

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 120015-EI

PETITION FOR INCREASE IN RATES
BY FLORIDA POWER & LIGHT COMPANY.

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PROCEEDINGS: SPECIAL AGENDA

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Thursday, December 13, 2012

TIME: Commenced at 9:30 a.m.
Concluded at 4:03 p.m.

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

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1 P R O C E E D I N G S

2 **CHAIRMAN BRISÉ:** Good morning.

3 Today is December 13th, and we are here to
4 deal with the settlement that is before us referencing
5 Docket 120015-EI. And I typically don't do this, but
6 I'm going to go ahead and go first and express where we
7 are and what our options may be today, and how I expect
8 the day to sort of roll out.

9 Where are we? We are looking at a rate case
10 that we had a full hearing on and we had a continued
11 process to look at a settlement agreement that was
12 vetted. We had testimony on the issues that were
13 involved in the settlement, and that are involved in the
14 settlement, and today we are here to look at a couple of
15 options that are before us.

16 What are the options that are before us? The
17 way I see them, we either approve the settlement, deny
18 the settlement, or see if there's something else that
19 can be done to address the situation, or the settlement.
20 So from my perspective, our responsibility here as the
21 Commission is to work within the public interest. And
22 that means, particularly when we are looking at
23 settlements, it's looking at whether what is proposed in
24 the settlement works for or is in the public interest as
25 a whole.

1 Obviously like any settlement, there are going
2 to be components of it that sort of brush up against
3 each other and there's going to be give and take along
4 that process. But in the end it has to be something
5 that is reasonable and is fair, and looks at not only
6 the current situation, but also making sure that in the
7 long range it makes sense not only for the company, but,
8 more importantly, makes sense for the consumers, as
9 well.

10 So what are the issues that when I look at the
11 settlement that I ask myself, what are the questions
12 that I ask myself? Are settlements generally in the
13 public interest? Is there a blanket answer to that?
14 Absolutely not. However, each settlement comes with its
15 own set of unique circumstances within a time frame that
16 is specific. So, therefore, the issues that are within
17 the settlement have to be taken into consideration
18 within the time frame and the situation that surrounds
19 it. So at that point one has to determine whether the
20 settlement that is before you is within the public
21 interest.

22 The settlement that we have before us proposes
23 one aspect which is one that we would have to think
24 about. Is it in the public interest that a utility not
25 have to come back for multiple rate cases within a

1 particular period of time and address certain other
2 issues within that? We'd have to determine whether that
3 is in the public interest. That is one of the questions
4 that I have for myself, and I think if the terms are
5 right within the settlement that that can definitely be
6 a yes.

7 Is it in the public interest that there is
8 price predictability and stability? Providing that the
9 pricy right and what you are getting in exchange for the
10 price that the consumers pay, then that can be a yes.
11 Making sure that all of those aspects are in there.

12 So in my view, there are a few things in this
13 settlement that stand out to me as issues that I have
14 contentions with. One is the ROE, okay. The ROE is an
15 area that, I think, to me the way it is laid out needs
16 some work. So if I were to approve a settlement, it
17 would have to have an ROE that is different than the one
18 that is laid out within the settlement. What is the
19 range you may ask that I could be comfortable with? And
20 I'll throw that out there to you, okay. On the high end
21 it would be a 10.5, on the high end. But that would
22 depend on other factors that would be included as part
23 of the big package, okay. How you mark that back down
24 would depend upon those issues that are involved there.

25 Do I think the GBRA mechanism makes sense? I

1 think it can make sense, providing that it's at the
2 right level containing when you look at all the
3 financial factors involved there.

4 One of the other issues that I have
5 contentions with, and this is one of the ones that sort
6 of stings me a little bit, is the late fee issue. And
7 it's not a big issue. Some may say it's a \$40 million
8 issue over four years, but I think it's an important
9 issue, because I generally don't think that people pay
10 late simply because they want to pay late. They pay
11 late because they are trying to manage their cash flow
12 the same way the company is trying to manage their cash
13 flow.

14 So individuals make these decisions and they
15 decide that rather than paying the bank an additional 25
16 or \$35, whatever the fee is if they write a check that
17 may not have provisions, and so forth, that they in turn
18 say, okay, I'm going to pay the additional late fee to
19 make sure that my power stays on and so forth. So I
20 think that I could support the idea of moving the late
21 fee to where the highest is within the state right now
22 at the five dollars and move away from the six dollar
23 position as is proposed in the settlement. There are
24 other concepts within the settlement that I think with
25 some massaging could be a position that we could arrive

1 at that makes sense.

2 So what do I hope that we do today? I hope
3 that we will look at the issues, and I think each
4 Commissioner will have their position on whatever it is.
5 Whether they agree with the settlement as is or not, or
6 if they are ready to approve or deny, or whatever it is,
7 but if there is common ground on what a settlement could
8 look like that this Commission could live with, I would
9 certainly hope that the parties would listen to that and
10 see if they can in turn discuss among themselves and
11 maybe propose something that it is reflective of
12 something that is within the public interest as would be
13 defined by us here from the bench.

14 So I'm starting off the discussion that way,
15 and I know that each Commissioner has their own
16 perspective and their own opinion and their own way of
17 how they think that these issues should be dealt with,
18 and I see a few lights before me at this point already.

19 So with that, I will open it up.

20 Commissioner Balbis.

21 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
22 And thank you for the opportunity in laying out what we
23 have in front of us today. I do agree with the options
24 that we have.

25 I, too, have concerns about the settlement

1 agreement. I think there are aspects of it that are
2 very good, that are clearly in the public interest.
3 There are some that I had concerns about, and I
4 appreciated the opportunity of an additional hearing
5 process to flesh some of those out.

6 I share similar concerns about some of the
7 aspects of the settlement agreement that you listed, and
8 I would look forward to further discussions on those
9 aspects. As far as the return on equity, I had
10 concerns, and I continue to have concerns that a 10.7
11 ROE would be the highest awarded in the nation in 2012,
12 and to a company with a capital structure that may
13 provide the lowest financial risk. That's something I
14 look forward to discussing further with fellow
15 Commissioners. And I agree completely with the GBRA
16 issues. I think that option could work, provided the
17 financial issues associated with it work out.

18 The late fee issue was something as well that
19 I agree with, but I want to touch on one of the main
20 concerns that I did have about the settlement agreement
21 that I had the opportunity to ask witnesses about, and
22 also with staff. I would assume we are going to go
23 through the process of diving into each one of these
24 details as we move forward, or I'll be more than happy
25 to go into the details now. But I do have concerns

1 about the handling of the dismantlement reserves in
2 particular, that there were too many unknowns, and that
3 any dollar taken from that account would have to be
4 replaced by customers in the future. So I'd like to
5 dive into that a little bit more with staff when it is
6 appropriate.

7 These other issues that I'm listing may not
8 have the same weight as the others, but it's something
9 that I did have concerns about. But, again, when we
10 look at the package as a whole, I think we can come up
11 with something that is clearly in the public interest.

12 I had some concerns about the incentive
13 mechanisms, but, again, I think that's something that we
14 can work around. I do like the fact that we may be
15 having a more appropriate cost allocation system, and
16 the fact that the mechanism would not change to an MDS
17 methodology, but go with the 12CP 1/13th coincident peak
18 methodology. So that's something, I think, that is in
19 the public interest, along with updating of industrial
20 credits. I think that this Commission has continued to
21 try and update and look at things to see what we can do
22 better that can be more appropriate.

23 So there's good things that are in there. But
24 the other main issue that I do have, and it kind of ties
25 in with the return on equity, but it is the overall

1 revenue requirement. During the rate case hearing
2 process, I was able to flesh out, and other
3 Commissioners flesh out issues that in not only this
4 case we had questions about, but in recent decisions we
5 have made, made certain adjustments. So I would like a
6 discussion on adjustments that I think are fair and
7 consistent. Because if we can come to a process or a
8 conclusion modifying this, putting together something
9 that parties can agree to clearly in the public
10 interest, we can avoid, perhaps, the unnecessary raising
11 of the cost of living for 9 million Floridians. So I
12 look forward to additional discussion with the
13 Commissioners.

14 **CHAIRMAN BRISÉ:** Thank you, Commissioner
15 Balbis.

16 Commissioner Brown.

17 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
18 And thank you also for laying out where we are today.

19 We have had ten service hearings across the
20 state. We have had two weeks of very long hearings,
21 sometimes going past midnight. We have had two days of
22 settlement discussions, and I think we have had more
23 than enough -- ample time to make a fair, educated, and
24 reasonable decision that is, indeed, in the public
25 interest.

1 This particular case, I found, and I know
2 others have, is particularly challenging. Because we
3 have an unusual circumstance here where we have got some
4 signatories who represent 48 percent of the delivered
5 sales of FPL, but they only comprise 1 to maybe
6 3 percent of the customer base. Then we have got the
7 Office of Public Counsel, which is not a signatory,
8 which represents 50 percent of the customer base. So
9 then that raises questions of whether it is, indeed, in
10 the public interest. And I have looked at it, I have
11 given it a lot of thought, and there are, indeed, I
12 believe, aspects of this that are in the public interest
13 and there are some benefits here.

14 Although I will make the caveat that there are
15 three areas of concern that I do have a problem with, as
16 some of the Commissioners have mentioned. The first
17 one, the obvious one is the return on equity. Although
18 Florida Power and Light is a very well run company, I
19 believe that the 10.7 percent is not necessarily
20 appropriate, based on the evidence in the record.

21 FPL has the highest equity-to-debt ratio in
22 the state and also has the lowest risk here in Florida.
23 The lower the risk, the lower the ROE should be. And I
24 do think that there is ample evidence in the record to
25 support it, and I look forward to talking a little bit

1 more about it and what we deem to be reasonable and
2 appropriate. I know there are some numbers that just
3 were floated out here, and I'd like to explore that a
4 little bit.

5 Also, as Commissioner Balbis and Mr. Chairman
6 mentioned, the late fees. It's a big issue for me. I
7 know it's only \$10 million a year, but I have a
8 fundamental problem with it. Florida Power and Light
9 Witness Deaton even testified that it is not cost-based,
10 and it causes me great concern. I know it's only 10
11 million, but, again, it's a principle issue. It's not
12 on parity with the other IOUs in the State of Florida,
13 and I think five dollars would be much more reasonable.

14 And the last one, which isn't really a big
15 issue for me, is the incentive mechanism. Again, it's
16 not a major issue for me, but I may be more comfortable
17 having that incentive mechanism outside of the
18 settlement agreement so that other IOUs may have an
19 opportunity to address it. I know previously we did it
20 through a generic proceeding, and this one incorporates
21 a different aspect into it under the settlement
22 agreement, and I think this is something that maybe the
23 other IOUs in the State of Florida could benefit from.
24 So I may be inclined to move that outside of the rate
25 case, but really the two big issues for me are the ROE

1 and the late fees. Thank you.

2 **CHAIRMAN BRISÉ:** All right.

3 Thank you, Commissioner Brown.

4 Okay. So this discussion is moving forward.
5 You have heard some issues as have been brought up by
6 two Commissioners to this point -- with three
7 Commissioners to this point, and I think that's
8 important to the discussion as to -- and it's good that
9 the Commissioners have sort of laid out in priority the
10 issues that are important to them, which I think will be
11 important as we go through the discussion this morning.

12 I don't know if other Commissioners have other
13 comments at this time, and I see a light coming on.

14 Commissioner Edgar.

15 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

16 And I'm looking forward to more discussion and
17 the opportunity to hear in a little more detail, or a
18 lot more detail, depending, what is the best way to move
19 forward. And I also believe that as part of this
20 discussion we are going to need to have a little more of
21 a procedural discussion, as well. And although that is
22 certainly not as interesting, it is probably just as
23 important that we have the opportunity to discuss and
24 determine how to move forward as we are working to build
25 consensus. And I look forward, of course, to hearing

1 from Commissioner Graham shortly, as well. But from
2 what I have heard so far, and from the review and
3 analysis that I have done listening to the testimony,
4 going to the public hearings, reviewing the prefiled
5 testimony, numerous opportunities to meet with our staff
6 individually and in small groups over the past months,
7 and as recently as last night, you have touched on the
8 issues that I would have raised had I hit the button
9 first.

10 The ROE, you know, 10.7 is within the range
11 that is justified by the record, but so are some other
12 numbers. I do believe that there is -- there is risk
13 involved if we are going to look at and include the
14 three high capital need investment modernization
15 projects that are included under the GBRA language, and
16 so I look forward to -- I think those two things are
17 tied together very closely.

18 I also recognize that this particular company
19 would be competing for capital with other large proposed
20 projects with other utilities in the southeast, and I do
21 think that is a factor. So I have a lot -- I could talk
22 on and on and on, but generally it sounds like we are
23 reaching consensus on the late fee. I recognize that
24 the five dollar, or 1.5 percent is the applicable tariff
25 and standard for the other IOUs in this state, and

1 that's where I would like to see it be and remain for
2 this particular utility.

3 The asset optimization proposal is intriguing
4 to me. I do have a little bit of a concern that it
5 would put this utility, perhaps, at an advantage which
6 would be good for its ratepayers, but we need to look
7 statewide and whether that is the most appropriate way
8 to move forward, or if it makes more sense for us to
9 recognize that that proposal is not revenue related, as
10 are all the other issues that are before us, and perhaps
11 consider pulling that out and asking our staff to look
12 at it more closely, and perhaps bring forward a
13 statewide proposal. That would be something I would
14 consider talking about more.

15 I think it is very important to recognize, as
16 with any large rate case becomes very controversial,
17 occasionally aspects become personal. I know each of us
18 feel -- I do and I know that each of my friends and
19 colleagues here at the bench with me today feel a lot of
20 pressure to get it right. And it's all interrelated.
21 All of the pieces have to work together. If you make an
22 adjustment in one place it's like a large Tinkertoy, it
23 turns, and sometimes it can be difficult to ascertain
24 with certainty what all the ramifications are going to
25 be. And as we look at individual proposals or

1 individual pieces, I know that I am going to try to be
2 really aware as to how one adjustment may or may not
3 impact other pieces of this very complex and
4 well-knitted puzzle that is before us for decision.

5 We are problem solvers. I believe that that
6 is a large part of our job and of our assignment. It is
7 our responsibility to balance all of the factors and
8 render a decision based on the record evidence that we
9 believe is in the public interest and that establishes
10 just, fair, and reasonable rates for the customers on a
11 go-forward basis for a reasonable time frame.

12 I find the rate certainty that the settlement
13 proposal brings very, very attractive. I'm hoping that
14 that is something that we can maintain as we consider
15 individual components, and I am certainly going to focus
16 during our discussion today on the revenue requirement,
17 the rate impact, and how procedurally we can get from
18 where we are at this moment to a decision that we
19 believe does serve the public interest and avoids some
20 of the rhetoric that has built up around this case.

21 Thank you, Mr. Chairman.

22 **CHAIRMAN BRISÉ:** Thank you, Commissioner
23 Edgar.

24 Commissioner Graham.

25 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

1 I'm not going to repeat a lot of the same
2 things that my colleagues already said. I guess the
3 advantage of going last, when it comes to opening
4 statements, is you don't have to be overly repetitive
5 with the information.

6 I can say my biggest concern with the
7 settlement was the initial concern that Public Counsel,
8 Office of Public Counsel wasn't part of the settlement.
9 And I guess the first question that popped in my head
10 was why. But now that we are at this point, my concern
11 was that we are going to be asked why didn't we go the
12 extra mile to find out why OPC wasn't part of the
13 settlement. And I think not only did we do the extra
14 mile, we did the extra 26.2 miles.

15 I mean, this was a marathon. As Commissioner
16 Brown said earlier, we have been having meetings since,
17 I believe it was sometime in May. And we have done our
18 due diligence. And we have one heck of a record out
19 there to justify the decisions, whatever the decision is
20 today that we make.

21 I think my number one question now is what the
22 procedure would be as we go through this process, so we
23 know -- what the procedure is going to be so we can get
24 to that end point that can be justified. So I guess my
25 question to you, Mr. Chairman, is what do you foresee

1 the procedure being today?

2 **CHAIRMAN BRISÉ:** That's a good question. And
3 I have had a discussion with our General Counsel as to
4 what our options are today. And shortly I'll see if
5 they can correct me if I'm wrong, and sort of open that
6 up for discussion up here and for us to ask questions of
7 the General Counsel as needed.

8 My understanding is that there's two options
9 that we can proceed from. One is the preferred option,
10 and for us to have a discussion on the issues that are
11 before us. And that we, seeing that all the parties are
12 present, the parties can listen to what we have to say,
13 and we can make a decision that we can recess or so
14 forth at some point, and the parties could huddle up and
15 as parties propose something that is different from what
16 they proposed initially to reflect more of what we, from
17 the bench, have expressed as our concerns. That is one
18 of the options.

19 Another option is for us to potentially craft
20 something from the bench, and then the parties have an
21 option of accepting it or not. And if it's not
22 accepted, then we move on to the next step, which is
23 moving on to the regular process of our staff writing --
24 resuming writing the recommendation. And those are the
25 options that we have as has been laid out to me by our

1 General Counsel. And I'm going to get a confirmation
2 from our General Counsel that that is correct. If our
3 General Counsel could sort of --

4 **MR. KISER:** Yes, sir.

5 **CHAIRMAN BRISÉ:** Okay. Now, I know that there
6 may be other avenues and there may be questions or
7 concerns, so now may not be a bad time for us to have
8 that discussion from the bench as to how we can proceed
9 moving forward.

10 Commissioner Edgar.

11 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

12 I recognize that under Chapter 120, and under
13 Chapter 350, and Chapter 366, and under the rules and
14 regulations that flow therefrom that we have some
15 procedural limitations. If it were up to me, I can tell
16 you what I would propose and what I would ask you for
17 your support for, and that is to take a vote to deny the
18 settlement due to some of the concerns that we have
19 expressed and a few others that we probably haven't
20 really delved into yet, and then to use the settlement
21 document, which is what's marked as I believe Exhibit
22 701 during the hearing process, to use that as a
23 framework to work from. And I am prepared to do so.

24 I mean, I can go through line-by-line and
25 paragraph-by-paragraph and suggest amendments,

1 modifications, edits, removals, expansions that would
2 address some of the issues that we have discussed. For
3 instance, the late fee, the ROE, the asset optimization
4 mechanism, and a few other things to make it internally
5 consistent. That would be my proposal today.

6 However, I understand from long and
7 multi-faceted discussions with our legal staff that
8 that process is not available to us. However,
9 Commissioners, I recognize that often if one path does
10 not present itself, that there are other ways to
11 accomplish the same ends.

12 So hearing the comments that I have heard here
13 today, and recognizing all of the questions that were
14 asked during the hearing process and the testimony that
15 was received, that is the path that I would like to see
16 us undertake, which would be to not take a vote on the
17 motion to approve the settlement as it is before us, but
18 to effectively set that aside, but then use the document
19 as a framework for us to express our decisions, and
20 proposals, and recommendations, and wish list is maybe a
21 better way to put it as to how we would balance all of
22 these factors, recognizing that they all go together.

23 **CHAIRMAN BRISÉ:** All right.

24 **COMMISSIONER EDGAR:** And, I'm sorry, I've got
25 one other point that I did want to mention.

1 **CHAIRMAN BRISÉ:** Sure.

2 **COMMISSIONER EDGAR:** And part of the reason
3 for that today is realizing that we are under a gun. We
4 are under a time clock. The calendar year is obviously
5 ending very soon. The agreement that sets rates
6 currently and through the end of this month expires. I
7 would very much like to see us reach consensus and a
8 decision such that all customers, all customer groups,
9 the utility, and all regulators know what the rates are
10 going to be and how that process will move forward and
11 not have additional uncertainty over the next few
12 months. Thank you.

13 **CHAIRMAN BRISÉ:** Thank you, Commissioner
14 Edgar.

15 Commissioner Brown.

16 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
17 Procedurally, I agree with Commissioner
18 Edgar's latter proposal, and I think that's really the
19 avenue that we -- and really our only option that we
20 have here today. So I'm ready to get to going through
21 the agreement and seeing what portions bit by bit
22 whenever, Mr. Chairman, you allow it.

23 **CHAIRMAN BRISÉ:** Okay. Is there any further
24 discussion on the way to proceed?

25 Okay. So to make sure I get this right,

1 basically what we are going to do is sort of go through
2 the settlement and look at the settlement
3 piece-by-piece, and work through it, and make a
4 determination on each issue or group of issues as to
5 where we can find consensus and see what we find is in
6 the public interest. That seems to be the direction
7 that I heard.

8 Commissioner Graham.

9 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

10 My goal is not to throw a monkey wrench in all
11 this, but it seems sometimes I do that.

12 **CHAIRMAN BRISÉ:** It's better now than later.

13 **COMMISSIONER GRAHAM:** That is true.

14 My concern about pulling the settlement apart
15 and looking at it line-by-line is you lose the essence
16 of what the settlement is. I mean, there's things out
17 there that favor one side; there's things out there that
18 favor the other side, and the whole settlement is all a
19 give and take. And when you start looking at it under a
20 microscope like that, this piece and then this piece and
21 then this piece and then this piece, you take away the
22 whole essence of the settlement. And I think that may
23 be kind of problematic by doing it the way you are
24 saying to do it.

25 I don't have a problem with addressing

1 individual Commissioners' concerns and putting that out
2 on the table and seeing if the settlement is a statue
3 that you are trying to perfect, you could knock off the
4 imperfections and see if you can sell that statue. But
5 if you completely disassemble the thing, it's never
6 going to get back to what you want.

7 I mean, so I guess the question I would have
8 is individually if there is a piece of the settlement
9 that you're concerned about, let's go through that and
10 see how we can remedy that concern rather than trying to
11 completely disassemble this entire thing.

12 **CHAIRMAN BRISÉ:** Understood.

13 I think, if I can synthesize it, I think we
14 are all saying the same thing. It's probably just
15 semantics of disassembling it versus you have a
16 framework that exists. You're going to go through the
17 framework, and you're going to make sure that you pull
18 the levers to sort of balance it out. And that's my
19 understanding of what we are going to seek to do, and
20 I'm seeing heads nod as that is what we are going to
21 seek to do.

22 All right. So we can begin to look at some of
23 the issues within the settlement. So I will see who
24 wants to go first. And I see Commissioner Edgar's
25 light, so go ahead.

1 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

2 As always, you are a great synthesizer. What
3 I was trying to say is that if it were all up to me, and
4 we did not have some of the procedural limitations that
5 we do, I would go through line-by-line. Maybe that's
6 just the control aspect of the way I approach things,
7 but I do not believe that that is available to us. That
8 is the understanding that I have from our legal staff.
9 And, therefore, I do believe that using it as a
10 framework, and recognizing, as I tried to use the
11 illustration of the Tinkertoy, that all pieces do work
12 together, and I certainly will try to be cognizant of
13 that as we move forward.

14 So with that, recognizing that I believe one
15 of the things that we are striving for and is in the
16 public interest and is our responsibility is to have
17 certainty with rates both so that the company can
18 provide the safe and reliable service that it needs to,
19 and that ratepayers know what their costs are going to
20 be and what they are paying for.

21 So with that, I would say that we just start
22 off with the first paragraph, and recognizing that the
23 agreement that is in effect today expires at the end of
24 this month, this language says that the agreement will
25 become effective on the first billing cycle of January.

1 I don't know if there's a little gap there, but I will
2 let the staff address that, because what I would like to
3 see or have us discuss is we do not want -- my
4 preference is to not have a gap such that the agreement,
5 if we are able to reach an agreement today, would become
6 effective at whatever date the current agreement
7 expires. And if the new rates are not mechanically able
8 to go into effect immediately, that we would have a date
9 by which they would be effective, but that the current
10 rates would remain in effect during that very narrow gap
11 period. And I will put that out there, Mr. Chairman,
12 just as a beginning point.

13 **CHAIRMAN BRISÉ:** Sure. All right. So, in
14 essence, you're saying that you want the date to sort of
15 flow right to begin as soon as the current agreement
16 expires?

17 **COMMISSIONER EDGAR:** Yes, sir. And I'm just
18 not sure if there is a mechanical or a technical gap
19 that would occur. And I would want us to address that,
20 should that be the case, so that we don't have, you
21 know, the rate for December and then another set of
22 rates for two weeks, thirty days, whatever it would be,
23 and then a third set of rates all within a very short
24 time period.

25 **CHAIRMAN BRISÉ:** Sure. Would you like staff

1 to address that for you?

2 **COMMISSIONER EDGAR:** Mr. Chairman, I will
3 leave that to you.

4 **CHAIRMAN BRISÉ:** Okay. Marshall, if you can
5 address that.

6 **MR. WILLIS:** Certainly, I'll be happy to. The
7 way the settlement is written right now, staff does not
8 believe there is a gap at all. They normally do start
9 occurring, when you change the rates in the settlements
10 or in a rate case, it normally does occur with the first
11 billing cycle in January. And the way this is written,
12 it does not create a gap in our opinion.

13 **COMMISSIONER EDGAR:** And if I may, Mr.
14 Chairman?

15 **CHAIRMAN BRISÉ:** Sure.

16 **COMMISSIONER EDGAR:** It is your understanding
17 and opinion that, recognizing that rates will change or
18 would change, that there is sufficient time for all of
19 the steps that need to occur to occur?

20 **MR. WILLIS:** That's one of the problems with
21 noticing.

22 And, Elizabeth, do you want to address that?

23 **COMMISSIONER EDGAR:** While they're conferring,
24 I hope I have been clear in what I'm trying to
25 communicate and accomplish. Now, as to if the specific

1 words, how they would need to be tweaked, there is
2 certainly time for our staff and others to look more
3 closely at that.

4 **CHAIRMAN BRISÉ:** Marshall.

5 **MR. WILLIS:** Commissioner Edgar, this is the
6 unknown we have. The way it's phrased here would have
7 been perfect, except now we are on December 13th. The
8 only concern I have is whether or not the company would
9 be able to generate the necessary changes in its billing
10 software to be able to encompass a change in the first
11 billing cycle. That's an unknown to us at this point;
12 we don't know that. That's something we'd have to go to
13 the company with.

14 If the company can do this, there would be no
15 problem with the language. In my opinion there is no
16 problem with noticing. The customers have already been
17 noticed for the rate that the company had proposed in
18 the rate case, it's just a matter of whether or not the
19 company can do the appropriate billing changes.

20 **COMMISSIONER EDGAR:** Thank you. And that does
21 speak directly to the question that I had.

22 Again, I hope that my intent is clear, and
23 there would be the opportunity, certainly, for our staff
24 to help us with any specific language, and to work out
25 the mechanics and the automation aspects.

1 **CHAIRMAN BRISÉ:** Sure. Thank you.

2 Commissioner Balbis?

3 **COMMISSIONER BALBIS:** Thank you. I just
4 wanted to clarify with Commissioner Edgar and with the
5 Chairman on the process. So I assume then we are going
6 to go through, I guess it would be Page 2 of the
7 stipulation and settlement agreement, and each of those
8 individually numbered paragraphs and make appropriate
9 changes, or just focus on maybe the handful of issues
10 that -- you know, ROE was mentioned by everyone, and
11 have a discussion on that and a discussion on base rate
12 increases, whichever way.

13 **CHAIRMAN BRISÉ:** Sure. I think it would be
14 appropriate to address the issues that we have laid out
15 as issues. And if necessary, as we discuss those
16 issues, if we have to address other aspects to sort of
17 bring things into balance, then that can occur. But as
18 we address the broad issues that each one of us have
19 laid out, I think that that is a more systematic
20 approach and a reasonable approach to address this.

21 Okay. Oh, I thought your light was going back
22 on. All right. Okay. So we have addressed sort of the
23 issue of the timing of it, recognizing that there would
24 be some responsibility on the company, if we approved or
25 however this sort of plays out in the end, to make sure

1 that all the internal work is done on their part and
2 that our language is appropriate for that.

3 One of the areas that I think we all touched
4 on is the ROE, and we all touched on -- or not
5 everybody, but there was a conversation about the GBRA,
6 as well. So we can either do GBRA first or ROE first,
7 whichever one someone has a greater interest in talking
8 about first.

9 Commissioner Balbis.

10 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

11 And I guess coincidentally the next item going
12 through paragraph-by-paragraph is the ROE, so I think we
13 would have gone through there. One of the challenges
14 that I know I have, and I'm sure the other Commissioners
15 have is that everything is interrelated. And, you know,
16 an adjustment to the ROE would be dependent upon a
17 number of things. And we have ample evidence in the
18 record from very, very low numbers to very high numbers,
19 and I would like to see us zero in on something that I
20 think is more appropriate.

21 So I guess maybe I'll start off with some
22 questions from staff. Mr. Maurey, I believe you just
23 received an award from this Commission on your expertise
24 in financial issues, so hopefully you're not the junior
25 staffer. But the questions that I do have, there has

1 been lot of discussion on capital structure and equity
2 ratios, and FPL has, you know, upwards of a 60 percent
3 equity-to-debt ratio. With their current ROE of
4 10 percent midpoint, what sort of adjustment is made
5 from a capital structure standpoint and a risk
6 assessment standpoint that we should take into account?

7 **MR. MAUREY:** In the last rate case, these same
8 issues were discussed. The equity ratio was essentially
9 the same it is today and the authorized ROE had to be
10 determined by the Commission from a wide range of
11 evidence. There were low numbers, there were higher
12 numbers, and the Commission decided that based on that
13 level of equity and other considerations in the case,
14 that 10 percent was an appropriate return on equity.

15 In this instance, you have that same
16 background. All the witnesses that testified on ROE
17 created an index of companies that they believe were
18 comparable in risk to FPL, applied their models, and
19 came up with ranges of returns. And when you look at
20 that level of equity relative to the equity ratios of
21 that group of proxy companies, you see that FPL is at
22 the high end. And, generally speaking, the higher your
23 equity ratio the lower your perceived risk. And the
24 risk/return relationship would indicate that you would
25 go to the lower end of a reasonable range. To make an

1 adjustment to the 10 percent higher or lower, I can't
2 answer that today. That was the decision then and --

3 **COMMISSIONER BALBIS:** No. And my question was
4 really focused on the adjustment for the risk factors
5 associated with the equity and the capital structure.
6 So I think you've answered that. I mean, obviously
7 wherever we go is really our decision, but I just wanted
8 to get a little bit of an explanation on, from a
9 financial standpoint, what the adjustment should be.

10 I think one of the differences I see, and
11 since we are discussing a comprehensive settlement
12 agreement and modified one, there are significant
13 investments that are anticipated in the settlement that
14 were obviously not part of the prior rate case. So I do
15 think that FPL in order to attract that capital
16 necessary for these large investments that are good for
17 the state, I mean, there should be an increase as to
18 where they are so they can attract that capital, and I
19 think it's a benefit for all the customers. So I
20 certainly see that an increase not only is reflected in
21 the record, but is warranted in this case.

22 And with that clarification, you know, I think
23 we are somewhere between what's in the settlement and
24 what they currently have. So I'm obviously in favor of
25 an increase so they can attract the capital at a lower

1 cost that benefits customers. I would welcome to hear
2 from other Commissioners.

3 **CHAIRMAN BRISÉ:** Sure.

4 Commissioner Brown.

5 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
6 Mr. Maurey, given the fact that this settlement
7 agreement proposes a four-year period for an ROE, and
8 not just the test year, I'm trying to get a sense of
9 what is reasonable, given the fact that Florida Power
10 and Light does have the highest equity-to-debt ratio and
11 the other less risky business factors and economic
12 factors associated with that. Based on the evidence in
13 the record -- and, again, with the caveat that this is a
14 four-year period that we are looking at. We are locking
15 in an ROE that will apply to everything across the
16 board, including the GBRA. What is that reasonable
17 range based on the evidence in the record?

18 **MR. MAUREY:** Commissioner, there was quite a
19 bit of evidence on what the investor required return on
20 equity is for 2013. Almost no evidence on what the
21 investor required return would be in 2015 or 2016.
22 There was opinion testimony that capital costs will be
23 pressured upward in the future as the economy improves.
24 And given that they are at such low levels now, that is
25 a reasonable presumption.

1 Now, this agreement has within it certain
2 protections that if there are unexpected changes in
3 revenues or expenses and the company's earned return
4 should fall, it could avail itself to those protections,
5 whatever the range the Commission decides, and come back
6 within that four-year term. But back to your initial
7 question, it is reasonable to have a return above the
8 10 percent currently to recognize that you are going out
9 four years in time.

10 **COMMISSIONER BROWN:** Which I can acknowledge,
11 I think that's fair to say, and I do support an increase
12 from the current 10 percent. But getting to the number
13 of what is reasonable and appropriate is kind of, again,
14 one of those things that I'm interested to hear from you
15 all, based on the evidence that we heard in the
16 settlement discussions.

17 **CHAIRMAN BRISÉ:** All right. I guess we have
18 concluded from comments so far that the record could
19 reflect upward mobility. The question, obviously, is a
20 judgment call on what the appropriate number is. And,
21 you know, just like ROE in any case that we are dealing
22 with, the ROE is really a judgment call as to what is
23 appropriate within the range.

24 So, Commissioner Graham.

25 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

1 I have only heard one number thrown out there
2 since we have had this conversation, so I think that's
3 probably a fair number to start with, especially since
4 we are talking about locking this down for a period of
5 four years, with the uncertainty that goes along with
6 that. And as Commissioner Brown and Commissioner Balbis
7 already said, we anticipate the cost of capital
8 increasing over that period of time, so I throw out the
9 10.5 and we'll see where we go from there.

10 **CHAIRMAN BRISÉ:** All right.

11 Commissioner Balbis, I saw your light.

12 **COMMISSIONER BALBIS:** I feel it's similar to
13 an auction, but I agree that's within the range. I
14 think clearly upward movement is supported. I go back
15 to, I believe it was a discussion with the Chairman with
16 Witness Dewhurst on an exhibit from Atlantic Equities
17 where there was a discussion on what the markets would
18 look at as a reasonable result, and they reflected
19 certain numbers of around 10 percent. And then I
20 believe the Chairman had asked about 10.25, and Witness
21 Dewhurst agreed that is within the range that was listed
22 in the exhibit.

23 So I think clearly 10.25 would be the bottom
24 of it that's supported in the record. I don't know if
25 that's where I think it should be, but, you know, I

1 think we might be narrowing in with the 10.5/10.25 area,
2 but I look forward to comments from other Commissioners.

3 **CHAIRMAN BRISÉ:** Okay. Commissioner Edgar.

4 **COMMISSIONER EDGAR:** Thank you.

5 ROE is, you know, an art, and a science, and a
6 theoretical calculation, and it's also, in my experience
7 anyway, kind of gut driven, for lack of a better term.

8 Not coincidentally, since we have all heard
9 the same evidence and reviewed the same information, the
10 numbers that I'm hearing are very much in line with what
11 I was thinking when I walked in here. I tried to make
12 this point a little earlier, but as you all know, I am
13 not a morning person, and it takes me a little while to
14 get my thoughts together. But I do recognize that with
15 a necessary, needed, already need determination issued
16 capital intensive program, and in an area of the state
17 that I do believe, and I believe projections back this
18 up, will have significant growth over the next years
19 that we are discussing, that I recognize that this
20 company will not be competing just with the other
21 utilities in our state, but with utilities nationwide
22 and certainly within the southeast.

23 I also recognize, and we haven't discussed it
24 in detail yet, but with the GBRA mechanism that is
25 included in the document that we are talking about, that

1 there is a provision there for a true-up after one year,
2 which is a significant piece of the process. And that
3 true-up, to my understanding, and, staff, please correct
4 me if I misstate, but that that true-up is done only if
5 the actually costs are less than the amounts included in
6 the step increase or in the GBRA mechanism.

7 In other words, if the costs exceed, then that
8 excess is not borne by the ratepayers. I see that as
9 another risk factor as we are evaluating, and as those
10 in the capital markets, which I am not, would
11 potentially consider. So the numbers that I had in mind
12 when I walked in was a 10.5 to a 10.6. But I recognize,
13 again, that there is a range that is reasonable, and
14 that the unique factors of this case will be what
15 govern.

16 **CHAIRMAN BRISÉ:** Before I go to Commissioner
17 Balbis, you know, a lot of this is at the end of the day
18 a pocketbook issue, right? It's what the consumer sees
19 and what the consumer is paying, what they are dealing
20 with. And you all got the same information that I got,
21 but 10.5 -- we are looking at a bill, estimated bill
22 impact in January of \$94.56, right, a 4,000-kilowatt
23 user, base line user. The current rate is \$94.75, okay,
24 and that's at 10.5. If we were to add Canaveral in '13
25 in June, we are moving up to \$95.53. And so we tie that

1 in with predictability, and we tie that in with the
2 concept of the individual who is sitting at home having
3 a sense of what they can expect with a certain time
4 frame.

5 In 2014, they can budget for \$98.75. That is
6 in June. And in 2016, they can budget for \$101.14.
7 Recognizing that there is a potential benefit of having
8 a 10.5 ROE for the company considering what it's
9 undertaking versus if we were to look at another number,
10 10.3, the difference in 2016 you're looking at \$101.06.
11 So that's, you know, a few cents of a difference there.
12 And when you look at what the benefit of a 10.5 could
13 mean when you consider the pocketbook issues for the
14 consumer.

15 Commissioner Balbis.

16 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
17 And I think you hit it right on the head in focusing on
18 the pocketbook issue, and I think you're exactly right.
19 And obviously, you know, the reason why we are focusing
20 on return on equity is there is a revenue reduction from
21 their original request, and what's in the settlement
22 agreement that's associated with that. So I would be
23 supportive of the 10.5 with the reduction in the revenue
24 requirement for the ROE, along with we have a discussion
25 on other revenue adjustments that we've done in the

1 past. But I think the 10.5 is reasonable as long as the
2 pocketbook issue, which is what the customer pays, are
3 reflected with that.

4 **CHAIRMAN BRISÉ:** Okay.

5 Commissioner Brown.

6 **COMMISSIONER BROWN:** My comment was just made.

7 Thanks.

8 **CHAIRMAN BRISÉ:** Okay.

9 Commissioner Graham.

10 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

11 I threw out the 10.5 because, once again, I
12 said -- because that's a number that you threw out. And
13 I believe the way you said it --

14 (Laughter.)

15 **COMMISSIONER GRAHAM:** -- I believe the way you
16 said was the highest you are willing to go was 10.5.
17 And, so, trying to stay within the framework that you
18 drew out there, I heard Commissioner Edgar mention 10.6.
19 I didn't have a problem with 10.6, either, but I think
20 we need to -- before we start getting into the weeds,
21 you need to back up a little bit and look at the overall
22 picture here of what we are trying to do.

23 Because just as you said, looking at the sheet
24 we have here, between the 10.7 and the 10.5, I mean,
25 all-in costs in 2016, you're talking three cents a month

1 difference. And one of the things you need to keep in
2 mind is the economic development that goes along with
3 the difference between the 10.5 and the 10.7.

4 And that's one of the things that we talked
5 about earlier, and especially right now we need to make
6 sure that we are looking at and we stay focused on,
7 because we want for this company to expand. We want for
8 other companies to come here, and we want for that
9 certainty to be there. That's the whole reason why we
10 are locking down the four years, because that certainty
11 is extremely important.

12 And at the end of the day, this company right
13 now that we are speaking of has the lowest rates of any
14 of the IOUs in the State of Florida. And you heard from
15 the customer service-wise, they have phenomenal customer
16 service. I mean, so as we get into this, you need to
17 figure out what the problem is that you are trying to
18 fix. And I just throw that out before we start digging
19 into a lot of this stuff, because they're doing the job
20 that the ratepayers are paying them to do. And we want
21 for them to continue doing that job and have reliable
22 service and to spark the economic development that this
23 state needs.

24 **CHAIRMAN BRISÉ:** Commissioner Edgar.

25 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

1 I think I made this comment earlier, but I'm
2 going to make it again, and I'll probably make it again
3 and again before we are done with our deliberations
4 today.

5 Oversimplification can at times be a little
6 treacherous, but at times can be useful. And this is
7 certainly an oversimplification, but I believe the two
8 factors working together hand-in-hand that are the basis
9 for the decisions that are before us and that we are
10 required to make are the revenue requirement and the
11 rate impact and putting those two things together. And
12 so with that in mind, recognizing that the provision of
13 utility service is an economic driver, it is a quality
14 of life factor, it absolutely needs to be a good value
15 that the -- my estimate from the numbers that are before
16 us is that the difference to a ratepayer for 1,000
17 kilowatts from 10.5 to 10.6 would be two cents a month.

18 Now, rate impact and keeping the cost of
19 living ideally stable, if not even lessening, is
20 absolutely a goal, but I also think we need to look
21 carefully at the numbers.

22 **CHAIRMAN BRISÉ:** Okay. Commissioner Balbis.

23 **COMMISSIONER BALBIS:** No.

24 **CHAIRMAN BRISÉ:** Okay.

25 **CHAIRMAN BRISÉ:** Commissioner Brown.

1 **COMMISSIONER BROWN:** When I originally
2 reviewed all the evidence in the record and reviewed my
3 memory of the testimony, I do recall 10.7 percent was
4 what FPL was comparing itself to Progress, and the
5 settlement with Progress if CR3 comes back on-line. But
6 currently they are earning 10.5 percent. So what I was
7 thinking, and based on what Mr. Dewhurst was saying
8 during his testimony, I felt really comfortable with the
9 10.25 to 10.5 range, somewhere in there.

10 I would be supportive of the 10.5, but I think
11 if we go above that, I think we are getting back to what
12 the original request was, which I certainly think is a
13 little bit too high. So that's where I'm at. I think I
14 would be supportive of a 10.5, based on the actual
15 evidence we've had in the record.

16 **CHAIRMAN BRISÉ:** Can we do this and put 10.5
17 as a marker for now. And as we go through the issues,
18 recognizing that there are other levers that we have to
19 adjust, and we sort of have that as a placeholder, and
20 as we go through it, it will either be solidified or it
21 may need to change. Okay.

22 Commissioner Balbis.

23 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
24 I just want to seek direction as to -- I
25 assume we're moving on to another topic?

1 **CHAIRMAN BRISÉ:** Yes, we may.

2 **COMMISSIONER BALBIS:** And if so, I would
3 request --

4 **CHAIRMAN BRISÉ:** Actually, before you go
5 forward, is there anyone else that needs to say
6 something at this point on ROE?

7 **COMMISSIONER EDGAR:** Briefly.

8 **CHAIRMAN BRISÉ:** Commissioner Edgar.

9 **COMMISSIONER EDGAR:** Thank you. Very briefly.
10 Maybe I misheard, but two points that I would
11 like to put out there, and then I'm glad to move on and
12 come back at whatever is the appropriate time. The
13 original request was 11.25, not 10.7. The original
14 request was 11.25, which I do believe from my standpoint
15 is excessive when we look at all factors that are before
16 us. From the discussion that we have had, I think we
17 are very close, and I look forward to being able to
18 again reach consensus on that.

19 And then the other point is that we are
20 talking about the midpoint of a range, and I will also
21 keep that in mind as I continue to think this through.
22 And now I'm ready to move on.

23 **CHAIRMAN BRISÉ:** All right.

24 Commissioner Balbis.

25 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

1 And I would like to request that since at
2 least in my mind I tied these two together, and it was
3 the ROE and then in the settlement agreement
4 \$378 million base rate increase, which is the overall
5 revenue increase for it. And what I did is I -- and, of
6 course, participated in the hearing for the original
7 rate case, and then the additional testimony for the
8 settlement agreement. And that's why it was important
9 to me to make sure that we can include the record
10 evidence for both into this discussion.

11 So for discussion purposes, I had staff put
12 together revenue adjustments for things that came up
13 during the hearing process that were questioned by
14 Commissioners, and also looking back on recent decisions
15 we have made as this five-member body would be
16 consistent. So let me just give you copies of that.

17 **COMMISSIONER EDGAR:** Thank you, because I was
18 wondering where that piece of paper was.

19 Is it just one page?

20 **COMMISSIONER BALBIS:** It's just the one page.

21 **COMMISSIONER BROWN:** Have we previously gotten
22 this?

23 **COMMISSIONER BALBIS:** No.

24 **CHAIRMAN BRISÉ:** I haven't gotten it.

25 **COMMISSIONER EDGAR:** I haven't gotten it.

1 **MR. WILLIS:** No, you have not.

2 **COMMISSIONER BALBIS:** I had asked from staff
3 that it be distributed along with other materials that
4 other Commissioners have asked, but there was a question
5 as to whether or not I could do that. So it was
6 recommended by legal counsel and in an abundance of
7 caution to hand it out for discussion purposes.

8 But, what I did, and there's hopefully copies
9 for staff and everybody, I went through these specific
10 issues. And the first one was, you know, there was a
11 lot of discussion during the hearing about plant held
12 for future use, specifically on land associated with
13 solar facilities, and the witness had indicated that FPL
14 could not construct any solar facilities without
15 enabling legislation. And that's something that I had
16 concerns about, but I wanted to know what would be the
17 revenue impact if that was disallowed. So the right
18 column are revenue adjustments, and there's another item
19 for plant held for future use for a piece of property
20 the witness indicated was a good investment, and that
21 they had no plans for the future.

22 And then the bigger issue is the vacant
23 positions. I mean, this is something that we discuss at
24 length with the FPL witness, and as recently as Gulf
25 Power we made disallowances based on the fact that

1 customers shouldn't pay for positions that are vacant.
2 So there's a revenue adjustment associated with that.

3 There was a lot of discussion about salary
4 increases, and I believe Commissioner Graham started
5 this discussion, and I thought it was -- and I'm glad
6 that we really looked into it very closely, because
7 there were two sets of raises incorporated for both
8 types of employees, one collective bargaining employees
9 and one noncollective bargaining. And the FPL witness,
10 I think, made a very powerful statement that they would
11 rather negotiate with their employees, and certainly not
12 provide an incentive for other issues. So what I did is
13 looked at, well, what would happen if we flattened the
14 board, so everyone only received a 10 percent raise
15 rather than a 14.65 percent raise for collective
16 bargaining employees, and just what would be the impact
17 just for discussion?

18 I think the incentive compensation was
19 extricated from their request, which I think is good and
20 consistent with previous decisions, so there was an
21 adjustment associated with that. And I know there was a
22 lot of discussion, or some discussion, I believe, from
23 one of the Commissioners on directors and officers
24 liability insurance that we have made adjustments in
25 previous rate cases.

1 So those are the numbers associated with each
2 one of those, and I just wanted to float that out there.
3 And that's why I said that with a 10.5 or somewhere
4 around there, I would be supportive of that as long as
5 we continue to make consistent fair decisions with the
6 overall cost of providing safe and reliable service.

7 So I'll open it up for discussions on that,
8 and I would assume that if there is a consensus on one
9 or more of these items that we could possibly make an
10 adjustment to the overall 3.78 along with the ROE
11 adjustment.

12 **CHAIRMAN BRISÉ:** All right.

13 Commissioner Brown.

14 **COMMISSIONER BROWN:** Mr. Chairman, seeing that
15 this is the first time that I've seen this, I would like
16 to take, if it would be okay with you, maybe a
17 five-minute break.

18 **CHAIRMAN BRISÉ:** I think that that is
19 reasonable, and we could -- it is 10:43. I guess we'll
20 make it an even 10:55. All right. 10:55.

21 (Brief recess.)

22 **CHAIRMAN BRISÉ:** We are going to go ahead and
23 reconvene.

24 Commissioner Brown.

25 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

1 And thank you, Commissioner Balbis, for
2 preparing this for our consideration.

3 A question for staff. We were talking about a
4 10.5 percent ROE. What is the actual revenue reduction
5 impact from the 10.7 in the settlement agreement to the
6 10.5? I know you've got it, and I know I have it
7 somewhere.

8 **MR. MAUREY:** The incremental difference
9 between a 10.7 and a 10.5 ROE is approximately
10 \$34 million.

11 **COMMISSIONER BROWN:** 34. Okay. So with that
12 34 million there, we were also taking about late fee
13 reduction of 10 million a year, 40 million total. The
14 settlement -- and I appreciate what Commissioner Balbis
15 is doing there, and I think ultimately we may be able to
16 get to the same place without having to go into the
17 specific issues and the details. We're trying to stay
18 within the confines and the framework of the settlement
19 agreement, and normally in a rate case I would
20 completely focus on the details and the specifics right
21 here of the other aspects, but I think, you know, we are
22 dealing with an ROE that we are considering a reduction
23 there, we are dealing with late fees reduction, I think
24 we can get to the same place.

25 And, again, I appreciate you preparing this

1 for us, but it's outside the framework of the settlement
2 agreement.

3 **CHAIRMAN BRISÉ:** All right. Thank you,
4 Commissioner Brown.

5 Commissioner Graham before I go to
6 Commissioner Balbis.

7 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

8 Commissioner Brown got to the button before I
9 did; she pretty much said what I was going to say.
10 We're getting back into the rate case. I mean, the
11 whole purpose of the settlement was to back away and
12 take it as a package, and I think this is getting too
13 deep down into the weeds.

14 I can't say I disagree with some of the stuff
15 that he has got out here, but, once again, that gets
16 back into doing the rate case and not accepting a
17 settlement. I was willing to adjust the ROE; I'm
18 willing to look at the late fee, and after that I say we
19 decide we are going to put it for a vote and hand it to
20 the signers and see if it's acceptable or not, or go
21 back to the rate case. I mean, this is just getting too
22 deep into that stuff, in my opinion.

23 **CHAIRMAN BRISÉ:** All right. Thank you,
24 Commissioner Graham.

25 Commissioner Balbis.

1 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

2 And just to clarify, as Mr. Maurey answered,
3 the change from a 10.7 to a 10.5, although it may look
4 like pennies, but it's a \$30 million reduction. So in
5 order for me to assess, okay, if just reducing the base
6 rate request by reducing the ROE, that would be the
7 result of just looking at 30 million. So for discussion
8 purposes, we look at, okay, we have the settlement
9 process, we have the rate case process. I mean, are
10 there any adjustments, dollar figures to look at whether
11 or not just adjusting for the ROE reduction is
12 appropriate.

13 Certainly it wasn't into the specifics, but
14 it's something -- I need to base something on
15 information rather than just arbitrary. So that is one
16 thing, reason why I wanted to distribute it, just to
17 look at on top of the late fees are there any other
18 reductions. Knowing it's a give and take. I mean, not
19 the full reduction or dollar amount here, but something
20 in between.

21 I have specific issues on top of -- they may
22 not have revenue impact issues with the settlement
23 agreement that I would like to discuss, and I appreciate
24 Commissioner Graham wanting to throw it out there to the
25 vote, but I would like further discussion on the other

1 issues that may not have a revenue impact, but may still
2 have an impact on customers.

3 **CHAIRMAN BRISÉ:** Okay. Very good. So we are
4 looking at this document that you passed out to us. So
5 I think, if I understand what you're saying, you're not
6 necessarily interested in going through each one of
7 these and sort of suggesting something, but if you were
8 to suggest a number for an additional revenue reduction,
9 you have somewhere that you have sort of conceptualized
10 where it came from.

11 **COMMISSIONER BALBIS:** Right.

12 **CHAIRMAN BRISÉ:** Okay. All right. Let me
13 make sure I know where we are. So we have laid out and
14 dealt with the issue of the dates; we have laid out a
15 marker for the ROE, and now we are moving forward,
16 right? So can we continue the discussion?

17 Commissioner Brown.

18 **COMMISSIONER BROWN:** I think where we're all
19 at right now, we're on Page 3, so let's just get to the
20 late fees, which discusses the minimum late payment
21 charge of \$5 proposed in the filing increased to \$6.
22 Again, I know it's not a big deal for some, it is a big
23 deal for me. It is a principal issue; not cost-based.
24 It's a negotiated thing. It causes me concerns, and I
25 just don't think it's palatable, and it's not something

1 I can live with in the settlement agreement. So I would
2 propose that we adjust it to \$5 in parity with the other
3 Florida IOUs.

4 **CHAIRMAN BRISÉ:** All right. I would be in
5 full agreement to that, as I stated earlier. You know,
6 as being a former business owner myself, I know how the
7 impact of someone paying late, what impact that has on a
8 company's managing its own cash flow. So, therefore,
9 you know, whether you are -- depending upon what
10 mechanism you use to finance your moving forward
11 options, that does have an impact on that. But
12 recognizing that it is the same type of interchange
13 between the consumer and the company, I'm much more
14 comfortable with keeping it at \$5 rather than \$6 as was
15 proposed within the settlement. I think that that's a
16 fair approach.

17 I think Commissioner Edgar was next. Her
18 light was on.

19 **COMMISSIONER EDGAR:** I agree completely and
20 was just going to point out that from the language that
21 is in front of us, just removing a few words would
22 accomplish that, and basically just the reference to the
23 \$6. And I think what we are trying to do is basically
24 keep the status quo on this, and I support that.

25 **CHAIRMAN BRISÉ:** All right.

1 Commissioner Graham.

2 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

3 This is not as big of an issue for me as it is
4 for a lot, but I guess the caution that I throw out here
5 is -- and I agree with you that it wasn't cost-based,
6 and I have to say that I was shocked when I asked -- I
7 can't remember what witness it was -- what the cost was
8 and she flat said she didn't know.

9 But I caution the group that \$5 is acceptable
10 to everybody now, but you have got to remember, we are
11 doing this for four years. So if \$5 is acceptable now,
12 is \$5 acceptable next year, and is it acceptable a year
13 after that, and is it still acceptable in year three and
14 year four?

15 And maybe you want to look at something where
16 two years from now you go to 5.25, and then in year
17 five -- I'm sorry, in year four you go to 5.50. So they
18 can get -- start moving itself, and not have to stay
19 stagnant for five years. Because we are talking about
20 this thing sitting down at that level right now for five
21 years, because next year when the other cases will come
22 in, and justification will be there, and we will decide
23 to move that to 5.50, but yet we have kept these people
24 here at 5 for four years.

25 I throw that out just for talking points.

1 Because, once again, this is not a deal breaker for me,
2 but I want to caution you that we are going to leave it
3 there at what everybody says is the bottom for the next
4 four years.

5 **CHAIRMAN BRISÉ:** Sure. And I certainly
6 appreciate that, and I thought about that myself in
7 terms of whether supporting \$5 today makes sense four
8 years out. I'm thinking four years out rather than just
9 next year. But the reality is that in a settlement it's
10 a give and take, and I think this is a good part of the
11 exchange. This is \$40 million that we're talking about,
12 and I think at this point it's a good piece of the
13 puzzle as Commissioner Edgar alluded to earlier.

14 Commissioner Edgar.

15 **COMMISSIONER EDGAR:** Thank you. I was just
16 going to kind of round out that discussion. I believe
17 it was Witness Deaton that addressed this issue in
18 testimony, and I always appreciate if a witness doesn't
19 know the answer that they say they don't know the
20 answer. So if that's the case, that's the appropriate
21 answer. But I do recognize that we are trying to plan
22 for the next few years, and I think that is a very, very
23 important component of our discussion and our decisions
24 today is that rate predictability, certainty, stability.
25 But I think recognizing that the purpose of the late fee

1 is to help incent timely payment, I think \$5 is the
2 appropriate amount, and I'm comfortable with that.

3 **CHAIRMAN BRISÉ:** All right. Are we ready to
4 move on to the next issue?

5 Commissioner Balbis.

6 **COMMISSIONER BALBIS:** Thank you.

7 Just to kind of put us on a track here, I
8 logged the comments made by the Commissioners in the
9 opening statements, and correct me if I'm wrong, I
10 believe several Commissioners mentioned the incentive
11 mechanisms and different questions to that. So to just
12 kind of line us up as to where we are, I'll give my
13 thoughts on the incentive mechanism that's in there, and
14 we may even have a consensus just based on the opening
15 statements.

16 I was intrigued by the asset optimization
17 program. I was concerned there were some unknowns
18 associated with it. I agree with the other
19 Commissioners that it may put them at an advantage over
20 other utilities, or may be something that, you know, we
21 need to look at in depth. So that handles the asset
22 optimization side. And I agree, spinning something off
23 for further discussion is warranted, and it looks as if
24 we have consensus on that.

25 As far as the other portion of the incentive

1 mechanism, I have some concerns in that when I
2 specifically asked, I want to say Witness Barrett, but
3 it may not be Witness Barrett, as to what behavior will
4 change with an additional incentive, and that there was
5 no behavioral change. So I still have concerns about
6 that. I'm glad to hear we have a consensus on at least
7 the asset optimization portion of it, on striking that
8 from the proposed modifications. So I welcome further
9 discussion on the other aspect of it.

10 **CHAIRMAN BRISÉ:** All right. Any further
11 discussion?

12 Commissioner Graham.

13 **COMMISSIONER GRAHAM:** I guess I'm going to
14 spend a lot of time on this side of the fence. As I
15 said during the hearing, I'm in favor of the incentive
16 mechanism program. I encourage that kind of
17 out-of-the-box thinking. And at the end of the day, the
18 ratepayers aren't going to be harmed by any means with
19 this incentive mechanism. But there's an upside for
20 them; there's just not a downside.

21 And I guess what I throw out there to my
22 fellow Commissioners, if they want to put the language
23 in there where there is absolutely no downside, I
24 wouldn't oppose that. But I'm convinced that there is
25 no downside; there's nothing but an upside for the

1 ratepayers out there. But any other tweaks to that I
2 think is just, once again, getting down into the weeds
3 of the settlement agreement.

4 **CHAIRMAN BRISÉ:** Okay.

5 Commissioner Brown.

6 **COMMISSIONER BROWN:** I appreciate what
7 Commissioner Graham is saying, but I want to go back to
8 the history of the previous incentive mechanism and how
9 it was set. And, Tom, can you walk us through just
10 basic, and why it was set in a generic proceeding. And,
11 you know, what harm is it, if any, including the
12 incentive mechanism, how it's laid out in the settlement
13 agreement how we have it.

14 **MR. BALLINGER:** Certainly. I will do my best.

15 **COMMISSIONER BROWN:** Thank you.

16 **MR. BALLINGER:** Actually, the incentive
17 started back when Joe Jenkins was a director here at the
18 Commission and created the energy broker system to get
19 utilities to share reserves that they had on an
20 hour-by-hour basis. And it was set up on a
21 split-the-savings approach between utilities in a buy
22 and sell, and the price would be set in the middle. So
23 both utilities' ratepayers won, if you will.

24 The incentive, the gains on those sales was
25 decided to split 80/20. Eighty percent going to the

1 ratepayers and 20 percent back to the utility
2 stockholders below the line as an incentive mechanism.

3 That was developed through a generic process
4 with all the utilities, because they are all in the
5 wholesale market. Several years ago that mechanism was
6 revised to create a threshold for which there would be
7 sharing of savings, and the threshold now is based on a
8 three-year rolling average of economy sales. And if a
9 utility gets above that, that is shared 80/20;
10 80 percent to the ratepayers, 20 percent to the
11 stockholders. If it is below that threshold, it is 100
12 percent to the ratepayers. So it ratcheted it up a
13 little bit and kind of tightened the range again.
14 Again, that was a generic proceeding with all utilities
15 involved, discussed -- Public Counsel and everybody,
16 because everybody is in the wholesale market.

17 This one is a little different. It is not an
18 issue that was in the rate case. It came up only in the
19 settlement. It applies only to FPL, and not the other
20 utilities. So it could have the unintended consequences
21 of putting FPL on a different platform than the others.
22 The proposed settlement agreement allows FPL to share in
23 gains on power on economy purchases, which are not in
24 the current situation. So other utilities would not be
25 availed to themselves the same thing. So it may makes

1 sense to either tell staff to set up -- I hate to use
2 the word workshop -- to talk about this with other
3 utilities and other parties to see is it a good policy
4 that the Commission wants to pursue, or you can allow it
5 to just go away, if you will, from this, and if
6 utilities want to request it in an open and generic
7 proceeding, then go that way.

8 But that is the oddity of this issue in this
9 settlement is it's not strictly to a rate case and
10 settling a rate case before you, the petition, it is
11 something outside.

12 **COMMISSIONER BROWN:** You addressed all of my
13 issues with it. And, again, I don't feel very strongly
14 about having it in there, but I would like to see the
15 other utilities on equal footing. I think it's more
16 policy based here than it is applicable toward the rate
17 case or the settlement.

18 **CHAIRMAN BRISÉ:** All right.

19 Any further discussion on this issue?

20 Okay. Let's move on to the next issue.

21 Commissioner Edgar.

22 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

23 An issue that has not really come up in our
24 discussion or has not at all come up in our discussion
25 yet today -- and let me get the number, it's Paragraph 5

1 in the agreement before us which relates to the storm
2 cost-recovery mechanisms. And my understanding, and,
3 again, I will look to staff to correct me if I am
4 mistaken, but my understanding is that what is proposed
5 in that section is, again, basically a status quo and a
6 continuation of the process and allowable recovery
7 mechanisms and reviews that are currently in place.

8 As many know, the storm cost-recovery
9 processes and options has always been an issue of great
10 importance to me. And, you know, due to that kind of
11 Type A personality that occasionally I exhibit, I could
12 maybe wordsmith it and tweak it, but I am very
13 comfortable that that is a mechanism that has been
14 hammered out and has withstood review and is
15 appropriate.

16 So I'm not even going to propose that we
17 wordsmith it, but I did want to bring attention to the
18 fact that that is a provision, and that is an issue that
19 is addressed in this agreement.

20 **CHAIRMAN BRISÉ:** Sure. Thank you.

21 **MR. WILLIS:** Commissioner, I'd like to point
22 out, it's also a provision addressed in the rate case,
23 exactly like it. It mirrors that, plus it is also part
24 of the current settlement the company is under.

25 **COMMISSIONER EDGAR:** Yes. Thank you.

1 **CHAIRMAN BRISÉ:** Thank you.

2 Commissioner Balbis.

3 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

4 And thank you, Commissioner Edgar, for
5 bringing this up. I agree with you completely. I think
6 this is a method that has worked well for FPL. I have
7 the opportunity to work closely with FPL in Palm Beach
8 County during storm season, and they do a tremendous job
9 in recovering, you know, having the restoration efforts
10 moving quickly in place to restore customers, so they do
11 a very good job of that.

12 I think the existing mechanism that was
13 outlined in the settlement agreement has worked well, so
14 I fully support it, and I appreciate you bringing it up
15 to provide attention to things that we like about the
16 settlement. So I'll applaud FPL and their efforts in
17 putting this in there, because it's something that has
18 worked well in the past, and I'm glad to see it's going
19 to continue.

20 **CHAIRMAN BRISÉ:** All right. Thank you. Let's
21 move on to the next issue. It looks to me like we are
22 moving into GBRA.

23 Okay. Commissioner Balbis.

24 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

25 This is something that before we voted on to

1 have the additional hearing, something I saw as a
2 positive for both the customers and for FPL. I think
3 the customers get that rate certainty, and FPL gets to
4 recover the revenues that everyone knows and understands
5 and agrees through the need determination process,
6 et cetera, that these plants need to come on-line. They
7 need to have the revenue associated with it. And if we
8 can avoid, you know, a lengthy, costly process to fine
9 tune it and find out what the revenues are required and
10 agree ahead of time, I think it's a good way to do it.

11 I think there are protections in place for
12 customers and also for the company that I think are
13 appropriate. And as long as the appropriate ROE is
14 attached to those GBRA's, I think we can make this work.
15 And so I think this is a -- although somewhat
16 controversial, I think it's actually a good thing for
17 both the customers and FPL.

18 **CHAIRMAN BRISÉ:** All right.

19 Commissioner Brown.

20 **COMMISSIONER BROWN:** Thank you.

21 And I agree. I think this does give customers
22 a high degree of certainty so that they can plan for
23 their future rates and plan accordingly. But I do want
24 to point out that the GBRA mechanism -- this is really
25 for the parties here today -- the GBRA mechanism, the

1 way that I see it, it's distinguishable from the 2005
2 rate case in that the one in the settlement agreement is
3 limited in scope, and it does not supplant the
4 traditional base ratemaking process, nor do I hope it
5 intends to do that in the future. And I just wanted to
6 point that out for the record, that I do believe that
7 this is limited in scope. So I support it.

8 **CHAIRMAN BRISÉ:** Okay. Any further comments
9 on GBRA? All right. We can move on to the next issue.
10 Commissioner Edgar.

11 **COMMISSIONER EDGAR:** I know while we are all
12 going through our notes and making sure that we haven't
13 inadvertently not addressed something specifically that
14 we wanted to at this opportunity state that, again, that
15 I have gone through this document, as I know we all
16 have, very, very carefully, line-by-line, word-by-word.
17 But from my perspective we have touched on those issues
18 that I really wanted to have the opportunity for us all
19 to discuss and address, and I'm very -- I know we have
20 got more discussion to have, but I'm very hopeful that
21 we're going to be able to bring this together in a way
22 that, again, is in the public interest and gives
23 certainty and predictability over this four-year
24 timeframe. And if we can do that, Commissioner, I think
25 we can all feel very, very good about that work product.

1 **CHAIRMAN BRISÉ:** Okay. Commissioner Balbis.

2 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

3 I do want to discuss another issue, and I have
4 a few questions for staff. And, again, this is what
5 brought me to really support moving forward with the
6 additional hearing process, and that's the issue with
7 dismantlement reserve. And to be honest, and I think
8 everyone would agree there was not a lot of information
9 entered into the previous rate case or the additional
10 hearing concerning how much is in the reserve, how much
11 is needed, which every four years is addressed through a
12 depreciation study that incorporates dismantlement
13 reserve.

14 So I just have a few questions for staff to
15 make sure that I understand. And I believe, Mr.
16 Higgins, you are the appropriate person, the
17 dismantlement expert, if you will.

18 I understand that the last time a depreciation
19 study was prepared was in 2009, is that correct?

20 **MR. HIGGINS:** Filed in 2009; yes, sir.

21 **COMMISSIONER BALBIS:** Okay. And it's my
22 understanding that all of the units, the infrastructure
23 associated with those units, that a report is prepared
24 to determine how much money is needed when these units
25 are dismantled and then customers give in every year so

1 at the end of the day they have enough to pay for the
2 dismantlement. Is that a fair synopsis?

3 **MR. HIGGINS:** Yes, sir.

4 **COMMISSIONER BALBIS:** Okay. So in 2009, do
5 you have any idea as to how much was needed in total or
6 the cost of that study?

7 **MR. HIGGINS:** Yes, sir. It's around \$745
8 million. I'm sorry, \$467 million, cost of study.

9 **COMMISSIONER BALBIS:** And in 2009, how much
10 had accrued in the reserve account? Or 2009, I'm sorry.

11 **MR. HIGGINS:** Around 364 million.

12 **COMMISSIONER BALBIS:** So they were still
13 100 million short?

14 **MR. HIGGINS:** To be collected over the life of
15 the assets, yes, sir.

16 **COMMISSIONER BALBIS:** Okay. It's my
17 understanding of the settlement agreement it would allow
18 FPL to access \$209 million out of that reserve account
19 gross?

20 **MR. HIGGINS:** Yes, sir, as filed in the
21 settlement agreement.

22 **COMMISSIONER BALBIS:** Would those dollars have
23 to be replaced?

24 **MR. HIGGINS:** Yes, sir.

25 **COMMISSIONER BALBIS:** And I assume then in

1 March of this year, 2013, is when the next depreciation
2 study is set to be filed?

3 **MR. HIGGINS:** Yes, sir, that's correct.

4 **COMMISSIONER BALBIS:** Okay. Thank you. And
5 that's one of the things I'm having issues with. I'm
6 struggling to see what would be in the public interest
7 of this. I mean, it's one thing if -- and that's why I
8 kind of went in that direction with the witness, one of
9 the FPL witnesses. Is FPL going to use this to avoid a
10 rate case? Is it going to use it to boost their
11 earnings to the low range of the approved ROE so that
12 they can have the revenues associated to provide safe
13 and reliable service, and the witness indicated that,
14 yes, and also -- to also possibly achieve the higher
15 range, and that's a big spread.

16 It's one thing if we knew there was an excess
17 amount that wouldn't have to be replaced, but in 2009
18 there was a shortfall. We don't know what it's going to
19 be in March. So I have concerns about this, and I'd
20 like to hear from my other fellow Commissioners on their
21 thoughts on this, because it's something that jumped out
22 as completely outside of the rate case and not a lot of
23 information provided in either record.

24 **CHAIRMAN BRISÉ:** Okay. Commissioners?
25 Commissioner Graham.

1 **COMMISSIONER GRAHAM:** I can't say that I have
2 any concern, but I guess my question back to
3 Commissioner Balbis would be if there's something that
4 can be added that would alleviate your concern that you
5 have, I guess if you throw that recommendation out we
6 can talk about what your fix is.

7 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
8 I certainly appreciate a debate format. I think it
9 makes it easier.

10 (Laughter.)

11 **COMMISSIONER BALBIS:** (Continuing) And you
12 bring up a very good point, because I first looked at
13 this and said this is a great thing for the ratepayers.
14 If FPL because of increasing costs or whatever it may be
15 finds that their ROE falls below the range, and their
16 only avenue for rate relief is to come before us again
17 through this process, if they could use this account to
18 boost their earnings up to get the revenues they need, I
19 would be fully supportive.

20 So if there is a way we can modify that in
21 order to achieve the low end of the range, FPL can
22 access this account, I would be fully supportive of
23 that. Or the midpoint. Actually, the midpoint probably
24 is better from investment purposes. So if we could
25 change it to can use up to the midpoint and we monitor

1 the monthly earnings surveillance reports, and I think
2 that is something that we could do, I would be much more
3 comfortable. I think it's a benefit for ratepayers. I
4 think it's a benefit for FPL. So to modify that and,
5 you know, to add in the appropriate place in order to
6 achieve the midpoint ROE.

7 **CHAIRMAN BRISÉ:** Commissioner Graham.

8 **COMMISSIONER GRAHAM:** I think that gets back
9 into the weeds of, you know, how they are going to run
10 their business. I mean, that's the whole reason why we
11 pick a midpoint ROE is it's going to bounce plus 100
12 basis points, minus 100 basis points. Telling them they
13 have to lock down and not go above what we set the
14 midpoint, it's a midpoint, you know. And if you want
15 to, you can tighten down 50 basis points each way, or 25
16 basis points each way. But right now it's 100 basis
17 points each way, and that's the window that they have to
18 balance in between.

19 If your concern is that this account will run
20 deficient, then, you know, we'll figure out a way of
21 controlling that so it doesn't run deficient. But other
22 than that, I mean, I think, once again, you're getting
23 past the point of the settlement.

24 **CHAIRMAN BRISÉ:** Commissioner Balbis and then
25 Commissioner Brown.

1 **COMMISSIONER BALBIS:** Thank you.

2 And those are the thoughts that I had when I
3 went through it, but the way I looked at it is we
4 establish a midpoint and 100 basis points above as an
5 incentive for FPL. If they run their business or any
6 regulated utility runs their business well and are able
7 to cut costs, deliver service, they should gain more
8 profits within reason.

9 My concern is that with the \$209 million they
10 can access, that instead of them achieving a higher rate
11 of return by becoming more efficient, they can simply
12 just take money out the accounts that customers have
13 paid for. So it's something to achieve above the
14 midpoint, and I don't see a benefit for customers for
15 that. Because if we have already established an
16 appropriate ROE for them to have access to capital that
17 they need, allowing them to achieve higher than the
18 midpoint by just accessing customer -- a customer
19 account that they have paid for, I don't see the benefit
20 to that. And I agree with you on not getting into the
21 weeds of the rate case, but if we can't get into the
22 weeds of the settlement agreement, I'm not sure we can.

23 **CHAIRMAN BRISÉ:** Commissioner Brown.

24 **COMMISSIONER BROWN:** I appreciate Commissioner
25 Balbis' concerns. I personally am not concerned with

1 this provision. I think -- and I'm a fan of Commission
2 precedent. And really routinely this -- FPL, you know,
3 they included this in prior -- this has been included in
4 prior settlements, and it is consistent with past
5 practice, at least with regard to the depreciation
6 reserve. And I think it will help preserve lower bills
7 over the four-year period. And I just don't have a
8 concern with the way that it is prepared right now. It
9 is capped at 400 million, and I'm comfortable with it.

10 **CHAIRMAN BRISÉ:** Okay. Any further comments
11 on this issue?

12 Okay. Next issue.

13 **COMMISSIONER BALBIS:** Mr. Chairman, by my
14 chart I think we have covered all the issues that were
15 discussed, so unless --

16 **CHAIRMAN BRISÉ:** No, that is perfectly fine.

17 Commissioners, are there other issues that you
18 have pinpointed as issues that are -- that need to be
19 addressed from your perspective that we need to address?

20 Okay. Let's sort of give everybody a
21 thirty-second moment to sort of look through their list
22 and see where they are.

23 I have three lights, so I'm going to start
24 pumping.

25 Commissioner Edgar.

1 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

2 I'm going to answer your question and flip it
3 over and say that if there is a paragraph or an issue
4 contained in more than one paragraph that I have not
5 raised, then that means that I am comfortable with the
6 other pieces that are contained therein. And, again,
7 recognize the interrelatedness of the provisions and how
8 that is tied to the negotiated number that is in the
9 document for the revenue requirement. And would just --
10 again, I know we have talked about it, but I really do
11 want us to do everything that we can so that we don't
12 have over the next couple of months three different
13 rates going into place, but only two.

14 **CHAIRMAN BRISÉ:** Thank you.

15 Commissioner Graham.

16 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

17 I think we're at the point where I think we
18 got to an ROE that was tolerable for -- I think for all
19 of us. I didn't hear anybody that said that they were
20 against the 10.5. Some wanted to go higher, some wanted
21 to go lower, but that seemed to be a spot.

22 And Commissioner Brown raised a concern about
23 the late fees. Actually, I think quite a few people
24 raised a concern about the late fees. As we were
25 talking about procedure-wise, maybe now is the time that

1 we take a break and hand it off to the parties and see
2 what their feedback would be, and, you know, take a
3 lunch.

4 (Laughter.)

5 **CHAIRMAN BRISÉ:** Well, before we get there,
6 let's make sure that we tighten up all those positions,
7 make sure we go through the issues that we have sort of
8 laid out, and make sure that we tighten up our
9 procedural discussion to ensure that out of the options
10 that we have, we select an option and move forward with
11 that option.

12 So let's go through the issues, and then we
13 will go through how we want to deal with this
14 procedurally, sort of lock that in, and then we will go
15 from there.

16 All right. The first issue that was brought
17 up from my recollection, and please help me, I can
18 barely read my handwriting right now, was the issue of
19 ensuring that with respect to the dates that we are in
20 the right posture.

21 **MR. WILLIS:** If you don't mind, I could
22 address it. Commissioner Edgar brought this up. We
23 have been informed the company should not have a problem
24 whatsoever changing their billing requirements to
25 implement the rates with the first billing cycle.

1 **CHAIRMAN BRISÉ:** Okay. So that issue is
2 resolved.

3 One of the other issues that we brought up was
4 the ROE, and there sort of was a consensus around 10.5.
5 And I think I got that, but Commissioner Balbis.

6 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

7 And you are correct, I think we did have a
8 consensus. And there was a discussion on the revenue
9 reduction associated with that 10.5. And according to
10 the information that staff provided me, instead of the
11 original base rate revenue increase of 516,521,000
12 reduction just on ROE, so everything that they requested
13 they would be getting, it would be 358,118,210.

14 And I would like to discuss some additional
15 adjustment not on the ROE, but on the base rate revenue
16 increase. Because, in essence, if that's the only
17 adjustment we are making, then everything that was
18 requested in the rate case would be awarded to them.
19 And I know we are not going to get into the weeds of
20 that, but I would like to perhaps see if there is any
21 interest in adjusting from that or sticking with the
22 10.5, the 358 million, then we will discuss the late
23 fees and adjustment for that or not.

24 Because I would like to see, you know, a
25 little bit more of an adjustment from that, again, using

1 the information that I provided just gives kind of a
2 sense of an order of magnitude on top of that.

3 **CHAIRMAN BRISÉ:** Sure.

4 Commissioner Edgar.

5 **COMMISSIONER EDGAR:** Thank you.

6 First of all, I did want to say on the record
7 that I am very comfortable with the 10.5 as the midpoint
8 that we have discussed. I did put out there for
9 discussion some other numbers, and recognizing the
10 minimal rate impact within the range that we were honing
11 in on. And I think that it has been on the ROE a very
12 good and healthy discussion, and I'm hoping that 10.5 is
13 a number I see here today.

14 Which I wasn't going to -- when I hit the
15 button, I wasn't thinking of, but to kind of follow
16 along the additional comments that my friend to my right
17 just made, I'm trying to get my mind around how this
18 would work. The 378 number, my understanding, was a
19 negotiated amount that therefore would have included
20 adjustments from the original request that was filed.

21 So with that, then to go in and parse out
22 individual issues, I just have a concern about, again,
23 to my overused analogy about the Tinkertoy. If you turn
24 one thing here, or the gears may be better, the gears in
25 a clock, if you turn one here, and one here, and one

1 here, and not knowing what the impact would be, kind of,
2 at the end of it all.

3 And I did say, when we started this
4 discussion, that one of the things I wanted to try to be
5 very cognizant of is to the best of our ability
6 understanding what the impact of any proposed change
7 would be on other pieces of the overall all-encompassing
8 result.

9 **CHAIRMAN BRISÉ:** Okay.

10 **COMMISSIONER EDGAR:** Thank you.

11 **CHAIRMAN BRISÉ:** Okay. Commissioner Balbis
12 expressed an interest in making further adjustments.

13 Any further thoughts on that?

14 **COMMISSIONER BALBIS:** I apologize for
15 gathering my thoughts.

16 **CHAIRMAN BRISÉ:** That's perfectly fine.

17 **COMMISSIONER BALBIS:** I think I got a little
18 confused.

19 The way I look at it, it comes down to public
20 interest, which is what we are charged with at this
21 point. And in looking at the original base rate revenue
22 request, and if we find that 10.5 is appropriate, that
23 516 million with 11.5 would go down to 358 million. And
24 further adjustments to 358 million, again, not going
25 into specific issues, but we are struggling with the

1 charge of public interest, I think some additional
2 adjustments, without getting into how they run their
3 business, without getting into determinations on the
4 prudence of any of those individual issues that I went
5 through, allowing them to do what they need to do, but
6 not have customers pay for the costs associated with
7 that without making that prudence determination is
8 something that I'm struggling with.

9 So recognizing this is a give and take. I
10 think a further adjustment below what the ROE revenue
11 requirement would be warranted. And if there is no
12 interest from the other Commissioners for that, or at
13 least two other Commissioners for that, I respect that,
14 and that's fine; that's the way the process works.

15 So I guess my goal here is to see if there is
16 any interest in additional adjustments from simply the
17 ROE and the late fee. If there is not, then we move on.

18 **CHAIRMAN BRISÉ:** Okay. For purposes of
19 discussion, what further adjustments are you interested
20 in?

21 **COMMISSIONER BALBIS:** Well, again, I passed
22 out for discussion purposes a listing of revenue impacts
23 for all the adjustments I listed, and they totalled
24 \$50 million. I think that -- I think that's an extreme
25 position. I don't think that is warranted, but I do

1 think it's a starting point. I think somewhere between
2 adjust the ROE and the late fee and 50 million is
3 something. I think -- I like the fact we wouldn't be
4 making prudence determinations on all those issues so
5 that we can remain consistent, but I do think, you know,
6 a \$10 million reduction would make it easier for me to
7 agree with the 10.5 ROE, knowing that it's in the public
8 interest because customers would be getting something
9 more than simply us going through the rate case and
10 approving an ROE without any other adjustments.

11 **CHAIRMAN BRISÉ:** Okay. Oh, I'm not seeing any
12 lights, so just making sure I'm understanding. Looking
13 at the issues that you have passed out, you're saying in
14 the aggregate you are interested in a \$10 million
15 reduction to encompass addressing some of these issues
16 that you have identified?

17 **COMMISSIONER BALBIS:** Yes. Let me add
18 something to that. I agree with you, and it would be in
19 the aggregate, so instead of looking at the base rate
20 revenue increase associated with a 10.5 ROE, reducing
21 for the late payment increase to \$6. In addition to
22 that, some reduction in the revenue requirements because
23 in absence of that, in essence, what we would be doing
24 is approving the ROE through a regular rate case
25 proceeding and not making any other adjustments to it,

1 which I think based on the decisions we made in the past
2 and the evidence in the record would be unlikely.

3 So how is this settlement in the public's
4 interest? And that is to avoid that proceeding, avoid
5 additional rate cases for the GBRAs, also getting some
6 reduction to the revenue requirement. Maybe not the
7 full 50 million, because we don't know what would have
8 happened, but I think a \$10 million number makes me more
9 comfortable that the settlement agreement is in the
10 public interest and is a better outcome than going
11 through the rate case.

12 **CHAIRMAN BRISÉ:** Okay. I'm seeing some
13 lights.

14 Commissioner Graham.

15 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.
16 I'm going to sound like a broken record here before too
17 long. The \$10 million, to me I don't see where the
18 \$10 million came from. That's just an arbitrary number.
19 The sheet that he passed out -- you know, I look at
20 every rate case as -- I mean, every settlement as being
21 unique to, you know, the specific -- whatever the
22 specific deal is. I think that we are at a pretty good
23 consensus now on where we are.

24 My agreement with the 10.5 was at the revenue
25 base that was out there, you have got to remember they

1 started at the 516, and then the settlement came in at
2 392, and now we are all the way down to 385 -- I'm
3 sorry, 358. And on top of all of that, you're talking
4 about throwing another 4 million in there, or deduct
5 another 4 million for the late fees. I mean, I'm
6 comfortable where we are right now.

7 You know, trying to get in there and trim
8 another \$10 million because that sounds like a good
9 number, I mean, unless I hear a reason why 10 and not 12
10 and not 35, it doesn't make any sense to me.

11 **CHAIRMAN BRISÉ:** Commissioner Brown.

12 **COMMISSIONER BROWN:** Thank you. And,
13 Commissioner Balbis, I appreciate what you're are doing.
14 And, again, in a normal rate case proceeding I would
15 take this and I would probably agree with it, but there
16 is a lot of give and take in the settlement agreement
17 that does support public interest. I mean, I have
18 factors, and I could list them if you want. But there
19 is a lot of give and take. At this point, I would hate
20 to be arbitrary by selecting just a random number like
21 10 million to adjust it without having a sufficient and
22 reasonable basis. But saying that, we're not making
23 this decision in the public interest is completely and
24 contrary. And I think we have ample evidence to support
25 that, so --

1 **CHAIRMAN BRISÉ:** Okay.

2 Commissioner Balbis.

3 **COMMISSIONER BALBIS:** Okay. Thank you. And
4 that's why I wanted to have that discussion. And it's
5 interesting that starting with the detailed list is too
6 much in the weeds, and then picking anything that isn't
7 from the detailed list is arbitrate. But, you know,
8 that's why the list is -- equates to \$50 million. So as
9 a point in between that, again, it comes off of the fact
10 that if we just approve the revenue request with just
11 reducing the ROE, then you are, in essence, paying for
12 15 percent raises. In essence, you're paying for all
13 the vacant positions. You're paying for plant held for
14 future use that is never going to be used. That is my
15 concern.

16 And so getting somewhere between the fifty and
17 the zero may seem arbitrary and a number, but I know if
18 it is in between those two numbers, then it's something
19 that would help me be at ease that what we do today is
20 in the public interest. So that's where it came from.
21 I appreciate the discussion, and that's why we have five
22 of us here.

23 **CHAIRMAN BRISÉ:** All right.

24 Commissioner Edgar.

25 **COMMISSIONER EDGAR:** I certainly want

1 Commissioner Balbis to be at ease probably -- since I'm
2 closest to him, more so than anybody in the room. It
3 seems that whenever we have long, good discussions, I
4 feel like that I'm always using repeatedly old and
5 over-cliched phrases, and so I'm going to do it again.
6 And I wish I was more gifted verbally so that I could
7 come up with a much better way to try to make the point
8 that I'm going to. But it just feels to me like, again,
9 the overused overwrought should be retired phrase of
10 comparing apples to oranges is kind of what I'm hearing
11 here.

12 We think it's always appropriate, and we have
13 done it numerous times, to ask all parties to, you know,
14 dig a little deeper, look a little more closely, sharpen
15 that pencil, and every other cliché that I could try to
16 throw into that sentence, but I come back to the -- let
17 me put it this way.

18 I said when we started this that if the
19 procedures were not limited before us in the way that I
20 understand them to be legally, that to use Exhibit 701
21 as a framework and go through line-by-line and
22 number-by-number make whatever adjustments we wanted to,
23 and then have it for us to debate and discuss and vote
24 on is the way that I would do it.

25 But my understanding is that what we have

1 available to us is this document that we can make very
2 strong suggestions as to what we would like to see, and
3 then it is up to the parties and the signatories.

4 And I am hopeful, and I have every expectation
5 that every word that we are saying is being listened to
6 very closely, and that's a good thing. But the merging
7 of taking a couple of issues out versus using those
8 things that we have all said in the proposed settlement
9 agreement, the GBRA in particular, I don't want to lose
10 those benefits. So, again, the whole apples and oranges
11 thing, and not knowing how one piece completely impacts
12 another continues to give me pause. But I like that
13 whole sharpen the pencil cliché, as well.

14 **CHAIRMAN BRISÉ:** Commissioner Balbis.

15 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

16 And, actually, thank you, Commissioner Edgar.
17 I think you hit on a really good point in that, the
18 process we are going to be following, and that it is not
19 that we are crafting. Hopefully, the parties listen to
20 our concerns. And, you know, I have stated very
21 clearly, and although at the end of the day we will vote
22 on something and things will fall on a majority and
23 that's the way the process works, but hopefully the
24 parties have heard my concerns.

25 And I mentioned in the beginning of this

1 process that I had the good fortune of -- I believe I
2 calculated this morning under less than three miles from
3 FPL headquarters I grew up. I have spent my entire
4 career in Palm Beach County working with them on
5 projects, negotiating with them on projects when I was
6 at the City of West Palm Beach, and others, and I
7 know -- I understand the process, and I understand what
8 an asset they are to the community, and how strongly
9 they feel about providing safe and reliable service.

10 This issue for me doesn't sound like it's an
11 important issue for four of the other Commissioners, but
12 it's something that is important to me. And, you know,
13 hopefully that the parties out there recognize that, you
14 know, simply sticking with the revenue adjustments for
15 the ROE and the other late fee adjustments whereas would
16 probably get support from a majority of the Commission,
17 I certainly would not and could not support that.

18 So hopefully they're listening to what we say
19 and go from there, but I just wanted to make those
20 comments.

21 **CHAIRMAN BRISÉ:** Sure. Thank you.

22 And I think what I heard, though, and not that
23 there isn't concern for these issues, I think there is
24 valid concern for these issues. I think that the
25 challenge that some Commissioners are having is where to

1 put that in and how to weave that into this. And I
2 think it's very valid to say that, you know, everyone
3 has concerns about some of these issues, and I think the
4 parties are aware that across the board there are
5 concerns here.

6 So an interest in an adjustment is warranted.
7 Okay. It may not be quantified specifically, but I
8 think it's pretty clear that there is a desire for an
9 adjustment beyond what the 10.5 would result in and what
10 the late fees would result in.

11 Okay. So we have the ROE issue. One of the
12 other issues that we addressed was the dismantlement
13 reserve, and I'm trying to recall where we left that.

14 Commissioner Balbis; I'm sorry.

15 **COMMISSIONER BALBIS:** Again, this is an issue
16 I brought up. It doesn't seem like there is too much of
17 a shared concern from the other Commissioners. I just
18 want to make sure that everyone understands the way it
19 is intended to be used. It's obviously something I
20 don't feel as strongly about as maybe other adjustments
21 that were previously discussed, but I think it's fair to
22 say that there did not seem to be a majority that was
23 interest in excluding that from whatever is modified.

24 **CHAIRMAN BRISÉ:** Okay. So that deals with the
25 dismantlement reserve. The late fee issue, I think we

1 found general consensus on the late fee issue of moving
2 that from \$6 to \$5; leaving it at \$5 where it currently
3 stands.

4 What else am I missing? The incentive
5 mechanism. And if somebody would clarify for me the
6 posture where they think we are at on that.

7 Commissioner Brown.

8 **COMMISSIONER BROWN:** Okay. I think either
9 Commissioner Edgar or I can do that, but I think what
10 we -- the consensus that I felt that we were at is
11 leaving it out of the settlement agreement and leaving
12 it upon the parties to bring that -- spinning it into a
13 generic docket where all of the other Florida IOUs could
14 participate. If I'm incorrect, please -- jump in,
15 please.

16 **CHAIRMAN BRISÉ:** Okay. Commissioner Graham.

17 **COMMISSIONER GRAHAM:** That's not where I
18 thought we were. I thought we were just going to leave
19 it as is. And if the other IOUs want to do something
20 similar to that, then we can -- they can come together
21 and, as you said, do a workshop or do something else.

22 I mean, this was part of the settlement. This
23 is one of those things that a lot of people got on board
24 with. And I know Commissioner Balbis had said that he
25 was concerned about the way it worked. And, you know,

1 what I said is if you want to put something in there to
2 make sure -- because I think the ratepayers are
3 completely protected, and it's nothing but -- I see no
4 downside, just upside.

5 If you want to put some language in there that
6 would codify that there is no downside for the
7 ratepayers, I don't have a problem with that, but I
8 think it's a good innovative thing to do, and I
9 encourage that sort of thing.

10 **CHAIRMAN BRISÉ:** All right.

11 Commissioner Balbis.

12 **COMMISSIONER BALBIS:** Thank you.

13 And I thought your question on how it would
14 work really focused on the dismantlement reserve. But
15 to go to your question on this topic, and I agree with
16 Commissioner Brown, I thought that is where we were as a
17 majority. I think that the one aspect of it is already
18 handled in a current incentive mechanism that has gone
19 through a generic proceeding. The witness indicated it
20 would not change any behavior, just additional -- in
21 essence, additional percentage of the savings would go
22 to FPL.

23 And on the asset optimization side, that we
24 agreed that's something that we need look at closely and
25 this is something that we shouldn't give an advantage to

1 one utility over another. Let's have everyone take
2 advantage of it; let's craft it appropriately in a
3 thoughtful manner. So I think that's where we were in
4 excluding it.

5 **CHAIRMAN BRISÉ:** Thank you, Commissioner
6 Balbis.

7 Commissioner Edgar.

8 **COMMISSIONER EDGAR:** Thank you.

9 Mr. Chairman, I apologize to you, because this
10 is very rare for me, but I don't remember what you said
11 your thoughts were on this particular one. I do,
12 however, think I have a pretty good recollection of
13 hopefully what I said and the others that are here with
14 us.

15 My thinking was and is more closely assigned
16 on this finite piece of this package -- more closely
17 aligned with the comments that Commissioner Brown and
18 that Commissioner Balbis have made. Although I also
19 agree, of course, with Commissioner Graham on the
20 out-of-the-box thinking, and that there are some aspects
21 of this that are very intriguing.

22 But we had another completely unrelated docket
23 before us recently that the inclusion of an issue that
24 to me seemed somewhat outside the scope was of concern
25 to me, and I kind of put this in the same philosophical

1 posture from my standpoint. I think that to pull this
2 out -- not to reject it, but to remove it from this
3 particular decision-making process and to look at it
4 from more of a generic basis, whatever, whether that's a
5 workshop or a generic docket or our staff -- whatever it
6 is, I would look to our staff to look at that more
7 closely and figure out what is the best and most
8 efficient and expeditious yet thorough way to approach
9 it. And, therefore, the language that is in Paragraph
10 12, I would remove with the general direction to our
11 staff to pursue those possibilities.

12 **CHAIRMAN BRISÉ:** All right. Commissioner
13 Graham.

14 **CHAIRMAN GRAHAM:** This is a concern for me. I
15 am -- this is something that I think is a win-win. Once
16 again, I think this is a huge win for, for the
17 ratepayers. I think this can potentially be a big win
18 for the utility. And part of the whole settlement idea
19 is that it's all a give and take. And, you know, we've,
20 we've made some, we've made some changes to the
21 settlement that, I mean, we don't know if it's going to
22 be palatable changes or not.

23 And taking this out and saying that we may do
24 something -- you know, because I haven't heard anybody
25 say that they don't like this idea. What I heard is

1 they're looking for more clarification or looking to
2 anchor it down better. And I think we can change those,
3 we can change the language.

4 Because, remember, they still have to come
5 down and work this out with staff to make, to figure out
6 the nuts and bolts to it all. I like the idea. I, I
7 like the idea of incentives. You're incentivizing them
8 to do, to sharpen their pencil, to do a better job, to
9 be more efficient, but the fact of the matter is they're
10 pretty darn efficient as it is right now.

11 As we said earlier, you know, they're still
12 the cheapest, you know, animal in the state. And I
13 don't want to see the settlement fall by the wayside
14 because of something that I think that we could tweak
15 that would make everybody comfortable. And I'm looking
16 specifically for the Florida Power & Light ratepayers,
17 not looking specifically to compare them to everybody
18 else because, you know, if you want to do a workshop and
19 add everybody else to this, that's fine. If, you know,
20 everybody wants to make a different policy decision on
21 this, that's fine.

22 But this was part of this settlement
23 agreement. And, I mean, it doesn't look like, it
24 doesn't look like -- as Commissioner Balbis had said
25 earlier, I mean, I can count to three, and it doesn't

1 look like that support is there. But I'm very concerned
2 of just throwing this thing out, and I think we can make
3 it work.

4 **CHAIRMAN BRISÉ:** All right. So we're dealing
5 with the asset optimization incentive -- not
6 incentive -- yeah, incentive mechanism and so forth.

7 This is an issue that I struggle with
8 personally. I'm with Commissioner Graham in terms of
9 recognizing the incentives that exist in terms of the
10 potential power sharing agreements and so forth, the
11 challenges of making sure that that ratio is right on,
12 on some part of it. So either way, it doesn't matter
13 whether I support it or oppose it, you know, we've sort
14 of seen where the consensus is on this one.

15 And as in all the other issues, I think that
16 if the numbers are right, it can float, and I think that
17 that's what I'm hearing with this issue. If there are
18 adjustments to, to the numbers and particularly in the
19 sharing, that the idea can potentially float. And, and
20 I'll leave my statements with respect to that there.

21 Okay. Moving on to the next issue. Is that
22 all the issues?

23 **COMMISSIONER BROWN:** GBRA.

24 **CHAIRMAN BRISÉ:** Yeah. I think we've
25 discussed GBRA and I think there is a consensus on GBRA.

1 Okay. So now we're going to move, shift into
2 procedural, into procedural. All right? Did I say
3 procedural?

4 All right. So here are our options. We can
5 recess shortly, understanding that all the parties have
6 heard what our positions are on the varying issues, and
7 see if the parties can, can modify the, the agreement
8 that they brought before us and come up with a different
9 agreement that, that is more in line with, with what we
10 have laid out, or the other option is for us to sort of
11 take our ideas and sort of make that into, to something
12 that we say you either take it or leave it.

13 My preference is, is, is the first one that I
14 suggested. And if that is the preference of the body,
15 then we would move forward in that direction. But I'm
16 certainly more than interested in hearing from my
17 colleagues.

18 Commissioner Balbis.

19 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
20 And I agree, I think that first option is, is definitely
21 palatable to me. I think it procedurally is easier for
22 us because we can always accept a settlement agreement
23 at any time. And procedurally I think it works better.

24 And I just want to clarify, you indicated that
25 for the parties to meet. I know that there were some

1 parties that were not signatories. Perhaps some of the
2 comments that we've made, adjustments that we've
3 proposed would allow those other parties to, to feel
4 more comfortable with it.

5 So I assume when you indicate all the parties,
6 it's everyone, because certainly it makes it easier for
7 us if there's a consensus out there.

8 **CHAIRMAN BRISÉ:** Absolutely. Absolutely.

9 All right. Any further comments?

10 Commissioner Edgar.

11 **COMMISSIONER EDGAR:** Thank you. You know, I
12 mentioned earlier this morning that, as with probably
13 every complicated and complex and lengthy rate case,
14 we're all human, people take umbrage, rhetoric occurs,
15 everybody wants to do the right thing, but
16 occasionally -- but sometimes the right thing isn't
17 crystal clear or the right decision isn't crystal clear.
18 I think that's true in this instance.

19 We have, you know, heard some discussions at
20 hearing about who spoke to whom, when, and proposed
21 what. And from, from my perspective, whatever that is
22 and was is, is behind us, and I hope it's behind all of,
23 all of the parties.

24 I think that we've had a very fruitful,
25 thorough discussion. And if the five of us, with all of

1 our different backgrounds, different perspectives,
2 different personalities, and different approaches, can
3 come pretty close to consensus, I certainly believe that
4 all parties advocating for their clients can do the
5 same.

6 **CHAIRMAN BRISÉ:** Thank you very much,
7 Commissioner Edgar.

8 Any further comments?

9 Okay. I too concur that throughout this
10 process, it has been a long process and it's continuing,
11 that there's a framework that we have laid out, and I
12 certainly hope that all the parties engage, and maybe
13 what you all come up with is different from what we
14 have, we have sort of laid out as a framework, providing
15 that everybody is involved in the conversation.

16 What I want to happen is for -- by 3:00 this
17 afternoon I would like to get a report back if there is
18 going to be something that's coming back to us. Okay?
19 So that at that point at least we have a sense for, for
20 our planning purposes how we're going to proceed with
21 respect to, to where we are. So -- because I know
22 there's a lot of things that you all have to discuss
23 amongst yourselves as individual entities and then
24 amongst yourselves as a larger group to determine if
25 that's something that you're seeking to, to move forward

1 with.

2 So by 3:00 I expect a call -- or not --
3 through our Executive Director, expect a call to, to get
4 a sense of where we are. And hopefully if, if, if that
5 call says that we are at a place that we can present
6 something to you, we will reconvene and take that up.
7 Or if that says we need more time, then we will cross
8 that bridge at that point. Okay?

9 Commissioner Graham.

10 **COMMISSIONER GRAHAM:** I guess I have a couple
11 of questions. The first one, I don't know if it'll take
12 that long, until 3:00, because I think everybody has
13 been sitting here this entire time and running through
14 their head some -- they may have to go back and bounce
15 the ideas off of different people, but I think they may
16 be able to tell you within the next half hour if, if
17 it's even, if it's, if we're even in the ball park or
18 not.

19 And because I guess my question is at 3:00,
20 what happens at 3:00? Do we reconvene then at 4:00, or
21 do we come back next week, or -- I don't know how all
22 that plays out.

23 I think a quicker period of time -- I mean, I
24 throw this out there because maybe in a half an hour
25 they could say that we can probably come back to you

1 with something, and then at 3:00 we come back and then
2 they tell us what it is that they came up with. And
3 I'm -- because it seems like a long period of time for
4 us to just be sitting waiting.

5 **CHAIRMAN BRISÉ:** Okay. I get that.

6 Commissioner Brown.

7 **COMMISSIONER BROWN:** Agree completely with
8 Commissioner Graham. He read my mind.

9 (Laughter.)

10 There's also the alternative that we can
11 approve what we just did, with the stipulation, with the
12 caveat that the parties, the intervening -- the
13 signatories must sign onto it by a certain date, such as
14 two business days, which would bring us to Monday, and
15 then no further action would be required on our part.

16 It's just an alternative. It's something I
17 thought about while we were talking about this, and I'm
18 not married to it. So if you all, if you all -- I just
19 think that waiting 'til 3:00 and then deciding what
20 we're going to do seems a little odd.

21 **CHAIRMAN BRISÉ:** Okay. Commissioner Balbis.

22 **COMMISSIONER BALBIS:** Well, I'm glad
23 Commissioner Brown isn't married to that idea.

24 (Laughter.)

25 I think we gave pretty broad direction, if not

1 comments, to the parties. And I'd like to, instead of
2 voting to approve something conditionally now, have them
3 come to us quickly because I'm sure -- I mean, we have
4 all the parties in the room, I'm sure phone calls need
5 to be made, but whether it's a half an hour or whatever
6 to know, okay, this is workable, we'll come back at a
7 certain time. I prefer that, that option rather than a
8 conditional vote, because this might be a weed we might
9 want to look into.

10 **CHAIRMAN BRISÉ:** Sure.

11 Commissioner Graham.

12 **COMMISSIONER GRAHAM:** Thank you, Mr. Chair.

13 I, I look up and I see our attorneys. I had
14 an intense conversation with them yesterday about this
15 issue and if we voted on this and it's basically a, yes,
16 we accept it or, no, we do not accept it. And so
17 basically if, no, they do not accept it, we are back to
18 the full on rate case.

19 So if we just let them go and think about the
20 things that we said, you know, you never know. They may
21 come back and say, okay, we understand what you're
22 saying, we understand the things that you're going about
23 it, and we can probably do this that will help one of
24 the Commissioners, and we can probably do this that will
25 help the other Commissioners, and this is the deal we're

1 laying on the table. I think that's the position that
2 we want to put ourselves in.

3 They may come back and say we agree with
4 everything you laid out there as that and come back.
5 They may come back and say, Commissioner Balbis, we've
6 got another \$10 million that we'd like to hand you.

7 (Laughter.)

8 Let me rephrase that. I said that completely
9 incorrectly. Another \$10 million that we can take out of
10 the revenue requirements, which will make you happier. I
11 did not mean for it to sound that way.

12 But anyway, so I guess this is addressing to
13 what Commissioner Brown had said, the last thing I think
14 we need to do right now is to take a vote on this.
15 Because I think the path that we are, the consensus path
16 that we'd like to go down has already been pretty much
17 fleshed out and laid. Thank you.

18 **CHAIRMAN BRISÉ:** Commissioner Brown.

19 **COMMISSIONER BROWN:** I retract it.

20 (Laughter.)

21 **CHAIRMAN BRISÉ:** All right. Thank you.

22 All right. So I heard the wise counsel of my
23 fellow Commissioners with the large amount of time that
24 we, that I suggested, so I suppose maybe an hour or so
25 is more reasonable.

1 So we will -- I will be expecting some
2 information by 1:10, okay, this afternoon.

3 **COMMISSIONER EDGAR:** Are we coming back?

4 **CHAIRMAN BRISÉ:** So we -- no, I'm going to,
5 I'm going to expect some information through my
6 Executive Director and my General Counsel's Office, and
7 at that point we will inform the offices as to where we
8 are.

9 **MR. BAEZ:** Mr. Chairman, real quick. We're
10 making Room 234 here at the Easley Building available
11 for the parties to have some kind of war room space.
12 234.

13 **CHAIRMAN BRISÉ:** All right. Thank you.

14 Commissioner Graham.

15 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.
16 I think the 1:10 is completely fine, and that's at
17 1:10 for the signatories to get back to our Executive
18 Director, that will get back to you.

19 My question is because, I guess for, for legal
20 purposes we have to recess until a fixed time. And, you
21 know, if we're recessed to a fixed time, maybe that
22 fixed time would be 1:30. And then, you know, when you
23 hear at 1:10, they may say that we need another hour to
24 draft something, and you can, you can be here or
25 somebody can be here at 1:30 saying we'll push it back

1 to 2:30. But that way -- because --

2 **CHAIRMAN BRISÉ:** That's fine. That's fine.
3 That makes sense.

4 **COMMISSIONER GRAHAM:** Okay.

5 **CHAIRMAN BRISÉ:** We will recess 'til, 'til
6 1:30 as a body. Okay? And I expect to hear something
7 back by 1:10. Thank you very much.

8 (Recess taken.)

9 All right. Good afternoon. We are
10 reconvening at this point. It is 1:43. I understand
11 that we have a report back. And, Mr. Executive
12 Director, if you could walk through what has come back.

13 **MR. BAEZ:** Thank you, Mr. Chairman and
14 Commissioners. Yes. We've, we've received input from
15 both the non-signatories and the, and as well as the
16 parties to the, to the proposed settlement.

17 I'd like to -- I did receive a written
18 statement from the non-signatories, including OPC, so
19 I'll just read that into the record for you all.

20 **CHAIRMAN BRISÉ:** Sure.

21 **MR. BAEZ:** I don't know if, if you've received
22 copies. That's the one thing. You haven't?

23 **CHAIRMAN BRISÉ:** No.

24 **MR. BAEZ:** If someone can handle that. But
25 I'll be reading it to you in the meantime.

1 **CHAIRMAN BRISÉ:** If, Mr. Baez, if you could
2 just wait until --

3 **COMMISSIONER GRAHAM:** I think our aides got
4 them.

5 (Laughter.)

6 **CHAIRMAN BRISÉ:** If you could just wait until
7 everybody has a copy in front of them.

8 **MR. BAEZ:** Everyone got a copy but you,
9 Commissioners.

10 I'll state at the, at the outset that all the
11 parties, all the non-signatory parties join the
12 objections of OPC, with the exception of Mr. Hendricks,
13 who's not here today.

14 **CHAIRMAN BRISÉ:** Sure.

15 **MR. BAEZ:** So as I read this statement that
16 you have in front of you into the record, understand
17 that it's all the non, all the non-signatories except
18 for Mr. Hendricks.

19 Number one, OPC renews its legal objections to
20 the August 15th purported settlement and to the process
21 the Commission created to consider it.

22 Number two, legal infirmities aside, OPC
23 cannot support, will not sign, and objects to the
24 August 15th purported settlement with or without the
25 modifications suggested by the Commission.

1 Today's meeting was noticed for a vote on the
2 August 15th purported settlement. The break today does
3 not provide a meaningful opportunity to negotiate.

4 And lastly, OPC, and again the non-signatory
5 parties as stated, has been and remains open to
6 meaningful negotiations toward a result that is fair and
7 reasonable to all parties.

8 **CHAIRMAN BRISÉ:** Okay. Thank you.

9 **MR. BAEZ:** Now, Commissioners, I've received
10 comments from the parties to the, to the proposed
11 settlement orally, so I'm going to do my best to try and
12 restate what they had. I've spoken to, to Mr. Willis,
13 and he's ready to explain some of the finer points of
14 it, but let's give it a try and try and get all the
15 details. It's actually very short, and we'll do the
16 easy part first.

17 The, the 10.5 ROE that you all had, had
18 reached consensus to I think would remain, remain the
19 standard. The signatories to the proposed settlement
20 have -- (bell ringing) -- the bell is tolling for
21 someone. Yes. I just hope it's not me. (Laughter.)

22 The revenue, the base rate revenue increase would,
23 under, under the guidance of your discussion today, would be
24 reduced to 350 million from the number that you had in the
25 sheet of 358 that was pegged to the 10.5. And then -- and

1 we can, we can walk you through how that, how that goes.

2 Now if you start with the 378 that was part of
3 the proposed settlement, the \$378 million, take
4 10 million off for the late fee, as, as you've discussed
5 it going away, leaves you at 368. You drop another
6 10 million when you go to the 10.5 ROE, and from that
7 358 the revenue increase would drop to 350 in total.
8 Those last \$8 million of reduction to the revenue, to
9 the base rate revenue increase would be applied to
10 residential only, that reduction. That's how we got
11 from 378 to 350.

12 I think Commissioner Brown had a question.

13 **CHAIRMAN BRISÉ:** Commissioner Brown.

14 **COMMISSIONER BROWN:** Mr. Chairman or Mr. Baez,
15 do we know what, how that \$8 million was quantified?

16 **MR. BAEZ:** Much in the spirit of the 378, it
17 is a number that's being offered as a new number.

18 **COMMISSIONER BROWN:** But it's being a number
19 that's --

20 **MR. BAEZ:** It would -- we would call it a
21 negotiated number.

22 **COMMISSIONER BROWN:** Okay.

23 **MR. BAEZ:** In that same, in that same sense.

24 **COMMISSIONER BROWN:** Again being offered
25 though by the utility based on --

1 **MR. BAEZ:** By the signatories to the proposed
2 settlement, yes.

3 **COMMISSIONER BROWN:** Yeah. And the -- okay.

4 **MR. BAEZ:** And, and with the additional, with
5 the additional caveat that that, that that additional
6 reduction from the 358 to the 350, those reductions
7 would be, would benefit residential, the residential
8 side only.

9 **COMMISSIONER BROWN:** And I'm sure eventually
10 we'll see how that actually impacts a --

11 **MR. BAEZ:** Exactly.

12 **COMMISSIONER BROWN:** -- typical thousand
13 kilowatt hour residential bill.

14 **MR. BAEZ:** Right.

15 **COMMISSIONER BROWN:** Okay. Thanks. I'm sorry
16 for interrupting.

17 **MR. BAEZ:** No, that's fine. It's not an
18 interruption. If there's -- we can go back.

19 **CHAIRMAN BRISÉ:** You may proceed.

20 **MR. BAEZ:** Okay. And then the last, the last
21 point has to do with the incentives, what we're calling
22 the incentives program, the asset optimization terms of
23 the proposed settlement.

24 Rather than, rather than eliminate it or spin
25 it off into a generic docket, the, the idea was floated

1 to have, have it approved as a pilot program for a
2 period of two years, and at that point, as the
3 Commission might, as the Commission's will might be,
4 they could revisit it at that point if it wasn't, if it
5 wasn't providing the kinds of benefits that, that were
6 anticipated or might be satisfactory to the Commission.

7 There's one last wrinkle to that incentive
8 program, I think is a shift in the sharing, the sharing
9 percentages. I believe, and I don't have it in front of
10 me, and I think I'll look to staff to correct me, there
11 is a, there is a -- that first sharing event or that
12 first sharing percentage was originally 70/30, 30 to the
13 ratepayers. The modified, the modification would be
14 60/40, 40 to the ratepayers at that first threshold
15 level. And if, if I can get a nod to make sure that I
16 got it right.

17 **MR. KISER:** Mr. Chairman.

18 **MR. BAEZ:** No? Okay. I'm getting a no.

19 **MR. KISER:** Mr. Chairman, the, on the
20 breakout, the, the, the amount that comes off, if you go
21 back to Commissioner Balbis' list of \$50 million worth
22 of potential reductions that were available, it's
23 18 million that would come out. So that of the
24 50 million that he was outlining where you could pick
25 some, they are nonspecific. But it would be in that, in

1 those kind of categories, it would be another reduction
2 of 18, which gets you down. The real number, he was
3 right, is 350, but I think Braulio mischaracterized it.

4 **MR. BAEZ:** I misspoke. Yeah.

5 **MR. KISER:** Misspoke. He said eight and it's
6 really 18 million.

7 **CHAIRMAN BRISÉ:** So then I have a question
8 with respect to, to the late fee, the \$10 million.

9 **MR. KISER:** That's in there too.

10 **CHAIRMAN BRISÉ:** That's within getting us to
11 350?

12 **MR. KISER:** Yes. Yes. That's also another
13 reduction.

14 **MR. BAEZ:** I had, I had originally said that
15 those --

16 **CHAIRMAN BRISÉ:** That doesn't add up.

17 **MR. BAEZ:** Mr. Chairman, I had originally said
18 that the, that the last, the last reduction of
19 \$8 million, the incremental reduction of \$8 million was
20 what was going to be routed to, to the residential.
21 And, in fact, it's 18, so it starts at 368.

22 **MR. KISER:** Yeah.

23 **CHAIRMAN BRISÉ:** Okay. Commissioner Brown.

24 **COMMISSIONER BROWN:** Okay. Let's be clear
25 here.

1 **MR. BAEZ:** Yes.

2 **COMMISSIONER BROWN:** Okay? So we've got 378.
3 Okay? We are subtracting 18 million from that base
4 rate.

5 **MR. BAEZ:** 378, you start at 378.

6 **COMMISSIONER BROWN:** Yeah.

7 **MR. BAEZ:** The late fee goes.

8 **COMMISSIONER BROWN:** Okay. So right there,
9 368.

10 **MR. BAEZ:** That's 10 million; you're at 368.
11 From 368 to 350, that \$18 million number --

12 **COMMISSIONER BROWN:** There we go --

13 **MR. BAEZ:** -- is all those savings that get
14 passed on to the, those reductions get passed on the
15 residential side.

16 **CHAIRMAN BRISÉ:** All right. That makes more
17 sense to me.

18 **COMMISSIONER BROWN:** That's clear.

19 **MR. BAEZ:** And I think that the confusion is
20 on that last, that last jump from -- even though you're
21 passing 358 to 350 on the way down, but all of that
22 number from 368 to 350 is all residential side. Does
23 that -- forget I said 358.

24 **COMMISSIONER BROWN:** Forgotten.

25 **CHAIRMAN BRISÉ:** Okay.

1 **MR. BAEZ:** I've forgotten.

2 **CHAIRMAN BRISÉ:** All right.

3 **MR. BAEZ:** One last clarification, on the
4 asset optimization, the review -- the Commission has
5 the -- it's a four-year pilot with, with Commission
6 option to review after two years.

7 **CHAIRMAN BRISÉ:** Okay.

8 **MR. BAEZ:** And I think that's everything.

9 **CHAIRMAN BRISÉ:** Okay. Commissioners?
10 Commissioner Balbis.

11 **COMMISSIONER BALBIS:** Mr. Baez, can I ask for
12 a clarification on the incentive program?

13 **MR. BAEZ:** Sure.

14 **COMMISSIONER BALBIS:** So looking at page 14,
15 you're saying that the percentages would change to 60/40
16 from 70/30. And that would be the incremental gains
17 above the total of customer savings threshold. And then
18 the asset optimization would remain in place just as a
19 pilot?

20 **MR. BAEZ:** As a pilot. And then the
21 Commission, the Commission would have after the first
22 two years the option to review. So you'd be approving
23 it for four years, not, not as a, as the --

24 **CHAIRMAN BRISÉ:** In perpetuity?

25 **MR. BAEZ:** Which essentially is the life of

1 the agreement. What you're, what you're creating,
2 what's getting created is a two-year review, review
3 board.

4 **COMMISSIONER BALBIS:** I have a question for
5 staff. Maybe Mr. Ballinger can answer this. The
6 current percentages for the incentives are?

7 **MR. BALLINGER:** 80/20. 80% to the ratepayers
8 and 20% to the stockholders.

9 **COMMISSIONER BALBIS:** So that would be going
10 from 80/20 to 60/40.

11 **MR. BALLINGER:** But the difference being is
12 that you've got a higher threshold. The current
13 incentive only applies to sales, which of this, the, the
14 base of \$36 million -- let me back up little bit. The
15 \$36 million that was offered in the original settlement
16 was FPL's projection of both economy sales and
17 purchases.

18 Of the 36 million, about 6 million, I think,
19 was for sales. The other 30 was purchases. So the
20 80/20 split has been happening on about \$6 million, so
21 dollar wise it's --

22 **COMMISSIONER BALBIS:** And the current program,
23 there is no threshold level; correct? It's an 80/20
24 split from -- or no?

25 **MR. BALLINGER:** No. There is a threshold.

1 I'm sorry. There is a threshold. It's a three-year
2 rolling average of what the sales are. So it varies by
3 year of what threshold they have to meet.

4 **COMMISSIONER BALBIS:** Okay. So the threshold
5 then would be whatever that three-year rolling average
6 is.

7 **MR. BALLINGER:** Correct.

8 **COMMISSIONER BALBIS:** So any improvement above
9 that there's the 80/20 split.

10 **MR. BALLINGER:** Correct.

11 **COMMISSIONER BALBIS:** Do you know what the
12 current three-year rolling average is for FPL?

13 **MR. BALLINGER:** Clarence is telling me that
14 the threshold right now is roughly about \$6 million for
15 FPL.

16 **COMMISSIONER BALBIS:** So the threshold then in
17 essence would remain the same of that portion of sales,
18 \$6 million of the 36?

19 **MR. BALLINGER:** I'm sorry. Repeat that again.

20 **COMMISSIONER BALBIS:** You mentioned that
21 6 million of the 36 million has to do with the portion
22 that currently has the threshold and the percentage
23 split; correct?

24 **MR. BALLINGER:** Correct.

25 **COMMISSIONER BALBIS:** And the current

1 three-year rolling average is around 6 million.

2 **MR. BALLINGER:** Correct.

3 **COMMISSIONER BALBIS:** So in essence it would
4 be no change, just a percentage?

5 **MR. BALLINGER:** Correct.

6 **COMMISSIONER BALBIS:** There would be no change
7 in the threshold.

8 **MR. BALLINGER:** Correct.

9 **COMMISSIONER BALBIS:** Okay. I just want to
10 make sure I understand it because there's --

11 **MR. BALLINGER:** It's getting rolled into a new
12 threshold under this asset optimization.

13 **COMMISSIONER BALBIS:** Okay. I think it's
14 clear to me.

15 **CHAIRMAN BRISÉ:** Okay. Commissioner Graham.

16 **COMMISSIONER GRAHAM:** I don't want to muddy
17 things up.

18 **CHAIRMAN BRISÉ:** Okay. Commissioner Brown.

19 **COMMISSIONER BROWN:** I don't, I certainly
20 don't want to muddy things up either.

21 I always thought this incentive mechanism was
22 kind of couched as a pilot program to begin with, so I
23 don't really kind of see the difference here at all
24 except for the fact that we can review it at two years.

25 I want to understand details about what that

1 means, "we can review it in two years." Do you know,
2 Tom?

3 **MR. BALLINGER:** You're asking me?

4 **COMMISSIONER BROWN:** Or does Braulio know?
5 Who knows?

6 **MR. BALLINGER:** I didn't have any
7 conversations with anybody.

8 **COMMISSIONER BROWN:** I just -- Marshall?

9 **MR. WILLIS:** I didn't have any conversations
10 with them. I, I have no idea.

11 **COMMISSIONER BROWN:** I just don't really know
12 if there --

13 **CHAIRMAN BRISÉ:** Mr. Kiser.

14 **MR. KISER:** Let me jump in here. The word
15 "review" was, was used. My suggestion is that in any
16 written document that comes back, that it be clear that
17 that review includes termination if we find, if the
18 Commission finds it's not working out the way they
19 thought. It's not just that at the end of two years we
20 can look, take a look at it, have all kinds of
21 difference of opinions but can't do anything. If it's
22 going to mean anything, it means at the end of the
23 review, if the Commission decides that it's not working
24 and they don't want it applied in this case any longer,
25 then it will go away. And that's the only way I think

1 you put any meat into the word "review."

2 **COMMISSIONER BROWN:** Mr. Chairman, follow-up?

3 **CHAIRMAN BRISÉ:** Sure.

4 **COMMISSIONER BROWN:** And, Mr. Kiser, does that
5 preclude then the other IOUs in the State of Florida
6 from hereafter filing a generic proceeding?

7 **MR. KISER:** No.

8 **COMMISSIONER BROWN:** Okay. Good.

9 **CHAIRMAN BRISÉ:** Commissioner Graham.

10 **COMMISSIONER GRAHAM:** And it doesn't, it also
11 doesn't preclude the workshop that staff has spoke of.

12 **MR. KISER:** Right.

13 **CHAIRMAN BRISÉ:** Okay. Commissioner Balbis.

14 **COMMISSIONER BALBIS:** Thank you. I think one
15 final clarification, and I'm glad we're talking about
16 what it does and does not preclude other companies from
17 doing. Do other companies currently have the same
18 threshold rolling average, an 80/20 split?

19 **MR. BALLINGER:** Yes. It's on a
20 company-by-company basis. So whatever their sales are,
21 the threshold is developed for that company. Obviously
22 a smaller company like TECO or Gulf would have a smaller
23 threshold typically.

24 **COMMISSIONER BALBIS:** Okay. So --

25 **MR. BALLINGER:** But the methodology is the

1 same.

2 **COMMISSIONER BALBIS:** So I would expect those
3 companies would come in to change their percentage as
4 well. Nothing would preclude them from doing so,
5 correct, or it would?

6 **MR. BALLINGER:** Correct. I think we could go
7 down this route if we wanted to have some workshops and
8 see it develop into a generic policy. This does not
9 preclude us from doing that while this pilot is going
10 on.

11 I could see the argument of saying wait until
12 you hear, get the evidence of the pilot before you do
13 this, there's that kind of balancing.

14 **COMMISSIONER BALBIS:** Okay. I think it's
15 clear.

16 **CHAIRMAN BRISÉ:** All right. Any further
17 comments or questions?

18 Okay. So where we are right now is we've
19 heard the layout of the varying positions, we heard
20 from, we heard the position of OPC. We've also heard
21 the OPC and all the other non-signatories' position. We
22 have also heard from all the signatories and what their
23 proposal would be in terms of a settlement moving
24 forward.

25 I think I would feel a whole lot more

1 comfortable if it was presented to me in writing for me
2 to, to move forward and make a decision on it. So I
3 would -- is that something that other Commissioners are
4 interested in?

5 **COMMISSIONER BROWN:** Yes.

6 **COMMISSIONER EDGAR:** Yes.

7 **CHAIRMAN BRISÉ:** Okay. It seems like that
8 that is a yes. So, therefore, I would like to see -- I
9 would like to -- we're going to take a recess shortly
10 and we are seeking to reconvene in an hour with the
11 document before us. Okay? So we'll recess at this
12 time.

13 (Recess taken.)

14 **CHAIRMAN BRISÉ:** All right. Good afternoon.

15 We are reconvening at this time. We have the
16 stipulation and settlement before us, and I already see
17 two lights, so we are going to go ahead and get right to
18 it.

19 Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

21 I've had -- since I've finished the last page,
22 I'll say I've had time to review this. But in going
23 through the terms and conditions of the revised
24 settlement agreement, I think it is consistent with the
25 discussions that we have had and what was presented to

1 us by Mr. Baez.

2 Initially, I, among the rest of the
3 Commissioners here, had concerns with the originally
4 proposed settlement agreement, and I had concerns about
5 whether or not it was in the public interest. And I
6 identified several issues that I had, as well as the
7 rest of us did, in order to come to a determination of
8 if a settlement agreement was in the public interest,
9 which statutorily we have the authority to do. And I
10 believe that all of the issues that we agreed upon from
11 a majority standpoint have been addressed, and I had
12 issues personally with some of the other aspects of the
13 settlement agreement, and I voiced those concerns, and
14 I'm very happy to see that the signatories have listened
15 to my concerns and have made additional concessions
16 which I believe -- well, I know that it completely
17 alleviates all the concerns that I had on the previous
18 agreement.

19 I think the additional \$18 million in
20 concessions certainly alleviates my concerns. I think
21 that from an ROE standpoint we are achieving something
22 that allows FPL to have access to capital to make these
23 significant investments. And these are investments that
24 aren't for other intangible benefits to the customers,
25 these are tangible benefits to the customers. These are

1 investments in infrastructure that will provide two
2 additional power plants that have gone through the need
3 determination process to provide cleaner emissions,
4 lower fuel usage that customers can benefit from.

5 So I'm very comfortable with the ROE that we
6 agreed to and that the signatories have agreed to. I
7 believe that the end result will be that half of the
8 state's citizens will continue to have a low cost of
9 living and have investment in infrastructure that will
10 benefit all of them.

11 So I am in full support of this revised
12 agreement. I think that the public interest issues have
13 been alleviated, and I look forward to other comments
14 from Commissioners.

15 **COMMISSIONER GRAHAM:** Second.

16 **CHAIRMAN BRISÉ:** Thank you, Commissioner
17 Balbis.

18 Commissioner Brown.

19 **COMMISSIONER BROWN:** I heard a second. Well,
20 I also reviewed it, and for those in the audience it is
21 the red-line version of it. It's very clear to read.
22 You can read it really quickly, the changes that we
23 discussed, and I support the modified stipulation. I
24 believe it's a reasonable resolution of all the issues
25 in this hearing and achieves the overall goal that we

1 have of ensuring fair, just, and reasonable rates, and
2 it is certainly in the public interest.

3 I did want to note, while not a signatory to
4 this agreement, the Office of Public Counsel, I would
5 like to thank you all for your persistence in helping
6 this process come to where it's. We have been able to
7 have an additional hearing, gather additional evidence,
8 which ultimately may not have occurred but for your
9 persistence. I think we have come to a really happy
10 resolution, so thank you for your persistence. I'm very
11 satisfied with the stipulation, and I think that it's
12 certainly in the public interest and benefits all
13 customers.

14 **CHAIRMAN BRISÉ:** Okay. Thank you for those
15 comments.

16 Are there any other further comments?

17 Commissioner Edgar.

18 **COMMISSIONER EDGAR:** Thank you.

19 Mr. Chairman, I would be remiss if I did not
20 take this opportunity to particularly thank you for your
21 leadership through this process. As we have all said a
22 number of different times over the months, as with every
23 complex rate case, there are specific unusual and unique
24 issues and circumstances. This one certainly has been
25 that way.

1 The way the settlement proposal came before us
2 is somewhat unusual. However, I firmly and strongly
3 believe that the process that this Commission undertook
4 did and does protect the interests of all parties, does
5 absolutely address all -- address and go beyond due
6 process needs and requirements, gave each of us and our
7 staff and all parties the opportunity to participate
8 timely and thoughtfully, and I do believe that the
9 resolution of issues that is before us is in the public
10 interest, is tied to the record evidence in this docket,
11 does give certainty and predictability to the ratepayers
12 on a go-forward basis. And knowing what the rates will
13 be for the next four years is good for the customers, it
14 is good for our local economies, it is good for
15 businesses that hopefully are looking to expand here in
16 Florida.

17 I am disappointed that all of the parties are
18 not signatories to this agreement. I certainly had
19 hoped that with the additional time that we have devoted
20 to this docket, with the additional hearing dates
21 approximately three weeks ago, I believe it was, that we
22 took additional testimony, and in the time since then,
23 knowing that this date had been noticed, that in those
24 past three weeks that there could have been the
25 opportunity for discussions and negotiations between the

1 parties out there in that process separate from the
2 process that we have. So I am disappointed at that.

3 I know a comment was made just a little bit
4 ago about an hour for negotiation not really being
5 sufficient, and I believe that there have been months
6 and months and months for the opportunity for
7 negotiation, and certainly that the last three weeks I
8 had hoped would be a ripe and productive time for those
9 sorts of discussions. But that didn't occur for
10 whatever reasons that we are not privy to.

11 The agreement that is before us now addresses
12 a number of the concerns that I raised earlier today.
13 It does not address all of them. In particular,
14 Paragraph 12. I would be more comfortable if that was
15 not included, but I do believe that the other components
16 of the package outweigh my concerns on that, and I
17 recognize that it is not a base rate revenue issue.

18 You know, as we all know, I am the senior
19 Commissioner here, and, yes, in years of service and
20 also in age; we all know that. And during my time here
21 I have seen this Commission occasionally and more than
22 occasionally criticized and maligned. I have had --
23 personally have seen some of my views and comments
24 mischaracterized and inaccurately predicted. I'm sure
25 today will be no exception, unfortunately.

1 However, I am proud of the process, of the
2 time that has been allowed, of the participation of all
3 of my colleagues, and of the quality of advocacy and
4 testimony and staff work. And I am very, very, very
5 pleased to continue to be a part of this Commission with
6 these Commissioners who strive for consensus. And I am
7 very pleased that I believe we are going to reach a
8 decision that had give and take amongst us, and that is
9 in the best interest of all of the factors that we are
10 to take into account, and is absolutely a balancing of
11 all of the issues that have been brought before us.

12 So, Mr. Chairman, again, thank you for your
13 leadership, and thank you for allowing each of us the
14 time to explore and discuss the issues that are
15 important to us.

16 **CHAIRMAN BRISÉ:** Thank you.

17 Commissioner Graham.

18 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

19 And I think it is interesting, all the
20 different backgrounds between the five Commissioners up
21 here, and the different thought processes and the
22 different interactions that we are able to massage a
23 document like this and come up with something that I
24 think is a good document.

25 And, Mr. Chairman, I want to commend you

1 for -- I think you did a yeoman's job of steering the
2 ship. It is not an easy task by any means. I have sat
3 in that seat, and I understand that these things weigh
4 on you day in and day out. I just want to thank you for
5 your leadership and thank you for getting us to this
6 point. And thank my fellow Commissioners for
7 articulating different points of view, but also being
8 open and responsive to hearing other people's points of
9 view, and at the end of the day knowing that we put a
10 good deal on the table. And with that being said, I
11 thank you all.

12 **CHAIRMAN BRISÉ:** Thank you very much,
13 Commissioners.

14 We will soon be in a posture to entertain a
15 motion, and I think I will make my statements now and
16 probably make a few statements near the end, which have
17 more to do with the broader process than the actual
18 decision that we are going to make.

19 I want to thank you, my colleagues, for
20 keeping an open mind and working through a process that
21 was interesting and has been interesting. I do stand by
22 the process in saying that we have had a full process
23 that looked at every aspect of the full case, and we
24 have given a full hearing to every piece of it. And so
25 therefore, I think, as I stated earlier today, that it

1 is appropriate for us to be able to make a decision
2 based upon a full body in terms of a record for us to
3 substantiate our decision and support our decision.

4 Are there things in here that every single one
5 of us could potentially tweak some more? Absolutely.
6 But when you look at a settlement, it's the whole body
7 that is before you. And when you make a decision on it,
8 you decide whether the whole body, or the whole document
9 is in the public interest. And at the end of the day I
10 think what we have before us this afternoon is in the
11 public interest.

12 It provides a certain level of certainty for
13 consumers. They can plan ahead based upon what is going
14 to be laid out in terms of rates for them. It provides
15 a pathway for plants to come into service that will deal
16 with the growth that is going to continue to happen
17 within the service area, and it also addresses some of
18 the pocketbook issues that are very important to
19 consumers every day. And those are issues that I think
20 we were pretty much unanimous on in terms of the
21 pocketbook issues.

22 So at the end of the day I believe that this
23 is a good deal for consumers and it's a good deal for
24 the company, so that the company can continue to do what
25 it is supposed to be doing, to provide good service, top

1 rate service at rates that are reasonable for consumers,
2 and so that they can continue to be responsive and
3 consumers can expect a company that will be responsive
4 to them.

5 So I agree with many of the statements that
6 have been made about those who participated in this
7 process. I think that every intervenor brought a very
8 important component to this. And where we are today is
9 a reflection of all of those components. You know, we
10 may take different approaches at getting to what we all
11 strive for every day who work within this sector, and
12 that is serving the public interest. And at the end of
13 the day in this sector it simply means when somebody is
14 trying to turn on the lights, and they have paid their
15 bill, that they are going able to have light in that
16 room.

17 And I think that we have done that as we have
18 gone through this process, and when we take a vote on
19 this item, on this agreement, I think we would have
20 completed that process. The process that we started
21 when we received the MFRs and so forth; the process
22 where we listened to customers at the ten customer
23 service hearings; the process that continued when we had
24 the full rate hearing here, and then the process that
25 continued when we went to hear specifically with respect

1 to the settlement.

2 So I think that we have done our duty and done
3 our due diligence with respect to going through the
4 record. And I am proud of the work that we have done so
5 far as a Commission, and I am more proud of the way that
6 we have conducted ourselves as we have gone through this
7 process. There are definitely converging views, and
8 views that are different, but we recognize that we have
9 a responsibility and, therefore, I think we have
10 fulfilled that responsibility at this point.

11 So I see a light. Commissioner Balbis, and
12 then we will be ready to entertain a motion.

13 **COMMISSIONER BALBIS:** Mr. Chairman, if we are
14 in the posture for a motion --

15 **CHAIRMAN BRISÉ:** Sure.

16 **COMMISSIONER BALBIS:** Based on --

17 **MR. WILLIS:** Commissioners, before you make a
18 motion, could I just bring up one little small thing?

19 **CHAIRMAN BRISÉ:** Sure. The administrative --

20 **MR. WILLIS:** From a quick review of the
21 document, I think there is one small typo.

22 **CHAIRMAN BRISÉ:** Okay.

23 **MR. WILLIS:** And if I point you to the track
24 changes version, which would be on Page 14, Page 15 of
25 the regular document.

1 **CHAIRMAN BRISÉ:** Sure.

2 **MR. WILLIS:** It's under Paragraph 1A3, or
3 12A3. The company caught the first one, I believe, on
4 the second line where it says Paragraph 12A1. They
5 changed it from B. I believe right below that, two
6 lines down, that should also refer to 12A1, because 12B1
7 refers to the actual cost of hiring incremental
8 personnel and software packages, and I don't think that
9 refers to any gains that would come from that.

10 I think that is referring back to the A. I
11 think they missed that one, so maybe if we could get the
12 company -- I see nods back in the back. I think the
13 company agrees with that, that that should have been A.
14 And I think we would just note that for the record.

15 **CHAIRMAN BRISÉ:** Okay. So we are just --
16 where it says 12B it should really say 12A?

17 **MR. WILLIS:** Yes.

18 **CHAIRMAN BRISÉ:** Okay. All right.

19 Commissioner Balbis, you were in the process.

20 **COMMISSIONER BALBIS:** Yes, Mr. Chairman, and I
21 was actually going to address that. And there are a few
22 other periods and commas that will come up, but the
23 overall details in the document is consistent with what
24 we agreed upon and the comments that we have made. So
25 if we are in the proper posture, I would like to make a

1 motion.

2 But prior to doing that, I think one other
3 benefit that I would like to thank the parties for is
4 that the additional concessions that were made, that
5 those reductions were made to affect the residential
6 customers. So not only do we have commercial/industrial
7 customers benefiting from the settlement, but
8 residential customers as well. So I want to thank the
9 parties for that.

10 And with that being said, and based on all of
11 the ample evidence in the record and the discussions
12 that we have had and the questions that have been asked
13 and answered of staff and others, I move approval of the
14 revised stipulation and settlement agreement in Docket
15 120015.

16 **CHAIRMAN BRISÉ:** Okay. It has been moved. Is
17 there a second?

18 Commissioner Edgar.

19 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman,
20 and thank you for the opportunity to second the motion
21 that Commissioner Balbis has made.

22 I do believe that inherent in that motion is
23 the administrative ability for our staff to correct any
24 what I would term scrivener's errors, recognizing that
25 that would be nonsubstantive, and only what I would,

1 again, term as a scrivener's error that is clear from
2 the intent, or to manifest what is clearly the intent of
3 the document.

4 I also want to take the opportunity to make
5 one additional comment. I said at least two, and I
6 think maybe closer to three or four times earlier in our
7 discussions this morning that I had concerns about some
8 provisions in the settlement that was filed, and that I
9 was prepared to vote to deny the motion to approve it.

10 I know I said it twice. I think I said it
11 three times. I think I said it four times. So let me
12 say it again, I was prepared to vote against that
13 document. I do believe that the work product that we
14 have is far superior, and I think each of you again for
15 your work, and let me second that motion one more time.

16 **CHAIRMAN BRISÉ:** All right. As the motion has
17 been moved and seconded, I think there is an additional
18 component that has to be added to the motion and that
19 has to do with the administrative authority to staff to
20 sort of deal with the tariffs and so forth.

21 **MR. WILLIS:** Not only the tariffs that will
22 come in attached to this document for the rates that
23 will go in on the first billing cycle, but also the GBRA
24 tariffs that will be filed. That should be
25 administrative staff's review to make sure all the

1 calculations are correct, and if they are they would be
2 administratively approved.

3 **CHAIRMAN BRISÉ:** Okay. Since I can't --

4 **COMMISSIONER BALBIS:** Mr. Chairman, I would
5 amend my motion to give staff the administrative
6 authority to make any scrivener's errors corrections,
7 any corrections to the tariffs, and also the GBRA
8 collection factors that are appropriate.

9 **CHAIRMAN BRISÉ:** Okay.

10 **COMMISSIONER EDGAR:** And I will second that,
11 and note that I do believe that that is consistent with
12 our normal processes.

13 **CHAIRMAN BRISÉ:** Okay. So it has been moved
14 and seconded.

15 Commissioner Graham.

16 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

17 I just wanted to hear Commissioner Edgar say
18 again that she was not going to vote for the original
19 settlement.

20 (Laughter.)

21 **COMMISSIONER GRAHAM:** And, actually, I do want
22 to make sure that we have dotted all the Is and crossed
23 the Ts with the legal side, as well. And I see the
24 General Counsel nodding his head yes. Thank you.

25 **CHAIRMAN BRISÉ:** Okay.

1 Commissioner Brown.

2 **COMMISSIONER BROWN:** Thank you.

3 And I know I speak on behalf of all of us, and
4 I think we would be remiss if we do not thank our staff
5 for their countless time, hours, briefings. I know
6 personally we have talked to -- I have talked to many of
7 you over the past few months. And, of course, to the
8 parties and the intervenors and the pro se litigants who
9 spent their own money and time coming up here. Your
10 arguments were heard and definitely loud and clear.
11 But, really, staff, you guys are tremendous. I am so
12 impressed with your professionalism, your acumen. And I
13 know I speak, again, on behalf of all my colleagues that
14 this case was very unusual in the amount of time that
15 has been invested. So thank you all.

16 **CHAIRMAN BRISÉ:** Thank you.

17 Commissioner Balbis.

18 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

19 Just to continue the discussion, and I think
20 we will wrap up, but I think Commissioner Brown makes a
21 good point in that we have gone through such an
22 extensive process. I know that there has been concern,
23 or at least discussion as are we setting a precedent,
24 but I'm not sure that there's going to be other parties
25 willing to go through this level of scrutiny that we

1 have gone through this settlement and this rate case.

2 So that concludes my --

3 **CHAIRMAN BRISÉ:** All right. Thank you.

4 So we have a motion; it has been seconded.

5 All in favor say aye.

6 (Vote taken.)

7 **CHAIRMAN BRISÉ:** Thank you very much.

8 Before we adjourn, I said I was going to say a
9 couple of things. I want to thank staff for your hard
10 work on this. You know, you all traveled with us to the
11 service hearings and you worked long hours. And, you
12 know, as we asked -- each office asked for information,
13 the information was always accurate and it was timely.
14 So we thank you for that.

15 I want to thank the staffs of those who are on
16 the public dime who worked -- who may not work here at
17 the Commission, who have worked hard to advocate a
18 position, and I think that that is important to
19 recognize, as well. We may not always agree, but that
20 work is appreciated. And we certainly hope that as we
21 have made this decision, I know that consumers will
22 greatly benefit as a result of our decision today.

23 With that, I wish everybody happy holidays.
24 Those are who traveling, safe travels. And with that we
25 adjourn.

(The Special Agenda concluded at 4:03 p.m.)

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 21st day of December, 2012.



JANE FAUROT, RPR
FPSC Official Commission Reporter
(850) 413-6732

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

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

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

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

DATED THIS 21st day of December,
2012.


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

Florida Power & Light company
Docket No. 120015-EI
Revenue Adjustments for Certain Adjustments

Adjustment	Company Requested Revenue Requirement	Revenue Adjustment
Plant Held for Future Use: Removes the land associated with solar use from the McDaniel and Ft. Drum property.	\$26,295,200	\$3,265,767
Plant Held for Future Use: Removes the PGA Blvd property.	\$2,731,963	\$2,731,963
Vacant Positions: Reduction for vacant positions using May 2012 actual headcount (356 positions)	\$29,464,000	\$29,464,000
Salary Increases: Only allows a 10% raise from last rate case for bargaining employees to equal to non-bargaining employees pay raises.	\$ 37,211,070	\$13,257,269
Incentive Compensation	\$44,742,000	0
DOL Insurance: To apply policy of 40/50 split between customers and shareholders,	\$2,744,523	\$1,372,262
Total adjustments		\$50,091,261

Commissioner
Parties/Staff Handout
Internal Affairs/Agenda
on 12/13/12
Item No. *Spec Agn*
120015-12

Docket No.: 120015-EI
December 13, 2012

Office of Public Counsel's Response to Chairman Brisé's
Request for Comments on Modified August 15 Document

1. OPC renews its legal objections to the August 15 purported settlement and to the process the Commission created to consider it.
2. Legal infirmities aside, OPC cannot support, will not sign, and objects to the August 15 purported settlement, with or without the modifications suggested by the Commission.
3. Today's meeting was noticed for a vote on the August 15 purported settlement. The break today does not provide a meaningful opportunity to negotiate.
4. OPC has been and remains open to meaningful negotiations toward a result that is fair and reasonable to all parties.

Parties/Staff Handout
Internal Affairs/Agenda
on 12/13/12
Item No. Spec. Agn
120015-12