be on deck, Mr. Wright. And we are on break until tomorrow morning at 9:30.

(Proceedings recessed at 5:07 p.m.)

(Transcript continues in sequence in Volume 3.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 72 through 299 are a true and correct record of the aforesaid proceedings.

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

DATED THIS 21st day of January, 2008.

Mary Allen Neel

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