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I N D E X

WITNESS

NAME:

PAGE NO.

ARMANDO J. OLIVERA

Cross-Examination by Mr. Wright

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EXHIBITS

NUMBER:		ID.	ADMTD.
389	Florida unemployment articles	535	
390	Florida foreclosure articles	536	
391	Miami-Dade superintendent compensation article	548	
392	Publix executive compensation table	553	
393	Fortune 1000 Companies 101 to 200	553	

P R O C E E D I N G S

1
2 (Transcript follows in sequence from Volume
3 IV.)

4 CHAIRMAN CARTER: A one-minute warning.

5 We are back on the record and we have a new
6 court reporter and I hope that we don't cause you to
7 not want to work with us anymore. So, guys, talk
8 slower this time and we can roll with that.

9 Mr. Wright, I think you were on cross-
10 examination. You are recognized, sir.

11 MR. WRIGHT: Thank you, Mr. Chairman.

CROSS EXAMINATION

12
13 BY MR. WRIGHT:

14 Q Mr. Olivera, have you had adequate
15 opportunity to review the excerpts from the earnings
16 surveillance reports?

17 A I have. I would like to make one minor
18 clarification. When we were talking about the solar
19 cost recovery, I was right the first time, it's in
20 the environmental clause, not the energy efficiency
21 clause. That's how we're recovering those costs. So
22 I apologize for not getting it right the first time.

23 Q And I apologize for leading you astray.
24 Thank you for the clarification.

25 A It has to be something, right?

1 Q Back to the question I posed, you have had a
2 chance to review the earnings surveillance reports?

3 A I have.

4 Q And they represent the company's performance
5 as reported according to the Commission's --

6 A I believe they do.

7 Q Thank you.

8 A I think they generally show that the company
9 was earning within its allowed rate of return, which
10 is really what constructive regulation is aimed at
11 doing.

12 Q During the last -- well, let's say since your
13 last rate case, you would agree that FPL's total
14 operating revenues have increased substantially,
15 would you not?

16 A Since the last base rate case?

17 Q Say, since 1984, which was when the St. Lucie
18 II follow-up case was litigated.

19 A I would agree that our revenues have
20 increased significantly.

21 Q Thank you.

22 Is it also true that earlier this year FPL
23 Group's chairman, Mr. Lewis Hay, was reciting
24 publicly the fact that FPL Group has recently earned
25 a 13.8 percent return on equity?

1 A I believe he was referring to the whole
2 enterprise.

3 Q I thought that my question said FPL Group,
4 and --

5 A It is FPL Group.

6 Q Thank you. And the numeric value I gave is
7 the accurate value, correct?

8 A Subject to verification.

9 Q Thank you.

10 You have testified at a couple of places
11 about your concern about the economy, and I want to
12 inquire about that. At page 4 you recognize, quote,
13 "today's weak economic climate," is that fair?

14 A Bear with me for a second. What line are you
15 on?

16 Q That would be on lines 11 and 12.

17 A That's correct.

18 Q And again, on page 5 -- bear with me, I'm
19 looking for the lines, sorry. I apologize.

20 Page 6, lines 6 and 7, you make the
21 statement, "We recognize there is no good time for a
22 rate increase, especially given the current state of
23 the economy"?

24 A That's correct, that's what it says.

25 Q Thank you.

1 I have a couple of questions and a couple of
2 exhibits. Do you know how bleak the economy in
3 Florida is?

4 A I look at some of the basic statistics. I
5 believe -- I look at the unemployment rate and I look
6 at home foreclosure rates. So I understand that
7 Florida is having, as so many other parts of the
8 country, a tough economic time.

9 MR. WRIGHT: Mr. Chair, I'm going to pass out
10 some news articles that, fortuitously, refer to
11 statistics for Florida as to the two variables that
12 Mr. Olivera just mentioned, i.e., unemployment and
13 foreclosures.

14 CHAIRMAN CARTER: Do you want to use it for
15 cross-examination or do you need a number for
16 identification or --

17 MR. WRIGHT: Yes and yes, Mr. Chairman. I
18 think 389.

19 CHAIRMAN CARTER: 389, Commissioners, for the
20 record.

21 MR. WRIGHT: 389, Florida unemployment
22 articles.

23 (Exhibit No. 389 marked for identification.)

24 CHAIRMAN CARTER: Great short title.

25 MR. WRIGHT: Thank you, Mr. Chairman. As you

1 know, I try.

2 The second one would be 390.

3 CHAIRMAN CARTER: 390.

4 (Exhibit No. 390 marked for identification.)

5 MR. WRIGHT: Florida foreclosure article.

6 CHAIRMAN CARTER: Florida foreclosure

7 articles.

8 MR. WRIGHT: Might ought to make it

9 "foreclosures," that is in the title.

10 CHAIRMAN CARTER: We don't allow speaking
11 French in here. Okay, no problem. Just trying to
12 lighten the mood here. I hope that Chirac -- Sarkozy
13 won't hold that against me if I ever get to Paris.
14 But I kind of like *foie gras*. Somebody told me it
15 was liver. Is that right?

16 MR. WRIGHT: It is actually fat liver, Mr.
17 Chairman.

18 CHAIRMAN CARTER: It is? Well, I won't eat
19 that.

20 You may proceed.

21 BY MR. WRIGHT:

22 Q Mr. Olivera, the small packet of documents
23 that have been marked for identification as No. 389
24 includes two articles, both from the *Miami Herald*
25 website, the first of which discusses Miami-Dade

1 County's unemployment rate, and the second of which
2 discusses the state's unemployment rate. Do you
3 agree that the article shows that Miami-Dade's
4 unemployment rate for July was 11.1 percent?

5 A Well, you said that two articles from the
6 *Miami Herald*, but the front says *Miami Herald* and
7 *Jacksonville Business Journal*, so bear with me, I'm
8 trying to -- sorry.

9 Q I apologize, Mr. Olivera, there are actually
10 three articles. The first one is from the *Miami*
11 *Herald* dated August 21, "Miami-Dade Jobless Rate
12 Ticks Up Again." The second is also from the *Miami*
13 *Herald*, dated August 21, "Florida's July Unemployment
14 Worsens Slightly," and that's two pages. And then
15 the very last page is the *Jacksonville Business*
16 *Journal* that says -- the headline of which is,
17 "Florida Unemployment Stuck at 10.7 Percent."

18 Let me just ask it this way: Will you agree
19 that the state's unemployment rate is 10.7 percent as
20 reported by reputable sources?

21 A Yes.

22 Q And that Miami-Dade County's is 11.1 percent
23 presently?

24 A Yes.

25 Q Thank you.

1 Moving on to Exhibit 390, which is the
2 foreclosures article from the *Miami Herald*, also
3 dated -- posted August 21, the article recites that
4 the percentage of Florida home loans either past due
5 or in foreclosure hit 23 percent in the second
6 quarter, outpacing any other state in the nation. Is
7 this consistent with your understanding of
8 foreclosures in Florida at this time?

9 A It's my understanding that there are a number
10 of foreclosures in the state of Florida.

11 Q Is it your understanding that the numeric
12 value reported there is approximately accurate?

13 A I assume it is. I have no better
14 information.

15 Q Thank you.

16 In light of your expressed concern regarding
17 the bleak -- today's bleak economic climate and the
18 current state of the economy, I want to ask you a few
19 questions about what FPL considered in filing this
20 rate case.

21 Did FPL consider reducing the compensation of
22 its top management that FPL is asking its customers
23 to pay for in this rate filing?

24 A FPL certainly considered what is an
25 appropriate compensation and whether we should make

1 some changes on compensation, and we actually did,
2 from kind of the original plans for compensation for
3 2009, so we adjusted that. On average, the salary
4 increases were about two percent. Earlier -- earlier
5 last year, we were planning for a bigger increase,
6 but we ultimately discarded freezing salaries,
7 because we thought that, given the competitive nature
8 of so many of the jobs that we have, that it would
9 ultimately cost us more money in the long term if we
10 started to lose key personnel that has a lot of
11 experience and kind of deep technical expertise.

12 And we've talked in the past about nuclear,
13 and nuclear is probably the area that is most at
14 risk, but it's not the only one, and we depend on
15 these people to deliver the kind of results that this
16 company has shown over and over again.

17 So at the end of the day we decided to go
18 with a two percent increase, which, by the way,
19 Witness Slattery will show you that it's reasonably
20 in the ballpark of what a particular group of
21 companies that we benchmarked against have done.

22 Q I do have a line of questions about the
23 compensation for FPL's top management only. I
24 appreciate your explanation regarding those other 468
25 people or so, but I'm really not asking about those.

1 I'm asking about the six individuals who are
2 identified in the public information in FPL's proxy
3 statement. I'm going to go ahead and jump to my line
4 of questioning about executive compensation and then
5 come back to the line I was pursuing.

6 CHAIRMAN CARTER: Mr. Wright, are these the
7 ones that were listed in the 10-K?

8 MR. WRIGHT: The personnel are listed in the
9 10-K, I believe, Mr. Chairman, the Exhibit 385.

10 CHAIRMAN CARTER: 385.

11 MR. WRIGHT: What I found in Exhibit 385 at
12 page 101 --

13 CHAIRMAN CARTER: Page 101, you said?

14 MR. WRIGHT: Yeah, is there is a brief entry
15 there for executive compensation that says, "The
16 information required will be included in FPL Group's
17 proxy statement and is incorporated herein by
18 reference." The proxy statement, Mr. Chairman, is
19 bigger than the number of trees I want to kill.

20 CHAIRMAN CARTER: Let's not kill any more
21 trees.

22 MR. WRIGHT: Thank you. So I just want to
23 ask some questions about executive compensation, and
24 then we will go back to some other questions.

25 Permission to approach?

1 CHAIRMAN CARTER: You may approach.

2 MR. WRIGHT: Thank you.

3 Mr. Chairman, I have just handed Mr. Olivera
4 a copy of the company's most recent SEC Form 14-A,
5 its proxy statement, and I just have a few questions
6 about the summary executive compensation table that
7 is shown at page 61 of that. I was not going to
8 burden the record with the document.

9 CHAIRMAN CARTER: Okay. Let's take a moment
10 and look it over and we'll proceed.

11 BY MR. WRIGHT:

12 Q Are you ready to answer some questions, Mr.
13 Olivera?

14 A I will do my best.

15 Q Thank you.

16 In response to questioning, I think it was by
17 Ms. Bradley, I thought that you said your
18 compensation, your total compensation for 2008 was
19 \$3.2 million. I could be wrong. I see that the
20 value shown in the proxy statement is more like \$3.6
21 million. Would the proxy statement value be correct?

22 A When I answered the question for Ms. Bradley,
23 I was trying to give it in the same format of the
24 people that we have been talking about, which is the
25 base salary, cash incentive and equity compensation.

1 In a proxy, there is a requirement to show other --
2 what the Securities and Exchange Commission calls
3 other compensations, and they typically have things
4 to do with, for example, my 401(k), even though I
5 have earned that money and I have put it into a
6 401(k), the gains associated with that 401(k) have to
7 be reported as other compensation. It's just an SEC
8 requirement.

9 There are other costs associated with that
10 particular column having to do with security, all the
11 other things that are not -- frankly, I don't see
12 necessarily in my pocket, but have to be considered
13 because they're a benefit and many of these are
14 considered taxable benefits to me. It includes
15 health care, it includes physicals, for example. I
16 think Ms. Slattery can give you a lot more detail,
17 but they are not considered sort of total cash
18 compensation, either in terms of cash or in terms of
19 equity.

20 Q Let me ask you this question: FPL Group's
21 proxy statement indicates that your total
22 compensation is just over \$3.6 million a year. For
23 purposes of the ensuing line of questions and
24 answers, is that an okay number to use, or should we
25 use something different?

1 A That's correct, but I was trying to explain
2 to you and to the Commission why -- and I was careful
3 to preface the two sets of numbers and explain, I
4 want to be able that I can bridge the difference
5 between the 3.2 and the 3.6, and frankly, there's
6 stuff that's -- items that are being reported there
7 that at least by my definition are not necessarily
8 compensation; nevertheless, the Securities and
9 Exchange Commission requires that they be disclosed
10 that way, and they are.

11 But in the other chart that you saw, for
12 example, whatever those employees have in their
13 401(k) and whatever gains or losses they make are
14 never shown as compensation, because, in fact,
15 they're not compensation.

16 Q Thank you.

17 Am I correct that in its rate filing, Florida
18 Power & Light is asking its customers to pay
19 100 percent of your compensation?

20 A That is correct.

21 Q Am I also correct that Florida Power & Light
22 Company is asking for its rates to be set based on
23 its customers' paying 70 percent of Mr. Hay's total
24 compensation?

25 A I believe the number is 68 percent.

1 Q Thank you.

2 Is Mr. Dewhurst still employed by the company
3 as of now?

4 A Don't get angry if I don't say yes or no. He
5 is employed by the company; he left the company and
6 he recently rejoined the company.

7 Q Well, let me ask you this: Has he rejoined
8 the company in a top management position defined as a
9 position that would cause him to be shown on the next
10 summary compensations table in your proxy?

11 A I can't give you an answer with certainty,
12 but I believe there is a reasonable probability that
13 he would be. I believe he has rejoined the company
14 effective right after Labor Day.

15 Q Thank you.

16 I note from the proxy that his
17 compensation -- total compensation as reported under
18 the SEC rules for 2007 was a little more than \$3
19 million, but then for 2008 it was a little more -- it
20 was roughly half that. That's accurate so far, yes?

21 A I'm not -- I don't know exactly where you're
22 reading from. So you're reading from the actual
23 report here?

24 Q Yes, sir.

25 A Right, yes, that is correct.

1 Q Okay. Is the million and a half dollars
2 roughly that was his total compensation in 2008, is
3 that pretty much reflective of the fact that he had
4 left the company during 2008?

5 A I believe so.

6 Q Okay. Do you know -- well, let me ask you
7 this: Do you know how much, if any, of
8 Mr. Dewhurst's total compensation Florida Power &
9 Light is asking be included in the rates to be set
10 coming out of this proceeding?

11 A I believe none, because at the time that we
12 put together the MFRs, Mr. Dewhurst was not with the
13 company, so it would be very unlikely that any of his
14 compensation is included in the forecasted test year.

15 Q Thank you.

16 Is FPL, Florida Power & Light Company, the
17 utility company, asking for part or all of Mr. Robo's
18 total compensation to be included in setting the
19 rates to be set in this case?

20 A I believe it's the same allocation as Mr.
21 Hay's. It would be 68 percent.

22 MS. CLARK: Mr. Chairman, I would just point
23 out to Mr. Wright that Witness Slattery would be the
24 one to ask these questions of in terms of the
25 allocations, I believe.

1 CHAIRMAN CARTER: Let's see where you're
2 going. Go ahead.

3 MR. WRIGHT: Thank you, Mr. Chairman.

4 BY MR. WRIGHT:

5 Q We have talked about your compensation. Do
6 you know what amount, if any, of Mr. Pimentel's total
7 compensation FPL is asking for its customers to pay
8 for through the rates to be set in this case?

9 A I believe that Mr. Pimentel will be the same
10 allocation as Mr. Robo and Mr. Hay's 68 percent.

11 Q Thank you. And finally, the same question
12 with respect to Mr. Stall.

13 A Mr. Stall gets allocated a little bit
14 differently because the accounting allocation is done
15 differently because it's a nuclear unit, and I
16 believe we do that based on the number of nuclear
17 units that we have between the two companies, and so
18 the allocation there would be closer to 50-50.
19 Actually, the person that can describe all of these
20 allocations, and it's not just the allocations for
21 these employees, but really the whole allocation
22 process and what is the proper way to do it, would be
23 Witness Kim Ousdahl. Kathleen Slattery can address
24 the compensation pieces of this and what is the
25 philosophy and the process that we follow.

1 I think it's important to note that the
2 salaries of the so-called named officers are really
3 set by the compensation committee of the Board of
4 Directors. That committee relies to a fair extent on
5 an outside consultant compensation company that
6 performs a series of benchmarking analyses for
7 comparable jobs and comparable companies in
8 establishing the appropriate compensation.

9 And both Ms. Slattery and we have an outside
10 witness, Mr. Richard Meischeid, who can also give you
11 a lot of details on the process that the company goes
12 through in establishing compensation for the named
13 officers, as well as for the overall compensation
14 program.

15 Q Thank you.

16 I'm going to pursue a fairly short line of
17 questioning regarding your compensation as compared
18 to the compensation of some of Florida Power &
19 Light's largest customers. Are you familiar with
20 FPL's largest customers?

21 A I'm familiar with some of them.

22 Q Well, let me ask you this: Do you agree that
23 the Miami-Dade school system is one of FPL's largest
24 customers?

25 A They are one of our largest customers.

1 Q Do you know Alberto Carvalho?

2 A I know him not in a -- not terribly well, but
3 I know him and I have met him.

4 Q Mr. Carvalho is the superintendent of the
5 Miami-Dade County Schools, is that correct?

6 A That's correct.

7 MR. WRIGHT: Mr. Chairman, Mr. Moyle is
8 kindly distributing a news article.

9 CHAIRMAN CARTER: That would be 391?

10 MR. WRIGHT: Yes, sir.

11 (Exhibit No. 391 marked for identification.)

12 CHAIRMAN CARTER: Title?

13 MR. WRIGHT: Just Miami-Dade superintendent
14 compensation article.

15 CHAIRMAN CARTER: Okay.

16 MS. CLARK: Mr. Chairman, I would like to
17 impose an objection at this point as to relevancy of
18 the compensation for this individual. It's not a
19 like duties and responsibilities, it's not even the
20 same industry, so I would argue that it's not
21 relevant and should be excluded.

22 CHAIRMAN CARTER: Mr. Wright, to the
23 objection?

24 MR. WRIGHT: Mr. Chairman, I believe that the
25 fundamental issue in this case is whether FPL's rates

1 are fair, just and reasonable. My proffer is simply
2 that regardless of the responsibilities, we're
3 talking about the compensation of the senior person
4 responsible for billion-dollar budgets and far more
5 employees than Florida Power & Light Company has, and
6 regardless whether their duties are exactly the same,
7 I think it's completely fair, in the context of
8 whether rates are fair, just and reasonable, to ask
9 the question whether it's fair for Florida Power &
10 Light Company's senior management and FPL Group's
11 senior management, at the ratepayers' expense, to pay
12 multiples of the cost of folks who serve as the
13 senior chief executives of a couple of Florida Power
14 & Light Company's largest customers.

15 MS. CLARK: I renew my objection, I'm sorry,
16 I think it is irrelevant.

17 CHAIRMAN CARTER: On relevancy grounds, okay.

18 Ms. Helton, good afternoon, you're looking
19 chipper.

20 MS. HELTON: This is another tough one, Mr.
21 Chairman.

22 CHAIRMAN CARTER: I handle the easier ones
23 myself.

24 MS. HELTON: I have noticed that. I'm
25 struggling, because it's clear that the compensation

1 of Florida Power & Light employees and executives are
2 at issue in this proceeding, the ratepayers are
3 charged with paying it, and the ratepayers are
4 charged with paying fair, just and reasonable rates
5 that you set. So my inclination, Mr. Chairman, is to
6 recommend that you allow a short line of questioning
7 with respect to this issue.

8 CHAIRMAN CARTER: Okay. Mr. Wright, a short
9 line.

10 MR. WRIGHT: Indeed. Thank you,
11 Mr. Chairman.

12 CHAIRMAN CARTER: Yes, sir.

13 BY MR. WRIGHT:

14 Q Mr. Olivera, the article indicates that Mr.
15 Carvalho's compensation is \$275,000 per year plus
16 benefits, correct?

17 A That's correct, but I would also tell you
18 that that's not the relevant benchmark. We are not
19 talking about recruiting school superintendents at
20 FPL. When we go out into the marketplace, we have to
21 pay the market rate.

22 And I would draw your attention, again, to
23 the named executives. Mr. Pimentel joined the
24 company not very long ago. He was recruited from a
25 big accounting firm. He's got -- if you read his

1 bio, he's got incredible experience in some of the
2 very complex accounting issues that we have to deal
3 with at FPL. Unfortunately, you can't hire these
4 people for the same rate that you can school
5 superintendent, and I'm not taking anything away from
6 the school superintendent, because I believe
7 personally that education is one of the most
8 important things that we can do as a society, as
9 individuals, to promote good education.

10 But it's the reality of the world we live in,
11 which is, we have to pay market prices. You may not
12 like it, it may not look good sometimes to the
13 average person who is struggling by. Trust me, my
14 parents struggled by all their lives until the day
15 they died, so I know what it is on a small income,
16 but I also have to tell you that I see it from the
17 other side, and when we have to recruit a nuclear
18 vice-president, when we have to recruit a chief
19 financial officer, you go out into the marketplace
20 and you have to pay market rates to get these people,
21 and it's these people who have really brought the
22 company to what it is, and it's these people who
23 deliver the kind of results that we have seen and
24 that we've been talking about for the last two days.
25 It's the prices, it's the reliability, it's a company

1 that has been three times named one of the most
2 admired companies by *Fortune* -- the most admired
3 company by *Fortune* magazine. That doesn't happen by
4 accident. It takes very good people to make that
5 happen.

6 CHAIRMAN CARTER: You may proceed.

7 BY MR. WRIGHT:

8 Q Thank you.

9 You have already spoken, in response to
10 previous questions, that there are certain
11 allocations of what individuals are paid by FPL
12 Company, the utility company's customers, as compared
13 to their total compensation, and in several cases
14 they are prorated, correct?

15 A Correct.

16 Q The point of my questioning is going to what
17 is fair for Florida Power & Light Utility Company's
18 customers pay. Certainly you would agree that the
19 officers of whom we're speaking provide value to FPL
20 Group, correct?

21 A They provide value to both FPL Group and to
22 FPL.

23 MR. WRIGHT: I have one more brief line of
24 questioning along this sub-line as to comparative
25 compensation, and in that connection, I'm going to

1 ask Mr. Moyle once again if he will kindly hand out
2 two exhibits.

3 CHAIRMAN CARTER: You might want to give us
4 some direction. The other ones he kind of mixed them
5 up on 389 and 390, so -- it's all right.

6 MR. WRIGHT: Actually, I think the confusion
7 on 389 was mine as to how the articles were in there.

8 CHAIRMAN CARTER: Taken like a true leader.
9 This will be 392 and 393, is that correct?

10 MR. WRIGHT: Yes, sir, and 392 would be,
11 short title, Publix, with an X, executive
12 compensation table.

13 (Exhibit No. 392 marked for identification.)

14 CHAIRMAN CARTER: And 393?

15 MR. WRIGHT: 393 will be Fortune 500 -- I'm
16 sorry, I'm going to change that for you -- Fortune
17 1000 Companies 101 to 200.

18 CHAIRMAN CARTER: Fortune 1000 Companies 101
19 to 200?

20 MR. WRIGHT: Yes, sir.

21 CHAIRMAN CARTER: Okay. That's 393.

22 (Exhibit No. 393 marked for identification.)

23 BY MR. WRIGHT:

24 Q Mr. Olivera, will you agree that Publix is a
25 respected company?

1 A I certainly respect Publix and I certainly
2 respect the senior team at Publix.

3 Q Thank you. You will agree that looking at
4 what is actually the third page of the exhibit
5 package -- it's in the lower left-hand corner --

6 A I'm sorry, Mr. Wright, what page number?

7 Q 392.

8 A You said page 392. I think you meant --

9 Q I did mean Exhibit 392.

10 A Okay.

11 Q And the third page in of that in the lower
12 left-hand corner is numbered 18 of 29. It's also
13 page 15, kind of around the bottom middle of the
14 page.

15 A Mine says 8 of 29, but it does say 15.

16 Q I apologize for that. I expect that that was
17 some kind of glitch in the copying that cut off the
18 1, but regardless, we can agree that it's page 15 and
19 we can probably also agree that it shows that the
20 total compensation of the chief executive officer of
21 Publix Supermarkets is 795,466 in 2008, correct?

22 MS. CLARK: Mr. Chairman, again, I'm going to
23 object to this line of questioning. I don't see it
24 as being relevant to salary numbers for an electric
25 utility, which is entirely different from the

1 executives of Publix.

2 CHAIRMAN CARTER: Mr. Wright, to the
3 objection?

4 MR. WRIGHT: Basically the same response as
5 before, Mr. Chairman: It goes to fair, just and
6 reasonable rates and the allocation of that portion
7 of the rates which FPL is asking its customers to pay
8 for FPL's management as compared to other persons who
9 manage huge organizations. And when we get to
10 Exhibit 393, we will establish that Publix's revenues
11 are 150 percent those of FPL.

12 CHAIRMAN CARTER: Hang on, hang on, don't go
13 to 393 yet.

14 MR. WRIGHT: It's the nature of the proffer
15 relative to the relevance of 392.

16 CHAIRMAN CARTER: Okay.

17 MR. WRIGHT: But fundamentally it's the same
18 question we talked about before.

19 CHAIRMAN CARTER: Let's give her a chance to
20 get back. She's conferring with staff.

21 Ms. Helton?

22 MS. HELTON: Mr. Chairman.

23 CHAIRMAN CARTER: The same objection as
24 raised on the Miami school chief contract extended
25 document from the *Miami Herald* was raised by the

1 company and the same response to the objection was
2 given by Mr. Wright.

3 MS. HELTON: Mr. Chairman, I think to be
4 consistent we need to give the same answer, and I
5 guess, too, acknowledge that you all can give this
6 whatever weight you think it's due.

7 CHAIRMAN CARTER: I'm all in favor of
8 consistency.

9 You're still on that short leash, Mr. Wright,
10 or was it a short line? It wasn't a short leash, it
11 was a short line?

12 MR. WRIGHT: I think for practical purposes
13 it's the same thing in this instance.

14 CHAIRMAN CARTER: You may proceed.

15 BY MR. WRIGHT:

16 Q With respect to Exhibit 393, Mr. Olivera, I
17 will aver to you that that's a printout of the
18 Fortune 101 through 200 listings.

19 A I'm sorry, I don't have Exhibit 393. I just
20 have 392.

21 I think we've got it now.

22 Q Thank you.

23 I'm sure you will agree that, based on the
24 most current ranking, FPL is number 154 in the
25 Fortune 500 or Fortune 1000 companies based on

1 revenues, correct, FPL Group, that is?

2 A Yes, according to this printout, it ranks
3 154.

4 Q Is that consistent with your knowledge about
5 where the company stacks up in the Fortune 500?

6 A It's one of the measures that you look at is
7 revenues, but, you know, you can look at companies
8 along any number of dimensions, profitability,
9 returns over a certain period of time. So there are
10 many ways to cut and dice the data, and this is one
11 way that you have shown me.

12 Q Let me just pursue that briefly.

13 When someone says the Fortune 500 companies,
14 don't they usually mean them ranked by revenues?

15 A Oftentimes they're talking about market cap
16 when they're talking about Fortune 500, the largest
17 in terms of the capitalization -- the market
18 capitalization of that company, and not necessarily
19 the revenue of the company.

20 Q You'll also agree that Publix is ranked
21 number 101 by revenues as shown in this table?

22 A Yes, correct.

23 Q And that Publix is -- revenues are at least
24 shown to be roughly \$24 billion a year?

25 A That's correct.

1 Q And FPL Group's are roughly \$16 billion --

2 A Right.

3 Q -- per year?

4 A I just don't think that that is the right
5 comparison when you're looking at compensation
6 levels. And I go back to my earlier explanation,
7 it's that you have to look at the relevant job
8 market. There are lots of companies -- smallish
9 companies that have to pay very high compensation
10 levels. And I believe that both Ms. Kathleen
11 Slattery and our outside consultant, Richard
12 Meischeid, can walk you through what's a relevant
13 benchmark for compensation, in our executive
14 compensation, and show you how we stack relative to
15 the benchmark group.

16 And again, when we're out looking for people,
17 looking for talent, we don't talk to people that run
18 retail grocery stores. They don't have the skill
19 levels of what we're looking for. We look for a
20 whole different population of management people. And
21 this in no way detracts from Publix and the Publix
22 management team that I think do a great job in their
23 industry, in their sector.

24 Q Following along your previous response and
25 others along the same line, is it your testimony that

1 Florida Power & Light Company's customers, not FPL
2 Group, but Florida Power & Light Company's customers
3 have to pay you \$3.6 million a year or you'll go find
4 another job?

5 A This is not about me. This is about the
6 total, what is an appropriate level of compensation
7 for not just the senior management team, but for all
8 of our employees.

9 And I think this Commission has -- that is
10 one of the burdens, that they have to say what they
11 believe is reasonable, and I think over the next few
12 days I think our team would show that the salaries
13 are reasonable, they are consistent with what our
14 industry pays, and to the extent that we can convince
15 you of that, those are the costs that should be
16 factored into what customers pay in the rates.

17 And again, I would point to you to the
18 results that this team has been able to deliver on.
19 It's the low rates, high levels of reliability and a
20 company that, by virtually all outside measures, is
21 considered to be well run.

22 Q In what you have characterized as a bleak
23 economy, do you believe that it's fair to ask FPL's
24 customers to pay rates that include \$3.6 million or
25 more a year for your compensation?

1 A And I would answer the question the same way.
2 I think it's not about me. It's about what is an
3 appropriate compensation for people who run a company
4 of this size, of this complexity, with having really,
5 if you look at our company, many complex pieces. We
6 run a big construction company, we run a big customer
7 service company. It's a very, very complex
8 operation. And I think you have to look at what --
9 what somebody -- what other people in this industry
10 are making and you have to get comfortable with what
11 the benchmarking data will show you. I think you
12 will find that the benchmarking data shows you that
13 we pay in line with our peer group.

14 MR. WRIGHT: Mr. Chairman, I appreciate Mr.
15 Olivera's understanding, and I certainly understand
16 that's the company's position. I asked him a very
17 specific yes or no question, and I would ask that he
18 give me a yes or no answer. I'm sure that his answer
19 is yes with the explanation that he gave. I just
20 want him to say it on record.

21 BY MR. WRIGHT:

22 Q Mr. Olivera, is the answer to my question
23 yes?

24 A Would you repeat the question?

25 Q In what you have characterized as a bleak

1 economy, do you believe that it's fair to ask Florida
2 Power & Light Company's customers to pay rates that
3 include \$3.6 million a year or more for your
4 compensation?

5 A Yes. Customers are getting the benefit of
6 not just me, this is not about me, this is really
7 about the whole team, the whole senior team and all
8 the employees at FPL and all the salaries that we
9 have put forward in our projection, because I think
10 that our customers have gotten very good value for
11 that, and because to pay our people less than that
12 will ultimately result in higher costs. We will lose
13 key people. We will ultimately have to incur higher
14 recruiting costs and have to pay higher salaries to
15 attract people to replace those that leave if they
16 don't feel like they're being properly compensated or
17 they can go elsewhere and make more.

18 Q I'm going to ask you a similar question, and
19 it is this: In this bleak economy, do you believe
20 that it's fair to ask FPL's customers to pay rates
21 that include roughly \$8 million a year for Mr. Hay's
22 compensation?

23 A Mr. Hay is my boss.

24 Q And I'm sure I know the answer, Mr. Olivera.
25 I think it's a fair question and I just want your

1 answer on the record.

2 A Yes, and the same reasons that I stated
3 earlier, because of the kind of results that have
4 been delivered which the customers have benefited
5 from, and people with that kind of leadership and
6 that kind of foresight really are able to command
7 salaries in the range that he is being compensated
8 on.

9 Q I think one final question along this line,
10 and I know the answer, but they say you should only
11 ask questions you know the answer to, so here we go.

12 Are you willing to reduce FPL's rate increase
13 request in this case such that none of FPL's top
14 management would get more from FPL's customers than
15 the CEO of Publix?

16 A No. I think we have -- and I think you will
17 see throughout the other witnesses that will follow
18 me, that we have to pay competitive salaries. Again,
19 not detracting from the Publix business and the
20 retail grocery business, that is not our benchmark
21 group, we don't compare ourselves to that. We
22 compare ourselves to the electric utility for many
23 jobs and for certain jobs for industry at large, and
24 that is the appropriate benchmark and that is what
25 will deliver the best results for the customers.

1 Q I think you answered this question in
2 response to Ms. Bradley, but I just want to make
3 sure. Let me ask it this way: Embedded in FPL's
4 rate increase requests for 2010 and 2011, do they
5 reflect raises for you, Mr. Hay and the other FPL top
6 management in 2010 and 2011?

7 A I don't know. As I said earlier, I hope it
8 does. I don't know what's included in there.

9 Q If I want to know, I can ask Ms.
10 Slattery that, you think?

11 A Yes, Ms. Slattery should know. I do know, of
12 course, that we have forecasted raises for the other
13 employees, the other officers that report to me.

14 Q I'm still pursuing a line of questions
15 regarding what FPL considered in determining what to
16 ask for in its rate case, just so you know where I'm
17 going at least for now.

18 Did you consider asking for a lower ROE,
19 return on equity, in light of the current bleak
20 economy?

21 A As I said earlier, I relied on the analysis
22 that was conducted by Mr. Pimentel and Mr. Avera in
23 what is an appropriate rate of return, given our peer
24 group and given the relative risk profile of FPL.

25 Q Was the information you just described what

1 you considered or what the company considered in
2 asking for its requested rate of return on equity of
3 12 and a half percent after taxes?

4 A It's a range, with a midpoint of 12 and a
5 half percent.

6 Q Did you participate in any considerations of
7 asking for a lower ROE?

8 A I participated in several discussions when we
9 looked at what was an appropriate rate of return for
10 the company.

11 Q Did that include considering asking for a
12 lower ROE?

13 A Sure. We looked at lower ranges and we
14 looked at higher ranges. We looked at both sides of
15 the band.

16 Q Did you -- if you know the answer to this --
17 did FPL consider reducing its requested rate increase
18 by flowing back part of the company's depreciation
19 surplus?

20 A As we discussed earlier, we had several
21 discussions on surplus depreciation, frankly, making
22 sure I understood at least conceptually what's going
23 on. Again, I'm not the witness on surplus
24 depreciation. We actually have three different
25 witnesses that can go into the technical details on

1 that.

2 But we arrived on what we believe is the
3 appropriate balance on flowing it back and do it in a
4 way that the customers get some benefit now without,
5 frankly, as we said earlier, there is not a pot of
6 cash that is readily available for distribution.
7 This is an, it's an accounting transaction. I think
8 we also have said that the customers have benefited
9 from what we have had so far. And lastly, that if
10 it's flowed back too quickly, what we're doing is
11 building future rate base by that amount, and I think
12 Mr. Davis will be able to talk you through that, and
13 it just will create a big rate increase at some
14 future date.

15 Q Sticking with the context of what you have
16 recognized as a bleak economy, I'm going to ask a
17 couple of questions, following along the lines of
18 some questions posed earlier today by Commissioner
19 Skop in which he was asking you about the
20 depreciation surplus.

21 Wouldn't it be FPL's goal to recover -- and I
22 preface this by saying I'm not asking you to go into
23 the accounting detail. These are -- in my intent,
24 they're high level questions intended for your high
25 level position, okay?

1 Isn't it FPL's goal to recover depreciation
2 expense based on the actual life of assets such that
3 you recover the depreciation over the life of the
4 asset?

5 A That's correct. That's one of the guiding
6 principles.

7 Q Is it FPL's goal to have a depreciation
8 surplus?

9 A No, we don't plan on having a depreciation
10 surplus. When the studies are conducted, a natural
11 byproduct of conducting depreciation studies is that
12 you'll have to make some adjustments, and sometimes
13 as a result of doing those depreciation studies, you
14 will calculate that you have a little bit of a
15 surplus, sometimes you'll calculate that you have a
16 little bit of a deficit. And so frankly, you kind of
17 let the chips fall where they may.

18 Q By your last answer, you don't mean to
19 suggest -- I'll ask it this way: By your last
20 answer, do you mean to suggest that \$1.25 billion is
21 a little bit of a surplus?

22 A No, what I meant by my comment is that to the
23 best of my knowledge, we don't say to the accountants
24 or the people that are doing the study to create a
25 surplus or to create a deficit. We say, run the

1 analysis based on, by the way, what I think are
2 terribly technical issues. Only recently have I
3 learned, for example, even conceptually what a
4 survivor curve is.

5 And so we ask them to run the studies based
6 on the data and the information that they have. We
7 don't say to them, bias the outcome one way or the
8 other.

9 Q Wouldn't it be true that FPL would want to
10 avoid being in a depreciation reserve deficit
11 situation?

12 A As I said, we don't -- either way we're
13 talking about an accounting transaction. We are not
14 talking about building a power plant or -- this is a
15 theoretical -- in fact, the accountants call this a
16 theoretical surplus reserve. It's theoretical, it's
17 a calculation of a number. There isn't -- by your
18 questions, you're implying that there's some huge
19 amount of money sitting somewhere, that we're somehow
20 squirreling it away, and that's not the way I view it
21 at all.

22 Q Wouldn't it be true that if you recover
23 depreciation over a period of time less than an
24 asset's life, be it power plant, transmission line or
25 anything else, that that would have an effect, as an

1 accounting result, of creating a depreciation surplus
2 with respect to that asset?

3 A Yes.

4 Q And, correspondingly, if you recovered too
5 slowly over a period longer than the life of the
6 asset, that would create a deficit?

7 A And you would have to go back and ask for a
8 recovery on those costs.

9 Q Did you consider in taking account of the --
10 taking account of the bleak state of the economy, not
11 asking for the additional \$150 million a year in
12 storm accruals to be rolled into FPL's rates in this
13 case?

14 A We did. We had several long discussions
15 about the storm cost accrual. But at the end of the
16 day, as I explained earlier today, we felt that it
17 was -- really reflects the cost of doing business,
18 and for us not to have something in the rates that
19 reflects kind of the annual expectation of storm
20 cost, and Witness Harris and Witness Pimentel can go
21 into a lot of detail on how those numbers are
22 derived, but we believe that rates should reflect
23 some component of what kind of an annual expectation
24 of storm cost should be, and I mentioned earlier sort
25 of all the consequences that we're concerned about if

1 we have a series of storms and we have to seek cost
2 recovery.

3 Q Isn't it true that as of December 31st of
4 this year, FPL will, without any rate increase at
5 all, have a storm reserve of approximately \$215
6 million?

7 A I believe the number is \$191 million,
8 thereabouts, but that number is really reflected on a
9 storm fund that this Commission authorized as part of
10 the securitization of the storm cost of coming out of
11 the '04-'05 hurricane season. And so as you may
12 recall, there was a piece of that -- those bonds that
13 was meant to build a little bit of a cushion in the
14 storm cost.

15 Q Mr. Olivera, I got the \$215 million number
16 from Mr. Harris's testimony. It was his assumed
17 value for the starting value of the reserve. You
18 just said 191. I'm not going to argue that it's a
19 huge difference, but can you help me out --

20 A I'm not going to argue with you that it's a
21 huge difference, either. I'm just going by my
22 recollection. You're asking me a lot of details that
23 I'm not the expert witness on, and so I'm telling you
24 that my last recollection was around 191. Let's
25 split the difference and say 200. Not going to move

1 it much either way.

2 MS. CLARK: Mr. Chairman, it's getting late.
3 I think you said seven o'clock, and I think Mr.
4 Olivera on a number of occasions has indicated there
5 are witnesses to answer these questions and I think
6 we should move on. I don't know that the
7 depreciation and these detail of questions are within
8 the scope of his direct testimony.

9 CHAIRMAN CARTER: Mr. Wright?

10 MR. WRIGHT: Mr. Chairman, the issue in this
11 case is whether FPL's rates are fair, just and
12 reasonable. Mr. Olivera has testified about a whole
13 lot of stuff, including the storm reserve and ROE and
14 a whole bunch of other stuff. He has also testified
15 specifically that he is concerned about the bleak
16 state of Florida's economy and how unfortunate it was
17 that they had to ask for a rate increase, given the
18 current state of the economy. This line of
19 questioning is pursuing what FPL considered.

20 As a proffer, it's our view that they didn't
21 really consider a whole lot of things that they could
22 have considered to hold down the magnitude of the
23 increase, and that's what I'm inquiring about. I
24 think it's completely fair.

25 CHAIRMAN CARTER: Okay. Ms. Helton? Do you

1 want to take a minute to --

2 MS. HELTON: No, I think I'm ready.

3 The way I see Mr. Wright's questions, he is
4 asking some high level questions concerning the storm
5 reserve that is at issue in this case, and if I'm
6 understanding what's been going on today correctly,
7 that is one of the things to which he testified in
8 his testimony. My hope, though, is Mr. Wright can
9 move it on.

10 MR. WRIGHT: Mine, too, Mr. Chairman.

11 CHAIRMAN CARTER: Short lines. Are we on
12 something different now than the short lines?

13 MR. WRIGHT: No, sir, I'm going to stick with
14 storm accrual for a short period of time.

15 CHAIRMAN CARTER: You may proceed.

16 BY MR. WRIGHT:

17 Q I'm glad for your last response, Mr. Olivera,
18 because I was going to suggest that we agree on
19 200 million for a working number.

20 A Right, subject to -- just to be clear,
21 subject to verification by the accounting people who
22 really are the official keepers of the data.

23 Q Yes, sir.

24 You will agree that in what we might call the
25 storm securitization docket, 060038, FPL asked for

1 sufficient funding to accrue a storm reserve of
2 \$650 million, true?

3 A I believe that that is correct.

4 Q And you will also agree that the Commission
5 specifically rejected that?

6 A That's correct.

7 Q How much thought did you give to the
8 Commission's ruling in that case before coming back
9 and asking for money to get what they denied to you
10 three years ago?

11 A We give any order from this Commission a lot
12 of consideration, but that was kind of a single issue
13 docket, and we thought that when this Commission is
14 looking at all of the components of rates, that that
15 was one aspect and one component that this Commission
16 should consider.

17 Q In response to some questioning by
18 Mr. Mendola yesterday, you talked about bonding and
19 securitization. Do you recall that exchange?

20 A Not in a lot of detail.

21 Q I don't think it was very detailed.

22 You would agree, would you not, that FPL does
23 not have to use the securitization mechanism provided
24 for under the statute in order to recover its storm
25 recovery costs?

1 A Yes, I would agree that the company has the
2 ability, I believe, to come in and ask for a storm
3 surcharge in lieu of a storm cost securitization.

4 Q And, of course, you'd also agree that FPL
5 could use up to the plus or minus \$200 million that
6 is in the storm reserve for storm restoration
7 efforts, correct?

8 A Correct. That would be the first source of
9 funds.

10 Q I think this might have been in response to a
11 question by -- it might have been as a response to a
12 question by Ms. Bradley, although I won't swear to
13 that, but earlier today I think you said FPL doesn't
14 make money on the storm accrual. Do you recall that?

15 A There is no profit on the storm accrual.

16 Q Thank you. Will you agree that it costs your
17 customers money to pay for that if the Florida Public
18 Service Commission approves your rate increase
19 request as framed?

20 A It costs money, but it is, frankly, a concept
21 of, pay me a little bit as you go now or pay me a lot
22 more later.

23 And I think when you listen to the testimony
24 of both Mr. Pimentel and Mr. Harris, you will find
25 that that is really the trade-off that this

1 Commission has to decide on, pay a little bit at a
2 time or pay a lot more further down the road.

3 Q Do you recall when your current storm cost
4 recovery surcharge which is presently in effect was
5 implemented? I think it was the summer of 2007, but
6 correct me if I'm wrong.

7 A I can't answer that off the top of my head.
8 I know it's a combination of storm costs from the '04
9 and the '05 seasons, but I can't remember how it
10 broke out between what went in securitization and
11 what went into the storm cost surcharge.

12 Q Would it be correct that the amount that's
13 being recovered through the storm cost surcharge is
14 for unrecovered costs from the '04 storms,
15 unrecovered costs from the '05 storms and sufficient
16 funds to build towards a \$200 million storm reserve?

17 A Well, I think you're mixing apples and
18 oranges. We received the funds from the storm
19 securitization, and so that -- the storm fund, using
20 our \$200 million number, is actually a real number.
21 We are not collecting on that, that was deposited
22 when the bond was issued. And then separately there
23 is a storm charge that is sort of a monthly charge
24 associated with the recovery of that storm. So there
25 are two -- that is about as good as I can do on that

1 one, but I'm pretty sure that that is accurate.

2 Q Thank you.

3 Again, not -- this concludes -- these next
4 couple of questions are going to conclude my line
5 about the impact of the economy, and I'm going to use
6 a number for the total requested increases as we
7 talked about at the very outset of this conversation.

8 When I add the numbers together, I get
9 something around \$1.4 billion cumulative increases
10 for the 2010 increase, the 2011 increase and the
11 annualized value for West County 3 that would kick in
12 in roughly the summer of 2011. Are we okay -- agreed
13 on that number?

14 A Correct.

15 Q You can say it's 1.3 and I won't argue with
16 you, but it's something in that range, correct?

17 A Uh-huh.

18 Q My question for you, again in the context of
19 this line of questioning, is, did FPL, in framing its
20 rate increase in this case in today's economic
21 climate, consider the impacts on foreclosures of
22 collecting this amount of money every year from FPL's
23 customers?

24 A I failed to see the tie between foreclosures
25 and an electric bill that is forecasted to go down

1 \$9, the average electric bill that will go down \$9
2 next year. I don't know how paying \$9 less for the
3 overwhelming majority of our customers will cause
4 them to have to file for -- to have to lose their
5 homes.

6 Q You have triggered a segue to another line of
7 questioning, but before we go there, if you -- you
8 answered my question by explaining why you think it
9 was an inappropriate question. Naturally, I don't
10 agree, I think it's a fair question, and it was,
11 simply, did FPL consider the impact on foreclosures
12 of its base rate increase requests in this case?

13 MS. CLARK: Mr. Chairman, I think that's been
14 asked and answered.

15 CHAIRMAN CARTER: Mr. Wright, to the
16 objection, please, sir.

17 MR. WRIGHT: Mr. Chair, I did not hear a yes
18 or no. What I heard was, "I do not see" -- I heard
19 Mr. Olivera say words to the following effect: "I do
20 not see the relevance of -- to foreclosures of a
21 forecast decline in FPL's average rates."

22 I have other lines of questioning in which I
23 will pursue FPL's average rates and its forecasts of
24 rate reductions based on its forecasts of fuel cost
25 reductions. I am, frankly, hoping to ask these two

1 more questions right now and leave those others for
2 tomorrow, since we're close to the appointed hour.

3 CHAIRMAN CARTER: I want to hear from Ms.
4 Helton. Ms. Helton? By the way, we will not be
5 going over tonight.

6 MR. WRIGHT: If I may, again, I have framed
7 these questions -- I've been very clear, I've said
8 this several times. These questions are as to what
9 FPL considered in framing its rate increase request
10 in this case in light of what Mr. Olivera has
11 testified to as the bleak state of Florida's economy.

12 CHAIRMAN CARTER: Okay, that's fine.

13 Ms. Helton?

14 MS. HELTON: Mr. Chairman, I didn't hear a
15 yes or no, either, so -- and I think that's what the
16 hearing order directs and I do think that -- well, I
17 didn't hear --

18 CHAIRMAN CARTER: Mr. Wright, ask your
19 question again. Overruled.

20 BY MR. WRIGHT:

21 Q Stated about as simply as I can, did Florida
22 Power & Light Company, in framing its rate increase
23 requests in this case, consider the impacts on
24 foreclosures of its cumulative rate increase requests
25 of somewhere in the range of 1.3 or 1.4 billion

1 dollars a year?

2 A No, because we didn't think that it was
3 relevant, that there's any tie between a home
4 foreclosure rate and a drop -- a \$9 drop in the
5 average electric bill.

6 Q I want to ask you the same question, did FPL
7 consider any of the impacts on unemployment of its
8 cumulative base rate increase requests in this case
9 of 1.3 or 1.4 billion dollars per year?

10 A Again, no, and the answer is because we don't
11 see the tie. In fact, if anything, the projects that
12 we're working on that are funded or would be funded
13 by this increase are providing hundreds of jobs. At
14 the solar projects alone, we have something like 500
15 people employed working on those projects. We have
16 several hundred people more involved in the
17 construction of West County. So these capital
18 dollars that are really an integral part of our rate
19 requests are providing literally thousands of jobs
20 right now. So at least in our point of view, these
21 are things that are good for the economy of Florida,
22 and, frankly, I think they're all good for the
23 environment.

24 CHAIRMAN CARTER: I know, Mr. Wright, you're
25 getting ready to go to another line, and I think this

1 would be a good, appropriate breaking point. I'll
2 remind everyone we will be going long tomorrow, see
3 how much progress we're making. With that,
4 Commissioners, we're adjourned.

5 (Hearing adjourned at 7:00 p.m.)

6 (The transcript continues in sequence with
7 Volume VI.)

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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)

3 COUNTY OF LEON)

4 I, CLARA C. ROTRUCK, do hereby certify that I
5 was authorized to and did stenographically report the
6 foregoing proceedings at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that the foregoing
9 transcript is a true record of my stenographic notes.

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

16 DATED this 28th day of August, 2009, at
17 Tallahassee, Leon County, Florida.

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22
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24 _____
CLARA C. ROTRUCK