

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR RATE INCREASE BY  
FLORIDA POWER & LIGHT COMPANY.  
\_\_\_\_\_ / DOCKET NO. 160021-EI

PETITION FOR APPROVAL OF  
2016-2018 STORM HARDENING PLAN  
BY FLORIDA POWER & LIGHT  
COMPANY.  
\_\_\_\_\_ / DOCKET NO. 160061-EI

2016 DEPRECIATION AND  
DISMANTLEMENT STUDY BY,  
FLORIDA POWER & LIGHT COMPANY.  
\_\_\_\_\_ / DOCKET NO. 160062-EI

PETITION FOR LIMITED  
PROCEEDING TO MODIFY AND  
CONTINUE INCENTIVE MECHANISM,  
BY FLORIDA POWER & LIGHT  
COMPANY.  
\_\_\_\_\_ / DOCKET NO. 160088-EI

VOLUME 1

(Pages 1 through 171)

PROCEEDINGS: HEARING

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

DATE: Monday, August 22, 2016

TIME: Commenced at 9:30 a.m.  
Concluded at 12:20 p.m.

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

REPORTED BY: LINDA BOLES, CRR, RPR  
Official FPSC Reporter  
(850) 413-6734

## 1 APPEARANCES:

2 JOHN T. BUTLER, R. WADE LITCHFIELD, KEVIN I.C.  
3 DONALDSON, KEN RUBIN, and MARIA MONCADA, ESQUIRES,  
4 700 Universe Boulevard, Juno Beach, Florida 33408-0420;  
5 SUSAN F. CLARK, ESQUIRE, 301 South Bronough Street,  
6 Suite 200, Tallahassee, Florida 32301; and  
7 CHARLES A. GUYTON, ESQUIRE, 215 South Monroe Street,  
8 Suite 601, Tallahassee, Florida 32301, appearing on  
9 behalf of Florida Power & Light Company.

10 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,  
11 ERIK L. SAYLER; and PATRICIA A. CHRISTENSEN, ESQUIRES,  
12 Office of Public Counsel, c/o the Florida Legislature,  
13 111 W. Madison Street, Room 812, Tallahassee, Florida  
14 32399-1400, appearing on behalf of the Citizens of the  
15 State of Florida.

16 ROBERT SCHEFFEL WRIGHT and JOHN T. LaVIA, III,  
17 ESQUIRES, Gardner Law Firm, 1300 Thomaswood Drive,  
18 Tallahassee, Florida 32308, appearing on behalf of the  
19 Florida Retail Federation.

20 JOHN B. COFFMAN, ESQUIRE, John B. Coffman,  
21 LLC, 871 Tuxedo Boulevard, St. Louis, Montana,  
22 63119-2044; and JACK MCRAI, 200 West College Avenue,  
23 #304, Tallahassee, Florida, 32301, appearing on behalf  
24 of AARP.

25

## 1 APPEARANCES (Continued):

2 JON C. MOYLE, JR., and KAREN PUTNAL, ESQUIRES,  
3 Moyle Law Firm, P.A., 118 North Gadsden Street,  
4 Tallahassee, Florida 32301, appearing on behalf of  
5 Florida Industrial Power Users Group.

6 DIANA CSANK, ESQUIRE, 50 F Street, NW, 8th  
7 Floor, Washington, DC 20001, appearing on behalf of  
8 Sierra Club.

9 KENNETH L. WISEMAN, MARK F. SUNDBACK, WILLIAM  
10 M. RAPPOLT, and KEVIN C. SIQVELAND, ESQUIRES, Andrews  
11 Kurth, LLP, 1350 I Street NW, Suite 1100, Washington, DC  
12 20005, appearing on behalf of South Florida Hospital and  
13 Healthcare Association.

14 STEPHANIE U. ROBERTS, 110 Oakwood Drive, Suite  
15 500, Winston-Salem, North Carolina 27103; and DERRICK  
16 PRINCE WILLIAMSON, ESQUIRE, 1100 Bent Creek Boulevard,  
17 Suite 101, appearing on behalf of Wal-Mart Stores East,  
18 LP, and Sam's East, Inc.

19 THOMAS A. JERNIGAN, CAPTAIN NATALIE A. CEPAK  
20 and CAPTAIN LANNY ZIEMAN, ESQUIRES, USAF Utility Law  
21 Field Support Center, Air Force Legal Operations Agency,  
22 139 Barnes Drive, Suite 1, Tyndall Air Force Base,  
23 Florida 32403, appearing on behalf of Federal Executive  
24 Agencies.

25

1 APPEARANCES (Continued):

2 NATHAN A. SKOP, ESQUIRE, 420 NW 50th  
3 Boulevard, Gainesville, Florida 32607, appearing on  
4 behalf of Mr. Daniel R. Larson and Mrs. Alexandria  
5 Larson.

6 SUZANNE BROWNLESS, KYESHA MAPP, ADRIA HARPER,  
7 DANIJELA JANJIC, and MARGO LEATHERS, ESQUIRES, General  
8 Counsel's Office, 2540 Shumard Oak Boulevard,  
9 Tallahassee, Florida 32399-0850, appearing on behalf of  
10 the staff of the Florida Public Service Commission.

11 APPEARANCES:

12 KEITH HETRICK, ESQUIRE, General Counsel, and  
13 MARY ANNE HELTON, ESQUIRE, FPSC General Counsel's  
14 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
15 32399-0850, appearing as advisors to the Florida Public  
16 Service Commission.

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

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2           **CHAIRMAN BROWN:** Today is August 22nd, 2016.  
3 This is the FPL rate case, and I'd like to call this  
4 hearing to order.

5           Staff, will you please read the notice.

6           **MS. BROWNLESS:** By notice issued on July 15th,  
7 2016, by the Commission Clerk, this time and place has  
8 been set for a hearing in Docket Nos. 160021-EI,  
9 160061-EI, 160062-EI, and 160088-EI, a petition for  
10 increase in rates by Florida Power & Light Company, a  
11 petition for approval of the 2016 to 2018 storm  
12 hardening plan by Florida Power & Light Company, 2016  
13 depreciation and dismantlement study by Florida Power &  
14 Light Company, and petition for limited proceeding to  
15 modify and continue incentive mechanism by Florida Power  
16 & Light Company.

17           **CHAIRMAN BROWN:** Thank you very much. And at  
18 this time, we'll take appearances starting with on my  
19 left.

20           **MR. LITCHFIELD:** Wade Litchfield from Florida  
21 Power & Light Company.

22           **MR. BUTLER:** John Butler for Florida Power &  
23 Light Company. Also enter an appearance for Maria  
24 Moncada, Kevin Donaldson, Ken Rubin; Susan Clark of the  
25 Radey law firm; and Charles Guyton of the Gunster law



1 firm. Thank you.

2 **MR. MOYLE:** Good morning. I'm Jon Moyle with  
3 the Moyle Law Firm representing the Florida Industrial  
4 Power Users Group. They're commonly known as FIPUG.  
5 And Karen Putnal of our firm should also be reflected as  
6 appearing on behalf of FIPUG.

7 **CHAIRMAN BROWN:** Thank you.

8 **MR. WISEMAN:** Good morning. Ken Wiseman from  
9 Andrews Kurth for South Florida Hospital and Healthcare  
10 Association. And I'd also like to enter the appearances  
11 of Mark Sundback, Bill Rappolt, and Kevin Sigveland, all  
12 of Andrews Kurth.

13 **CHAIRMAN BROWN:** Thank you.

14 **MR. JERNIGAN:** Good morning. Thomas Jernigan  
15 for the Federal Executive Agencies. Along with me I  
16 have Captain Cepak, Captain Natalie Cepak, and Captain  
17 Lanny Zieman. Thank you.

18 **CHAIRMAN BROWN:** I'm sorry. Could you state  
19 the last party?

20 **MR. JERNIGAN:** Lanny Zieman, Captain Lanny  
21 Zieman.

22 **CHAIRMAN BROWN:** Okay.

23 **MS. CSANK:** Good morning. Diana Csank with  
24 the Sierra Club.

25 **CHAIRMAN BROWN:** Thank you.

1           **MR. SKOP:** Good morning. Nathan Skop  
2 appearing on behalf of Daniel and Alexandria Larson.

3           **CHAIRMAN BROWN:** Thank you.

4           **MR. WRIGHT:** Good morning, Commissioners.  
5 Robert Scheffel Wright of the law firm Gardner, Bist,  
6 Bowden, Bush, Dee, LaVia & Wright, appearing on behalf  
7 of the Florida Retail Federation. I'd also like to  
8 enter an appearance for my law partner John T. "Jay"  
9 LaVia, III. Thank you.

10          **CHAIRMAN BROWN:** Thank you.

11          **MR. COFFMAN:** May it please the Commission, I  
12 am John B. Coffman, appearing on behalf of AARP. Also  
13 appearing today is Jack McRay.

14          **CHAIRMAN BROWN:** Thank you.

15          **MR. REHWINKEL:** Good morning. Charles  
16 Rehwinkel, Deputy Public Counsel. I would also like to  
17 enter an appearance for J. R. Kelly, Public Counsel,  
18 Patty Christensen, and Erik Sayler of the Office of  
19 Public Counsel, appearing on behalf of the citizens of  
20 Florida.

21          **CHAIRMAN BROWN:** Thank you.

22          **MS. BROWNLESS:** Good morning. Suzanne  
23 Brownless. I'm appearing on behalf of the Commission  
24 staff. And with me will be Danijela Janjic, Kyesha  
25 Mapp, Margo Leathers, and Adria Harper.

1           **CHAIRMAN BROWN:** Thank you.

2           **MS. HELTON:** And good morning. I'm Mary Anne  
3 Helton. I'm here as your advisor today. I'd also like  
4 to make an appearance for your General Counsel, Keith  
5 Hetrick Hetrick.

6           **CHAIRMAN BROWN:** Thank you. And it's great to  
7 have you all here today, and to members of the audience,  
8 thank you so much for being here today and being part of  
9 this overall process. Before we get into any  
10 preliminary matters, I want to first take this  
11 opportunity to thank our fine, dedicated staff who have  
12 put in hundreds and hundreds of hours. They've worked  
13 late on the weekends, evenings, and in order so that we  
14 can have an efficient, fair, and proper proceeding.

15           Our entire legal staff and technical staff led  
16 by Suzanne Brownless and, of course, Bart Fletcher  
17 really has done just an outstanding job, so I wanted to  
18 take the opportunity to thank you first and foremost. I  
19 also want to take the time to thank those staff members  
20 who attended all of the nine service hearings with us  
21 throughout the state of Florida, and as well as my  
22 fellow Commissioners, I want to thank you guys for that  
23 journey that we took, and appreciate all of the work,  
24 especially Cindy Muir, who helped lead all of the -- or  
25 organized all of those meetings.

1           Finally, I'd like to thank the prehearing  
2 officer in this docket, Commissioner Lisa Edgar, our  
3 senior and most experienced Commissioner here. Thank  
4 you for taking the time. I know you put a lot of extra  
5 time and energy into this and managing this docket. So  
6 thank you for that.

7           Now I'd like to give you all an overview, a  
8 roadmap of how I foresee the next two lovely weeks that  
9 we have here together today. So we have two weeks,  
10 approximately 50 witnesses with 11 parties, which  
11 includes the Public Service Commission staff. In order  
12 to have an efficient proceeding that is fair to all  
13 parties who are involved, while being sensitive of our  
14 time constraints, I am planning for us to take about a  
15 45-minute lunch break each day where there's a general  
16 natural stopping point, taking ten- to 15-minute breaks  
17 every two to three hours so that our court reporter can  
18 rest and we can all stretch. Also, I'd like to end each  
19 night before suppertime, hopefully no later than 7:00,  
20 but, of course, that is subject to change, depending on  
21 how the case proceeds.

22           I'd like to also start the day before 9:30 as  
23 much as possible, and so I'll make the announcement of  
24 the start time at the conclusion of each day, so that we  
25 can cover as much material as possible. Please feel

1 free to stretch your legs and move around as much as you  
2 need to, but try not to disturb the flow of the  
3 proceeding. And that's very important for the audience  
4 members who are here today. This is the official  
5 technical hearing that is being transcribed for the  
6 record, so it's important that you're courteous to all  
7 parties involved, especially when there's a witness on  
8 the stand. So I want to take that opportunity to thank  
9 you all for being here again, and now we'll get into  
10 some preliminary matters. Staff.

11 **MS. BROWNLESS:** Yes, ma'am. The first  
12 preliminary matter is sequestration. FIPUG and South  
13 Florida Hospital and Healthcare Association have both  
14 reserved the right within their prehearing statements to  
15 request that certain witnesses be sequestered during the  
16 hearing.

17 **CHAIRMAN BROWN:** All right. Mr. Moyle, do you  
18 wish to request sequestration of witnesses at this time?

19 **MR. MOYLE:** Yes, ma'am, pursuant to Florida  
20 Evidence Code Chapter 90.616(1), we would invoke our  
21 statutory right to have witnesses who are testifying in  
22 this matter not be in the room, not listen to what's  
23 being said on video, not read transcripts, not talk to  
24 other witnesses, not talk to lawyers. But as is  
25 commonly done in trial and DOAH proceedings and others,

1 we'd like to invoke the rule of sequestration of  
2 witnesses.

3 **CHAIRMAN BROWN:** I'll give you an opportunity  
4 to argue that in just a moment.

5 Hospital Association, Mr. Wiseman.

6 **MR. WISEMAN:** Thank you, Your Honor.

7 Yes, the Hospital Association also would  
8 request the right to -- or is requesting that witnesses  
9 be sequestered, and it would be for all witnesses in  
10 this case.

11 **CHAIRMAN BROWN:** Okay. And I will give each  
12 of you an opportunity to argue the merits, and then I'll  
13 turn to Florida Power & Light for a response. And I  
14 will start with you, Mr. Moyle, and please provide  
15 brief -- a brief argument.

16 **MR. MOYLE:** Okay. Well, I would, I've cited  
17 the statute to you, which is 90.616(1), and it says, "At  
18 the request of a party, the Court shall order," and it  
19 goes on and says the Court can do to it on its own  
20 motion, "witnesses excluded from a proceeding so they  
21 cannot hear the testimony of other witnesses." And then  
22 it says, "Except as provided in (2)," and there's some  
23 exceptions in (2).

24 **CHAIRMAN BROWN:** Hold on one second. Thank  
25 you.

1           **MR. MOYLE:** Professor Ehrhardt, who is  
2 recognized as one of the leading authorities on evidence  
3 in the state, in his treatise that is from 2008,  
4 June 2008, exclusion of witnesses, has some comments  
5 that I think that are instructive. He says, on page  
6 655, that Section 90.616 adopts the view of the federal  
7 Rule 615 that sequestration is demandable as a matter of  
8 right.

9           Also I made this point, I don't think it's  
10 debatable, but he says on page 656, quote, it seems  
11 clear that sequestration prohibits more than merely  
12 preventing a witness from hearing another person  
13 testify. Wigmore suggests the process of sequestration  
14 also involves preventing the prospective witnesses from  
15 consulting each other and preventing them from  
16 consulting a witness who has left the witness stand.

17           There has also on occasion been discussion  
18 about whether the Florida Evidence Code applies, and the  
19 provision I'm quoting, 90.616, is contained within the  
20 evidence code. But I would refer you to 90.103, which  
21 is the evidence code and says, "Scope and  
22 applicability." And paragraph 2 says, quote, this act  
23 shall apply to criminal proceedings related to crimes  
24 brought after the effective date of this code and to  
25 civil actions and all other proceedings pending on or

1 brought after October 1, 1981.

2           Again, Professor Ehrhardt, at page 655, says  
3 "The use of the word proceedings," quote, unquote, "on  
4 proceeding instead of the word trial," quote, unquote,  
5 "suggests the legislative intent is not to limit the  
6 provision to trials."

7           And I would also note that the Florida Supreme  
8 Court in *Hernandez vs. State of Florida*, 4 So.3d 642,  
9 addressed sequestration and made the following  
10 statement. This is on 663, I believe. Quote, while our  
11 decisions under the common law emphasize the  
12 discretionary nature of the decision to sequester  
13 witnesses, Section 90.616 adopts the view that  
14 sequestration is demandable as a matter of right." And  
15 they cite Professor Ehrhardt following that statement.

16           So I think the law -- we would argue that the  
17 law in Florida is clear that it's a right, just like  
18 people are provided a lot of other rights, and it's a  
19 right that we would opt to invoke before this  
20 proceeding. I don't know that I really need to, unless  
21 you tell me you would like me to, you know, kind of  
22 explain the reasons why, but --

23           **CHAIRMAN BROWN:** No. Thank you.

24           Mr. Wiseman.

25           **MR. WISEMAN:** Thank you. I'm not going to



1 belabor the legal argument Mr. Moyle has raised, and we  
2 believe the law in Florida -- in Florida, it's  
3 mandatory; if we request sequestration, it must be  
4 granted. And I'm not sure -- if you want me to get into  
5 the specific reasons why we think it's important here, I  
6 I'll do that.

7 **CHAIRMAN BROWN:** Yes, if you could do that  
8 very succinctly.

9 **MR. WISEMAN:** I will. Very simply, there's a  
10 lot of overlap on the -- of the issues here where one  
11 witness's testimony borders on issues that are raised by  
12 another witness, and this proceeding should be hearing  
13 the testimony of individual witnesses, what they have to  
14 say. If the process is followed where a witness takes  
15 the stand, provides testimony, and thinks about it after  
16 the fact and says, "Oops, you know, maybe I missed  
17 something, maybe there was something I said that was  
18 wrong," or another witness is listening in and has the  
19 same reaction, there's the opportunity for the second  
20 witness, the subsequent witness to effectively pad the  
21 record and place things in evidence that really were not  
22 within the scope of that witness's testimony. So we  
23 think, as a practical matter, sequestration is needed  
24 here.

25 **CHAIRMAN BROWN:** So those are the reasons.

1 Okay. Thank you.

2 And FPL.

3 **MR. REHWINKEL:** Madam Chairman?

4 **CHAIRMAN BROWN:** Where is that coming from?

5 **MR. REHWINKEL:** Public Counsel down here. We  
6 would like to be heard on this, but would be happy to go  
7 after FPL. We do not support sequestration.

8 **CHAIRMAN BROWN:** I don't think it's  
9 appropriate for you to go after FPL, and you did not  
10 raise it as an objection during the prehearing  
11 conference.

12 **MR. REHWINKEL:** My understanding was the only  
13 requirement is that if you wanted sequestration, you had  
14 to raise it. We are opposed to it, and we would like to  
15 be heard on why it is not a good idea.

16 **CHAIRMAN BROWN:** Staff? All right, you can go  
17 right now.

18 **MR. REHWINKEL:** Okay. The Public Counsel has  
19 several witnesses in this case. The request for  
20 sequestration came after all the testimony had been  
21 filed, at least the company's testimony and the  
22 intervenors' testimony. I've been practicing for  
23 31 years now before this agency and have never  
24 encountered sequestration. All of the testimony is  
25 prefiled in this case. All of the depo -- we've taken

1 ten-plus depositions. Those have been open and  
2 available to all of the witnesses to review and listen  
3 to. There are hundreds, if not thousands, of discovery  
4 responses that will make up part of the record in this  
5 case, and that has been available to all of the  
6 witnesses.

7           Sequestration, as it is stated in the statute,  
8 bars witnesses from hearing the testimony of other  
9 witnesses. FPL has \$20,000 of rate case expense  
10 estimate in here for stenotype reporters, which we  
11 believe means they take daily transcripts of the  
12 proceedings and disseminate that as they need throughout  
13 their cadre of witnesses and support personnel. We do  
14 not believe that is a fair and level playing field to  
15 have sequestration with all of the resources that are  
16 available to FPL that we don't have. We have done  
17 everything and structured our case with the  
18 understanding that our witnesses would be able to assist  
19 us in cross-examination, as has been done for decades  
20 before this agency, and it is a substantial hardship to  
21 us to represent the people of the state of Florida with  
22 sequestration. We understand the reason for it being  
23 requested. We do not believe that it fits the process  
24 that has been in place that we have relied upon in  
25 preparing our case, preparing our evidence to present to

1 the Commission, and it will make a significant hardship  
2 to us.

3 If you do grant sequestration, we would urge  
4 and say that it is only fair that the order on  
5 sequestration be plenary, comprehensive, and global, and  
6 restrict all witnesses from knowing anything about  
7 what's been testified to live in the hearing. No live  
8 daily transcripts, no memos, no listening on the phone,  
9 on the internet, watching it on television, any  
10 communication. It has to be plenary or it's not  
11 effective and it is unfair to the parties.

12 This statute, we believe, is not written for  
13 the process that goes on at this Commission where it --  
14 this proceeding is on the telephone, it can be seen  
15 around the world, it's seen statewide on television, and  
16 all of the evidence has been prefiled. So for those  
17 reasons, we do not support it. Thank you.

18 **CHAIRMAN BROWN:** Excellent, good points that  
19 you raised. Parties, any other parties before I turn to  
20 FPL? Would any other parties like to chime in?

21 All right. Mr. Butler.

22 **MR. BUTLER:** Well, Mr. Rehwinkel certainly  
23 stole my thunder. FPL opposes sequestration for many of  
24 the reasons, frankly, that Mr. Rehwinkel laid out.

25 I would point out that, you know, the Hospital

1 Association and FIPUG rely too heavily on the evidence  
2 code. This is a -- not a judicial proceeding. It's an  
3 administrative quasi-judicial proceeding. As far back  
4 as 1957, the Florida Supreme Court has acknowledged,  
5 quote, in administrative proceedings, the formalities  
6 and the introduction of testimony common to the courts  
7 of justice are not strictly employed. That's from *De*  
8 *Groot v. Sheffield*, 95 So.2d 916, Florida 1957.

9 There's a decision of the Florida First DCA in  
10 2011, *Bush v. City of Mexico Beach*, 711 -- or 71, sorry,  
11 So.3d 147, that makes the same point under the  
12 1996 amendments to the Florida APA.

13 So you are not, as Mr. Moyle and Mr. Wiseman  
14 would suggest, bound to follow the Florida Evidence Code  
15 in your decisions on sequestration here. Furthermore,  
16 even if the evidence code applied, you know, there are  
17 exceptions. Mr. Moyle alluded to them but didn't give  
18 them a lot of attention in his comments. One of them,  
19 under Section 90.616(2)(c), the Florida courts have  
20 frequently excluded expert witnesses from the  
21 application of the rule of sequestration, and we have a  
22 lot of expert witnesses here.

23 And finally, I'd just reiterate what  
24 Mr. Rehwinkel had said. You know, there's prefiled  
25 testimony. There are depositions. People know what

1 other witnesses have said. And there's a decision in  
2 the Florida Supreme Court in 2000, *Beasley v. State*, in  
3 which -- really fairly similar circumstances. A trial  
4 court denied sequestration where the testimony of the  
5 witness for whom sequestration was sought had already  
6 been memorialized in a deposition, and the court  
7 basically said, "What's the point? The testimony is  
8 already there." The Supreme Court affirmed that  
9 decision of the trial court. So for all of those  
10 reasons, we urge you to deny the request for  
11 sequestration.

12 **CHAIRMAN BROWN:** Thank you. Having heard  
13 arguments from all the parties here today who spoke, my  
14 ruling is that the motion for sequestration of witnesses  
15 by FIPUG and the Hospitals is denied. No witnesses will  
16 be sequestered in this case for of all the reasons  
17 articulated by Office of Public Counsel and FPL. It's  
18 not practical, nor is it appropriate in this proceeding.  
19 Thank you.

20 Moving on to other preliminary matters.

21 **MS. BROWNLESS:** Yes, ma'am. The next matter  
22 is witness availability. Last week, the South Florida  
23 Hospital and Healthcare Association indicated that its  
24 witnesses, Mr. Baudino, Baron, and Kollen, would only be  
25 available on Thursday and Friday, August 25th and 26th,

1 and not available at all on the second week of the  
2 hearing. AARP also wished to have the Commission set a  
3 date certain for the appearance of its witness, Michael  
4 Brosch.

5           Additionally, some of OPC's, Wal-Mart's, and  
6 FIPUG's witnesses are not available during portions of  
7 the first or second weeks of the hearing. My  
8 understanding is that FP&L wishes to present its direct  
9 case without interruption, but is thereafter amenable to  
10 accommodate the schedules of these witnesses. Because  
11 this matter has been the subject of many emails over the  
12 last week and, frankly, a bit confusing for me, I would  
13 like to ask each of the parties if they have any  
14 scheduling requests at this time.

15           **CHAIRMAN BROWN:** All right. Let's go with the  
16 ones that we have those challenges, starting with FIPUG.

17           **MR. MOYLE:** So as we've done in multiple  
18 proceedings before, the parties typically work well with  
19 each other about scheduling witnesses and a lot of  
20 witnesses have to come in from out of town. FIPUG has  
21 one witness, Mr. Jeff Pollock. And I consulted with  
22 Mr. Butler. He thought his case was going to go for at  
23 least the first week, so I didn't worry about that. But  
24 then Mr. Pollock is not available toward the end of the  
25 second week and he's available the 29th, 30th, and 31st.

1 And for travel plans, I asked everybody, "How about if  
2 he goes on the morning of the 30th?" Nobody wrote back  
3 and said they had a problem with that, so, you know,  
4 he's scheduled to be down here Monday night and  
5 hopefully take the stand Tuesday, the 30th.

6 **CHAIRMAN BROWN:** Okay. Hospitals.

7 **MR. WISEMAN:** Thank you, Madam Chair. Just a  
8 clarification. I've made clear to FPL -- it wanted to  
9 know whether we were requesting that our witnesses take  
10 the stand prior to the conclusion of FPL's direct  
11 testimony, and we made clear we are not. It will be a  
12 real challenge for our witnesses to get here the second  
13 week, but we don't intend to interfere with FPL's direct  
14 case. So the 25th and the 26th are the preferable dates  
15 for our witnesses.

16 **CHAIRMAN BROWN:** That's Thursday and Friday of  
17 this week.

18 **MR. WISEMAN:** Yes.

19 **CHAIRMAN BROWN:** Okay.

20 **MR. WISEMAN:** If that becomes impossible, then  
21 one way or another we will get our witnesses here the  
22 following week, but right now I can't give you -- there  
23 will be some days they can't show up, and we'll have to  
24 figure that out a little bit on the fly.

25 **CHAIRMAN BROWN:** Okay. And the next, FEA.



1           **MR. JERNIGAN:** Ma'am, while we don't have  
2 specific dates our witnesses have to be appear, they are  
3 all traveling out of town. And if we could get an idea  
4 of approximately what days so that we can arrange that  
5 travel and have them here for those specific days and  
6 limit the number of days that they need to be here, it  
7 would be appreciated.

8           **CHAIRMAN BROWN:** Yes, that is that challenge.

9           **MR. JERNIGAN:** Thank you, ma'am.

10          **CHAIRMAN BROWN:** Sierra.

11          **MS. CSANK:** Chairman Brown, we do not plan to  
12 present witnesses.

13          **CHAIRMAN BROWN:** Okay. And -- I know that.  
14 And the last -- Wal-Mart.

15          **MS. ROBERTS:** (Not on microphone).

16          **CHAIRMAN BROWN:** Pardon me. Could you please  
17 come up? I don't believe you had an opportunity to give  
18 a notice of appearance as well, so please give -- at  
19 this time give your notice of appearance.

20          **MS. ROBERTS:** Certainly. Stephanie Roberts  
21 for Wal-Mart. I'm at Spilman, Thomas & Battle. I would  
22 also ask that my colleague Derrick Williamson be  
23 acknowledged for the hearing. He and I are both going  
24 to be appearing.

25                 Our witness, Steve Chriss, was available this

1 week. But after speaking with Ms. Brownless, we  
2 realized, you know, we don't intend to interrupt FPL's  
3 case. And so Mr. Chris is also available to come back  
4 on the 1st, so I've asked that he do that. He's  
5 traveling from Arkansas.

6 **CHAIRMAN BROWN:** Thank you. And we'll try to  
7 get you a seat here. Our staff will try to accommodate  
8 you expeditiously so that she has a seat available.

9 And Public Counsel.

10 **MR. REHWINKEL:** Thank you. Madam Chairman, we  
11 think we're pretty good. We're flexible with our  
12 witnesses. We've asked our witnesses to travel on  
13 Sunday with the assumption that the pace of the  
14 company's case will take them at least through Friday.  
15 Ralph Smith is not available on the first two days, but  
16 he's our last witness and he will go last.

17 Mr. Pous is flexible on his timing as well and  
18 he lives the closest. So he's available on all the days  
19 and we can make it work. Mr. Dismukes is not available  
20 the Wednesday and Thursday, but we would hope to move  
21 him -- take him up early. And Mr. O'Donnell is not  
22 available on Tuesday. But having said all that, we  
23 believe that we have the flexibility to move our  
24 witnesses around to put it in the window between the  
25 company's and the direct and rebuttal.

1           **CHAIRMAN BROWN:** Excellent. Thank you.

2           Wal-Mart.

3           **MR. COFFMAN:** AARP?

4           **CHAIRMAN BROWN:** I mean, AARP. Thank you.

5           **MR. COFFMAN:** Yes. We have one witness,  
6           Michael Brosch, who is not available this week, so we  
7           don't expect that it would interfere with the direct  
8           case of the utility, but we would respectfully request a  
9           date certain. Tuesday the 30th would be the most  
10          convenient, although we could do it another day next  
11          week. But we'd just request a date certain. If the  
12          30th is good, we would like to lock that in.

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

14          FPL, any response?

15          **MR. BUTLER:** I've not heard anything that  
16          would be too difficult to accommodate if we can fit it  
17          in after the end of our direct case and ideally before  
18          we start our rebuttal case. We're flexible on whatever  
19          order works for everyone else.

20          **CHAIRMAN BROWN:** Okay. Thank you. And I do  
21          strongly believe that any petitioner should be allowed  
22          to put on its case in chief first and foremost. And to  
23          the extent -- this Commission is always willing to work  
24          with the parties and accommodating the witness  
25          schedules. But to the extent the intervenors can work

1 together along with FPL and agree on how to arrange the  
2 witnesses differently than they appear in the Prehearing  
3 Order, we'll try to accommodate those requests too. But  
4 we will first begin with the first week at least so that  
5 FPL can present its full case in chief.

6 Mr. Moyle.

7 **MR. MOYLE:** Just a somewhat related matter. I  
8 think in the prehearing conference we established that  
9 the witnesses are going to appear based in the order as  
10 set forth in the Prehearing Order, and that FPL said  
11 they're not going to take any direct and rebuttal  
12 witnesses at the same time. That's important for  
13 preparation and getting ready. So to the extent that  
14 there's a change, I don't think it's something that's  
15 contemplated for just to be we're changing the order as  
16 compared to letting everyone know we're changing the  
17 order and making sure everyone is comfortable with the  
18 proposed change in the order.

19 **CHAIRMAN BROWN:** Excellent. FPL.

20 **MR. BUTLER:** We don't have any intent of  
21 changing the order of our witnesses. And I meant my  
22 comment in terms of being flexible to work with the  
23 parties on changes to the intervenor witnesses.

24 **CHAIRMAN BROWN:** That's what I thought you  
25 meant.

1 All right. Any other matters on the witness  
2 availability?

3 Okay. Ms. Brownless, let's move on to other  
4 preliminary matters.

5 **MS. BROWNLESS:** Yes, ma'am. The next  
6 preliminary matter is the matter of affidavits recently  
7 filed by the Sierra Club. The Sierra Club has requested  
8 that it be allowed to have ten Sierra Club member  
9 witnesses testify at this final hearing regarding its  
10 associational standing or, in the alternative, mark for  
11 identification the affidavits of these witnesses as a  
12 composite exhibit to be admitted into evidence at the  
13 beginning of the hearing. The Sierra Club exhibits are  
14 marked for identification as Exhibit 113A on page 26 of  
15 the Prehearing Order.

16 **CHAIRMAN BROWN:** Sierra Club.

17 **MS. CSANK:** Good morning, Chairman Brown. As  
18 we circulated to the parties in this case, the Sierra  
19 Club and FPL are prepared to stipulate that Sierra Club  
20 has associational standing and meets the standing  
21 requirements under Florida rules both for the  
22 administrative proceedings purposes as well as for  
23 appellate purposes.

24 **CHAIRMAN BROWN:** Thank you.

25 FPL, can you confirm?

1           **MR. BUTLER:** We have so stipulated, of course  
2 with the understanding that as a result, they will  
3 withdraw their request to enter the affidavits into the  
4 record.

5           **CHAIRMAN BROWN:** Thank you.

6           Sierra Club, will you confirm that?

7           **MS. CSANK:** Yes.

8           **CHAIRMAN BROWN:** Thank you. I also reaffirm  
9 the standing of Sierra Club to fully participate as a  
10 party in this proceeding, so -- which was granted  
11 previously in PSC Order PSC-16-0299-PCO-EI, which was  
12 issued on July 27th. So we are finished with the  
13 affidavits.

14           Ms. Brownless.

15           **MS. BROWNLESS:** I just want to make sure that  
16 I have the stipulation straight. And so we will not --  
17 you are withdrawing Exhibit 317A; is that correct?

18           **CHAIRMAN BROWN:** Sierra Club?

19           **MS. CSANK:** Yes, that's correct.

20           **MS. BROWNLESS:** Thank you so much.

21           **CHAIRMAN BROWN:** All right. Moving on to any  
22 other preliminary matters? I believe we have a motion  
23 for official recognition, Ms. Brownless; is that  
24 correct?

25           **MS. BROWNLESS:** Yes, ma'am, that's the next

1 thing.

2           **CHAIRMAN BROWN:** All right. I'm going to  
3 entertain very brief arguments on the motion first by  
4 FPL and then by the intervenors. Stress again, brief.

5           **MS. MONCADA:** Thank you. I will try to be as  
6 brief as possible.

7           FPL filed this motion for official recognition  
8 of certain Commission orders out of an abundance of  
9 caution. We are, of course, aware of the practice that  
10 this Commission has to recognize its own orders and that  
11 any party is free to cite the Commission's orders in  
12 their post-hearing brief.

13           The reason FPL files this motion is because we  
14 have done some research on appellate precedent and found  
15 some case law that makes it not exactly black and white  
16 but it's actually murky as to whether we can then on  
17 appeal, if an appeal were to occur, cite and rely on the  
18 Commission orders, and that is the reason for our  
19 motion.

20           As a matter of law, we have satisfied all of  
21 the legal requirements. We provided the parties the  
22 sufficient time. We've cited Section 90.202(5), which  
23 says that a tribunal can take judicial notice of  
24 official actions of legislative, executive, and  
25 judicial -- official actions of the legislative,

1 executive, and judicial departments of the state.

2 Although the other parties objected to this motion, no  
3 one has taken the position that this is not an official  
4 action as contemplated by the rule.

5 Instead, the parties' objections appear to be  
6 that the Commission already has in place a practice to  
7 recognize the orders. And we don't intend to disturb  
8 that, but rather thought this was a streamlined,  
9 efficient way to get the orders into the record, if we  
10 so needed it on appeal.

11 **CHAIRMAN BROWN:** Thank you, Ms. Contada (sic).

12 **MS. MONCADA:** Moncada.

13 **CHAIRMAN BROWN:** Moncada. Thank you for the  
14 correction.

15 And for future matters, if FPL does wish to  
16 continue this practice of filing motions for official  
17 recognition, it would be helpful in the schedule to  
18 actually write the name -- the title in addition to the  
19 order number. Although I do think it's easily  
20 acceptable and -- accessible, it's helpful to see what  
21 the case is in the order.

22 **MS. MONCADA:** We will do so. And we can also  
23 provide a replacement schedule, if that would be helpful  
24 for this Commission.

25 **CHAIRMAN BROWN:** I believe staff would



1 appreciate that, as would I.

2 We are going to take argument now from Public  
3 Counsel and then the rest of the intervenors who are  
4 opposing this, starting with Mr. Rehwinkel.

5 **MR. REHWINKEL:** Thank you, Madam Chairman and  
6 Commissioners. The Public Counsel opposes this because  
7 it is not required and we believe that it is a trap for  
8 the unwary. We do not -- there's nothing in -- I think  
9 this looks like about 100 orders. There's no  
10 description of the orders and what they relate to and  
11 how they relate to the case.

12 They're -- I assume from FPL's motion that  
13 they're saying that they're worried that when they get  
14 into the appellate sphere, that there will be a lack of  
15 nexus between the orders that they would cite and the  
16 case, but this piece of paper and these bare numbers do  
17 not provide any nexus.

18 We would supplement that request and ask the  
19 Commission to just take notice, official recognition of  
20 all of your orders and that -- the case -- the problem  
21 would be solved. Because qualitatively there's nothing  
22 different from this naked list of orders and these  
23 documents here, which are the official reporters.  
24 120.53 requires you to index all of your orders. So we  
25 would ask that if you were to grant such a motion, that

1 you'd just take notice of all orders that are indexed  
2 pursuant to 120.53, and that would solve the problem  
3 that is presented.

4           It -- we understand the concern by FPL about  
5 getting into the appellate world and having some fault.  
6 But we think if you just take a broad notice of all your  
7 orders, that fixes that, if that's the nature of it.  
8 But more to the point, parties that don't do this would  
9 be subject to some sort of fault from here on unless  
10 you're going to make that a practice. This is late. It  
11 came on Friday, very late in the process, less than  
12 72 hours before the start of this hearing, and I believe  
13 the appropriate time to have raised this would have been  
14 much earlier in the process where the parties could  
15 have -- rather than getting ready for the -- preparing  
16 for testimony and cross-examination and the hearing  
17 itself, spent time trying to review 100 orders. It's  
18 unfair. So we think that it is unneeded and this is too  
19 late, and the fix is really to just take notice of all  
20 your orders pursuant to one -- that you indexed pursuant  
21 to 120.53. Thank you.

22           **CHAIRMAN BROWN:** Thank you.

23           **MS. MONCADA:** Madam Chair, I hate to  
24 interrupt, but if it would short circuit further  
25 arguments on this matter, FPL is willing to agree to

1 that stipulation that OPC has suggested. We have  
2 provided also other alternatives, which is to have  
3 everyone submit a comprehensive list or a joint  
4 expensive list at the end.

5 **CHAIRMAN BROWN:** And that's the recognition of  
6 all orders that are indexed?

7 **MS. MONCADA:** We would agree to OPC's  
8 suggestion to recognize all orders that are indexed or  
9 alternatively provide a comprehensive list for all  
10 parties.

11 **CHAIRMAN BROWN:** This is getting murky here  
12 now, so let's just do this. I appreciate the  
13 willingness to stipulate, but I'd like to hear from all  
14 of the parties first, okay, that object to the motion.  
15 And it was filed two days -- staff; is that correct?

16 **MS. BROWNLESS:** Yes, ma'am.

17 **CHAIRMAN BROWN:** So it is a timely motion.

18 **MS. BROWNLESS:** Yes, ma'am.

19 **CHAIRMAN BROWN:** Okay. So I'd like to hear  
20 all other arguments opposing the motion, starting with  
21 AARP. I'll just go down the line here.

22 **MR. COFFMAN:** Thank you, Your Honor. We  
23 oppose the motion as well. I'm not aware of any forum  
24 where the deciding body has to recognize its own orders.  
25 It seems completely unnecessary, and it does concern me.

1 There are a couple of prior Florida PSC orders that we  
2 would wish to cite to ourselves, and now we're concerned  
3 that maybe we didn't do something that we should have  
4 done, didn't have notice that we should have done. But  
5 I guess in the alternative, we would support OPC's idea  
6 of recognizing all previous PSC orders.

7 **CHAIRMAN BROWN:** Okay. Great.

8 FRF.

9 **MR. WRIGHT:** Thank you, Madam Chairman. Good  
10 morning. Frankly, FPL's motion is a solution where  
11 there is no problem. Your Order Establishing Procedure  
12 states the following. "The Commission will recognize  
13 *Florida Statutes*, Commission rules, and Commission  
14 orders. Accordingly, it is unnecessary to seek official  
15 recognition of those materials." FPL left out the  
16 phrase that I just emphasized in its motion. It's clear  
17 their motion is unnecessary. There's no reason for them  
18 to file this three days before the hearing. The  
19 youngest case they cite in their motion is from 1990.  
20 This could have been brought up much earlier. It could  
21 have been brought up at the prehearing if it was an  
22 issue.

23 I do agree with Mr. Rehwinkel's suggestion and  
24 we would cheerfully stipulate that basically what you're  
25 Order Establishing Procedure says, you'll take official

1 recognition of all orders. But I think as a stipulation  
2 to resolve this problem today we can stipulate to  
3 recognize all your orders. I think it's that simple.  
4 Thank you very much.

5 **CHAIRMAN BROWN:** Okay. Thank you.

6 **MR. WRIGHT:** Thank you.

7 **CHAIRMAN BROWN:** Mr. Skop.

8 **MR. SKOP:** Thank you, Madam Chair. The  
9 Larsons also concur with Public Counsel and the rest of  
10 the intervenors in opposing the FPL motion.

11 **CHAIRMAN BROWN:** Thank you. FEA?

12 Sierra Club, you're not listed as opposing.  
13 Do you oppose?

14 **MS. CSANK:** (Nods negatively.)

15 **CHAIRMAN BROWN:** No? FEA?

16 **MR. JERNIGAN:** Ma'am, I believe that our  
17 position has already been laid out by the previous  
18 intervenors, and we continue to oppose and believe that  
19 your order is clear already. Thank you.

20 **CHAIRMAN BROWN:** Thank you.

21 Hospitals?

22 **MR. WISEMAN:** Thank you, Madam Chair. We  
23 agree with the other Intervenors. We continue to oppose  
24 the motion for the reasons that have been stated, and we  
25 would stipulate to the alternative proposed by OPC.

1           **CHAIRMAN BROWN:** Thank you.

2           Now, Mr. Moyle.

3           **MR. MOYLE:** Thank you. The -- your legal  
4 counsel, my recollection, has advised you over the years  
5 to say there's no need to take official recognition of  
6 your orders, that parties are free to cite them and can  
7 cite them. And FPL is not even suggesting that there is  
8 a problem. They're saying, "Oh, there may be a problem.  
9 It might be murky." Well, there's murky laws out there.  
10 We just had our sequestration argument. That may be a  
11 murky area of the law as well. And you have said there,  
12 let's go with the longstanding practice of the  
13 Commission, which is, you know --

14           **CHAIRMAN BROWN:** I did not say that,  
15 Mr. Moyle.

16           **MR. MOYLE:** Okay. I'm sorry. Well, anyway,  
17 the ruling was consistent with the longstanding  
18 practice. The longstanding practice here has not been  
19 to take official recognition of orders like this because  
20 I think it's -- you know, Mr. Rehwinkel, I think, used  
21 the words "trap." It's a little bit of a surprise. So  
22 if you don't put the order in there, then somehow if  
23 you're up on appeal and you find -- or are aware of a  
24 PSC order and you didn't put it in the list, you're, you  
25 know, not able to cite it? That seems to me to be

1 unfair and surely not adequate notice with it be being  
2 filed on Friday. And I don't -- you know, it's not  
3 needed.

4 I mean, consistent with your advice of your  
5 counsel, I would suggest that you deny the motion. If  
6 there is going to be a subsequent motion by  
7 Mr. Rehwinkel to take notice of everything, then I think  
8 that should be handled as a separate motion. It's not  
9 part of this motion. This motion is to take official  
10 recognition, and we would oppose it.

11 **CHAIRMAN BROWN:** Thank you. And before I turn  
12 to staff or find staff, I'll give FPL an opportunity to  
13 address the stipulation again and also the comments that  
14 were made.

15 **MS. MONCADA:** Sure. We, again, are willing to  
16 enter into the stipulation that was suggested by  
17 Mr. Rehwinkel and was agreed to by most of the  
18 intervenors. In addition, many have pointed out again  
19 that your Commission practice and that your advisors  
20 have stated throughout the years that there is no need  
21 to take official recognition. That is for purposes of  
22 citing the Commission orders in the post-hearing brief.  
23 And the concern here is what the appellate courts would  
24 do, and that is the reason we have filed this motion in  
25 an abundance of caution. But, again, it seems like

1 Mr. Rehwinkel came up with a workable solution that we  
2 are agreeable to.

3 **CHAIRMAN BROWN:** Okay. Thank you.

4 Ms. Helton.

5 **MS. HELTON:** I agree that it seems like we  
6 have a workable solution to a problem that I'm not sure  
7 is a real problem or not. But given that, I think that  
8 I have no issue with taking official recognition of all  
9 Commission orders by you today, as has been suggested by  
10 OPC and agreed to by Florida Power & Light and some of  
11 the other parties.

12 **CHAIRMAN BROWN:** Thank you, and that's what  
13 we'll do.

14 All right. Moving on to other matters. Are  
15 there any other matters at this time? And I'm turning  
16 to the parties as well. Any other preliminary matters,  
17 Mr. Rehwinkel?

18 **MR. REHWINKEL:** Yes. Madam Chairman, I would  
19 like to make a few comments about the process that has  
20 occurred to date. The Public Counsel has -- would like  
21 to commend the Commission and Prehearing Officer for  
22 dealing with a very complex case that has changed as --  
23 since March 15th as it was filed. But we just want to  
24 put on the record some observations about the state of  
25 case and the process before we --



1           **CHAIRMAN BROWN:** Is there a preliminary  
2 matter, or is this just narrative?

3           **MR. REHWINKEL:** Well, I can make some  
4 objection. I would like to make some objections about  
5 the process that has occurred. I need to state this for  
6 the record.

7           **CHAIRMAN BROWN:** Okay.

8           **MR. LITCHFIELD:** Madam Chairman, we would ask  
9 whether any of these objections should have been made  
10 before the prehearing conference. Frankly, we're ready  
11 to roll. We thought we had all the preliminary matters  
12 identified, teed up, and addressed, and now we're  
13 hearing for the first time that Mr. Rehwinkel has a  
14 narrative that he would like to walk the Commission  
15 through.

16           **CHAIRMAN BROWN:** I kind of agree with that,  
17 Mr. Rehwinkel. Is there a preliminary matter that you  
18 need to address that --

19           **MR. REHWINKEL:** Okay. I can.

20           **CHAIRMAN BROWN:** Is there a preliminary matter  
21 that you need to address that is ripe for consideration  
22 at this time, not a narrative?

23           **MR. REHWINKEL:** Yes, there is, because I'm  
24 going to now, thanks to Mr. Litchfield, object to the  
25 process. I want to raise an objection for appellate

1 purposes.

2 **CHAIRMAN BROWN:** Okay. Please proceed.

3 **MR. REHWINKEL:** Okay. It could have been done  
4 a little bit less, but we will take it all the way.  
5 Thank you.

6 The Public Counsel would like to state for the  
7 record and object to this hearing process. The case was  
8 filed on March 15th. Testimony was filed on March 15th.  
9 Along with that testimony was an exhibit that was a  
10 depreciation study of the company. Ninety days later,  
11 they amended that document, 21 days before intervenor  
12 testimony was due at a time when discovery could not  
13 have been conducted on that amended document. So we --  
14 our due process was denied.

15 On May 3rd, the dismantlement study was  
16 corrected 45 days after it was filed. On April 15th,  
17 the company filed a petition for an incentive mechanism  
18 to be considered in this case a month after the deadline  
19 for filing testimony in the case itself. We object to  
20 that as a matter of record and as a matter of due  
21 process.

22 So I was -- want to state those for the  
23 record, and I have now done that. Thank you.

24 **CHAIRMAN BROWN:** Thank you.

25 FPL.

1           **MR. LITCHFIELD:** May we respond briefly?

2           **CHAIRMAN BROWN:** Yes.

3           **MR. LITCHFIELD:** Certainly all of those, it  
4 strikes me, could have and should have been raised well  
5 before now, certainly even well before the prehearing  
6 conference. What we would propose to do, in other  
7 words, not to slow down the process here today, is we'll  
8 get back and provide a written response into the record  
9 with respect to those objections at some point over the  
10 next few days, and we're ready to move forward on that  
11 basis.

12           **CHAIRMAN BROWN:** Just a moment. Office of  
13 Public Counsel, do you have a written -- written  
14 objections that you'd like to file?

15           **MR. REHWINKEL:** We would be happy to do one.

16           **CHAIRMAN BROWN:** I think that would be  
17 appropriate in response to FPL's comments.

18           **MR. REHWINKEL:** Our objection is for the  
19 record and it's an ore tenus motion, but we'd be happy  
20 to make that objection written.

21           **CHAIRMAN BROWN:** All right. Mr. Moyle.

22           **MR. MOYLE:** So just for the record, FIPUG  
23 would join in FPL's objection. As we understand it,  
24 it's an objection and I guess -- I'm not sure of the  
25 motion, but it's an objection to -- that due process

1 wasn't provided. So I think that's the objection. I  
2 don't know what the motion asks you to do. Maybe give  
3 us another month before we start. But, anyway, we would  
4 just join the objection for the record.

5 **CHAIRMAN BROWN:** All right. Any other parties  
6 would like to comment before I turn to our legal staff  
7 on this?

8 **MR. WRIGHT:** Madam Chairman, we'll join the  
9 objection for the record and, if necessary, address it  
10 in our brief. Thank you very much.

11 **CHAIRMAN BROWN:** Okay. That's very  
12 appropriate. Thank you.

13 **MR. WISEMAN:** Madam Chair, SFHHA also would  
14 join, for the record, in the objection.

15 **CHAIRMAN BROWN:** Any other objections by any  
16 of the intervenors?

17 **MS. CSANK:** Sierra Club will also join.

18 **MR. JERNIGAN:** FEA will also join.

19 **CHAIRMAN BROWN:** Okay.

20 **MR. SKOP:** The Larsons will also join.

21 **CHAIRMAN BROWN:** Okay.

22 **MR. COFFMAN:** AARP will join as well.

23 **CHAIRMAN BROWN:** Thank you.

24 Wal-Mart?

25 **MS. ROBERTS:** Wal-Mart will join as well.

1           **CHAIRMAN BROWN:** Are you okay sitting over  
2 there?

3           **MS. ROBERTS:** I am? We are going to change at  
4 the break.

5           **CHAIRMAN BROWN:** Okay.

6           **MS. ROBERTS:** I'm fine for now.

7           **CHAIRMAN BROWN:** Thank you.

8           All right. Yes, Ms. Brownless, I would love  
9 to hear from you.

10          **MS. BROWNLESS:** I just want to make sure I  
11 understand what the actual objection and motion is.

12          **CHAIRMAN BROWN:** Mr. Rehwinkel, that is you.  
13 Ms. Brownless asked you what -- thank you.

14          **MR. REHWINKEL:** We will provide it in writing,  
15 but our objection is that we have been denied due  
16 process because we did not have sufficient opportunity  
17 to respond to late-filed information having to do with  
18 the depreciation study, the dismantlement study, and the  
19 storm hardening -- I mean, the -- I apologize -- the  
20 incentive mechanism that was filed on April 14th. And  
21 we object for the record that our rights were denied  
22 because our opportunity to respond was limited, and it  
23 impacted our ability to represent our clients.

24          **CHAIRMAN BROWN:** So it's definitely not a  
25 motion. It's just a blanket objection of due process.

1           **MR. REHWINKEL:** That's correct.

2           **CHAIRMAN BROWN:** Okay.

3           **MS. BROWNLESS:** Thank you so much.

4           **MR. REHWINKEL:** Madam Chairman, in stating --  
5 my intent when we started off this process, to be clear,  
6 was that we wanted to state that -- we wanted to state  
7 these objections, and we are about to engage in a  
8 process that has many, many opportunities for either the  
9 granting or the denial of due process, and we were just  
10 trying to lay a foundational premise that we would hope  
11 would be taken into consideration as we go forward.

12                   I was going to say that in light -- even under  
13 all of this, the company has been very good in working  
14 with us in getting us information in a timely fashion,  
15 discovery in a timely fashion. They have gone and done  
16 a lot to help the process in my opinion. But I needed  
17 to state this objection for the record. I'd be glad to  
18 do it in writing, but I was not intending to --

19           **CHAIRMAN BROWN:** I don't think that's  
20 necessary at this point. Thank you. It's not  
21 necessary.

22           **MR. REHWINKEL:** Thank you.

23           **CHAIRMAN BROWN:** Mary Anne.

24           **MS. HELTON:** Madam Chairman, I think I just  
25 heard -- or we've heard today an objection and that

1 Florida Power & Light wants an opportunity to respond in  
2 writing. I haven't heard a specific request for any  
3 type of relief. I think Mr. Rehwinkel is just wanting  
4 to make this objection on the record. I think that's  
5 been done, and I think you can now move forward with the  
6 hearing.

7 **CHAIRMAN BROWN:** Awesome. Thank you.

8 Okay. Moving on, any other preliminary  
9 matters?

10 I believe we have some proposed stipulations  
11 to get to.

12 **MS. BROWNLESS:** Yes, ma'am.

13 **CHAIRMAN BROWN:** Thank you. Okay.

14 **MS. BROWNLESS:** All parties have agreed to  
15 stipulate Issue No. 73A and B, and the stipulation would  
16 be the appropriate method of calculating working capital  
17 is the balance sheet method.

18 And with regard to Issue No. 117A, Florida  
19 Power & Light, OPC, AARP, FRF, the Larsons, and South  
20 Florida have agreed to stipulate to Issue 117A as  
21 follows. "The appropriate level of gain on disposal of  
22 utility property is 5.759 million for the 2017 test  
23 year." FIPUG, Sierra Club, Wal-Mart, and FEA have taken  
24 no position on this issue; therefore, it appears that it  
25 can be a Type B stipulation.

1           **CHAIRMAN BROWN:** Thank you. And first, does  
2 any party disagree with the representation made on the  
3 stipulation of Issues 73A and B? Seeing none. All  
4 right. Does any party disagree with the representation  
5 of their position on Issues 117A? Seeing none. Does  
6 any party object to the stipulation of Issue 117A as it  
7 is worded? Okay. I do not see any, Ms. Brownless, and  
8 so --

9           **MS. BROWNLESS:** At this time, should the  
10 Commission desire to do so, you could vote to accept  
11 those stipulations.

12           **CHAIRMAN BROWN:** Thank you.

13           Commissioner Edgar.

14           **COMMISSIONER EDGAR:** Madam Chair, if you're  
15 open to it, I would move approval of the stipulations as  
16 described.

17           **CHAIRMAN BROWN:** Thank you.

18           Is there a second?

19           **COMMISSIONER BRISÉ:** Second.

20           **CHAIRMAN BROWN:** All those in favor, say aye.

21           (Vote taken.)

22           All right. The stipulations pass. Thank you.

23           **MS. BROWNLESS:** At this time, we would also  
24 like to discuss the stipulation of witnesses. All  
25 parties have agreed to stipulate the testimony and



1 exhibit, which is Exhibit No. 397 on the Comprehensive  
2 Exhibit List of staff audit witness Iliana Piedra into  
3 the record and to excuse her from attending this final  
4 hearing. We would suggest that Mr. Piedra's testimony  
5 be inserted into the record after that of Rhonda Hicks,  
6 if that is acceptable to the Chair.

7 **CHAIRMAN BROWN:** Okay. Yes. We'll admit the  
8 testimony of Iliana Piedra as though read and will admit  
9 at this time, seeing no objections, Exhibit 397, and  
10 excuse the witness from her participation.

11 (Exhibit 397 marked for identification and  
12 admitted into the record.)

13 Are there any other witnesses that have been  
14 stipulated by the parties at this time?

15 **MS. BROWNLESS:** No, ma'am.

16 **CHAIRMAN BROWN:** Okay. Let's move along to  
17 exhibits, please.

18 **MS. BROWNLESS:** Yes, ma'am. Staff has  
19 prepared a Comprehensive Exhibit List that includes all  
20 exhibits attached to the witnesses' prefiled testimony  
21 as well as staff's identified exhibits. The list itself  
22 is marked as Exhibit No. 1 and has been provided to the  
23 parties, the Commissioners, and to the court reporter.  
24 At this time, staff would request that Exhibit No. 1 be  
25 entered into the record and all other exhibits be marked

1 for identification as identified therein.

2 **CHAIRMAN BROWN:** Okay. Seeing no objection,  
3 staff would request that Exhibit No. 1 be entered into  
4 the record, and all other exhibits be marked for  
5 identification purposes. Okay.

6 (Exhibit 1 marked for identification and  
7 admitted into the record.)

8 (Exhibits 2 through 396 and 398 through 558  
9 marked for identification.)

10 **MS. BROWNLESS:** Thank you. We would have one  
11 correction to the Comprehensive Exhibit List.

12 **CHAIRMAN BROWN:** Okay.

13 **MS. BROWNLESS:** And that would be on page 490  
14 -- Exhibit No. 490 on page 47. And it's just --

15 **CHAIRMAN BROWN:** Just wait a second, please,  
16 so that everyone can get there.

17 **MS. BROWNLESS:** Yes, ma'am.

18 **CHAIRMAN BROWN:** Please. All right.

19 **MS. BROWNLESS:** Exhibit No. 490 should read  
20 Ousdahl for sponsoring witness 10 and 1, not 10  
21 through 1.

22 **CHAIRMAN BROWN:** How about 1 and 10?

23 **MS. BROWNLESS:** Yes, ma'am.

24 **CHAIRMAN BROWN:** Okay.

25 **MS. BROWNLESS:** Okay.

1           **CHAIRMAN BROWN:** All right. Any other  
2 changes?

3           **MS. BROWNLESS:** No, ma'am. That would be the  
4 only change to the Comprehensive Exhibit List.

5           **CHAIRMAN BROWN:** Okay.

6           **MS. BROWNLESS:** At this time, the staff would  
7 also request to enter into the record the service  
8 hearing exhibits, which are identified within the  
9 Comprehensive Exhibit List as Nos. 2 through 27.

10          **CHAIRMAN BROWN:** All right. Seeing no  
11 objections from any of the parties, we will enter into  
12 the record the service hearing exhibits, which are Nos.  
13 2 through 27 on the Comprehensive Exhibit List.

14                   (Exhibits 2 through 27 admitted into the  
15 record.)

16          **MS. BROWNLESS:** Thank you, ma'am.

17                   Finally, we would ask if the parties have  
18 identified any exhibits on the staff's portion of the  
19 exhibit list --

20          **CHAIRMAN BROWN:** Parties? All right.

21          **MS. BROWNLESS:** -- which starts on page  
22 33 with which they cannot stipulate.

23          **MS. CHRISTENSEN:** Commissioner --

24          **CHAIRMAN BROWN:** Let me just get there for a  
25 sec.

1 Okay. Ms. Christensen.

2 **MS. CHRISTENSEN:** Commissioners, as we  
3 indicated at the prehearing conference, OPC will not be  
4 agreeing to stipulate any part of the discovery portion  
5 of the Comprehensive Exhibit List at this time. And as  
6 we agreed to do, as the witnesses appear on the stand  
7 and as the exhibits related to that witness are  
8 identified as the witness takes the stand, we can take a  
9 look at it at that point in time. You know, obviously  
10 we're preparing to put on our case, and it's quite an  
11 extensive Comprehensive Exhibit List. You know, we have  
12 done our best to try and at least make copies of it so  
13 we can have it available in paper copy to take a look at  
14 as the witnesses come up, but at this time we would not  
15 be agreeing to stipulate any of the discovery responses  
16 staff has sponsored.

17 **CHAIRMAN BROWN:** Thank you, Ms. Christensen.  
18 I did get a chance to watch the prehearing conference,  
19 so I heard that objection during that. Can you just  
20 give me a reason, legitimate reason for not stipulating  
21 to staff's exhibits when you've had these discovery  
22 responses for a great deal of time, as have all of the  
23 other parties? In fact, some of these are your own  
24 discovery.

25 **MS. CHRISTENSEN:** One legitimate reason is

1 because we need to determine how these discovery  
2 responses are going to be presented to the witness and  
3 how -- what types of questions are going to be asked  
4 about those exhibits. You know, they also will need to  
5 be admitted through the witnesses and sponsored. Some  
6 of these exhibits have been created by FPL personnel  
7 that are not necessarily people that are testifying here  
8 today, so the witnesses will have to adopt those  
9 responses.

10 And I think just as a matter of hearing  
11 practice, the appropriate methodology for moving  
12 exhibits into the record is to do it through the  
13 witnesses that you are requesting sponsor that exhibit,  
14 and part of our case is understanding how those  
15 documents are intended to be used by the other parties.

16 So for those reasons, you know, and also, you  
17 know, this is a stipulation and, frankly, our right is  
18 not to stipulate to anything at this point. For those  
19 reasons, we would not be agreeing to stipulate to the  
20 discovery at this point in the process, you know, and  
21 that's our position. Thank you.

22 **CHAIRMAN BROWN:** Any other parties object to  
23 those -- yes, Hospitals.

24 **MR. WISEMAN:** Thank you, Madam Chair. The  
25 Hospitals also will not stipulate, although we would

1 agree with OPC that we will at the time the witness  
2 takes the stand be ready to stipulate or not as to an  
3 exhibit at that point. But it's the same point that OPC  
4 raised. These are discovery responses that are -- if  
5 they're stipulated into the record, there's no context.  
6 There may be particular responses, discovery responses  
7 that would be stipulated into the record for which  
8 there's no witness, and we think that's improper. There  
9 could be discovery responses that are misleading and  
10 additional discovery -- I'm sorry -- additional  
11 testimony would be needed in order to clarify the  
12 information that's in those responses. So we think that  
13 just stipulating them in wholesale is improper.

14 **CHAIRMAN BROWN:** I think those are all fair,  
15 reasonable arguments for objecting to a stipulation.  
16 But I don't encourage the parties, and since we will be  
17 breaking at suppertime, to use that time to see -- to  
18 look over those staff exhibits and be able to examine  
19 whether or not you can stipulate the next day if you've  
20 had an opportunity to review the witness that will be  
21 coming on the stand the next day.

22 **MR. MOYLE:** Madam Chair, just out of an  
23 abundance of caution, I don't know if you need to say we  
24 object for the purposes of preserving the right --

25 **CHAIRMAN BROWN:** Sure, sure.

1           **MR. MOYLE:** -- but we similarly object. And  
2 I'll take 30 seconds and tell you a reason why is I had  
3 a judge one time say to me in a court proceeding,  
4 "Moyle, Mr. Moyle, if you want me to be aware of  
5 something in a document that's this thick, you need to  
6 show it to a witness and talk about it. You know, you  
7 can't just dump a bunch of stuff in the record and in  
8 your PRO cite it and want me to go, 'Oh, yeah, I  
9 remember that,' because you never brought it up." That  
10 is, I think, the same point that's being made by OPC and  
11 the Hospitals and we agree with it. We think it's a  
12 good point. You've got witnesses here. If you've got  
13 questions, ask them.

14           **CHAIRMAN BROWN:** All fair points. I agree.  
15 So, yes, Ms. Brownless.

16           **MS. BROWNLESS:** If I may just talk a little  
17 bit about how the staff intends to go about identifying  
18 these staff exhibits. For example, if you look at  
19 Exhibit No. 399 on page 33 of the Comprehensive Exhibit  
20 List, we would intend to ask Mr. Goldstein, Mr. Kennedy,  
21 and Mr. Miranda about the response to the first set of  
22 interrogatories No. 1; ask Ms. Ousdahl to identify the  
23 first set of interrogatories 3 through 5, 7 through 9,  
24 13, 29 through 31, 36 through 37, 39, 42, 50 through 52,  
25 55, and 56; then ask Ms. Slattery about 14 through 28;

1 Mr. Barrett and Ousdahl about 40. We will not be able  
2 to move these exhibits into the record until the last  
3 witness who has sponsored the responses that are  
4 identified in Exhibit No. 399 takes the stand and has  
5 authenticated the materials. So I just wanted to make  
6 sure that the parties understood that that is the  
7 process that we will use.

8 **CHAIRMAN BROWN:** Ms. Christensen.

9 **MS. CHRISTENSEN:** Yes. And we understand  
10 that. We did want to point out for the record that  
11 since these are discovery responses, there does have to  
12 be some authentication. I mean, there has to be some --  
13 in hearsay, that there has to be some use or  
14 identification that they're either used in the ordinary  
15 conduct of affairs, they're not irrelevant, immaterial,  
16 or duplicative of other information that's already in  
17 the record, or that if they are hearsay, they can't be  
18 relied on solely for a finding in this record. And we  
19 wanted to put that on to -- into the record so that we  
20 can keep that in mind as these items are being addressed  
21 in the documentation. Just authenticating that they  
22 responded to the discovery we don't think will be  
23 sufficient to seek to move the exhibits into the record.  
24 Thank you.

25 **MS. BROWNLESS:** And if I may respond to that



1 point.

2 **CHAIRMAN BROWN:** Yes.

3 **MS. BROWNLESS:** We will not be able to hear  
4 any objections until the last witness sponsoring that  
5 exhibit. Now the point I want to make is that under  
6 Chapter 120, hearsay evidence is admissible. It's not  
7 admissible if it is the sole evidence. If, in fact, the  
8 parties believe that the material is hearsay, they need  
9 to make an objection when we get to the end and preserve  
10 that for the record. And I believe that having the --  
11 each party authenticate as true and correct the  
12 responses to their discovery, the part of the discovery  
13 that they prepared, is adequate and will preserve the  
14 right.

15 **CHAIRMAN BROWN:** Okay. So, Mr. Moyle, I do  
16 want to just stress to the parties, we've already gone  
17 over the process, so spending a little bit of extra time  
18 on this. You all have a clear understanding, and I'm  
19 amenable to that obviously, since you haven't stipulated  
20 (phonetic), so we're going to move along, Mr. Moyle,  
21 unless you want to raise a new point.

22 **MR. MOYLE:** Well, I think this may save time.  
23 I mean, to the point that Ms. Brownless raised about  
24 hearsay, you know, it's in 120 as to what it can be used  
25 for. You know, I thought maybe a standing objection to

1 hearsay that is coming in that's not corroborated would  
2 be an efficient way to deal with that as compared to  
3 going through each exhibit and taking a bunch of time,  
4 if there would be a willingness to consider that.

5 **CHAIRMAN BROWN:** I would like to go as the  
6 witness enters the stand. I would like the parties to  
7 object as that happens and make sure those objections  
8 are timely.

9 All right. Moving on to opening statements.  
10 We will begin with FPL. I'm just going to go through an  
11 overview of your time allocations per the Prehearing  
12 Order. Mr. Butler has 20 minutes. Office of Public  
13 Counsel, you have ten minutes. All remaining  
14 intervenors have five minutes for opening statements.  
15 And please remember that there will not be any sharing  
16 of time between the parties; however, if the intervenors  
17 have a preference of order after we go to OPC, please  
18 feel free to address me at that time and let me know.

19 So we're going to start and, as you know, I do  
20 like to stick with the time. So this device up here  
21 kind of lets you know. When it gets yellow, you have  
22 about two minutes left. Unfortunately, you know, I will  
23 stop you. All right?

24 So when you're ready, please let me know.

25 **MR. LITCHFIELD:** Madam Chairman, this is Wade

1 Litchfield. Before I'm on the clock, I would like to  
2 distribute some exhibits because I know that you will  
3 cut me off if I exceed my allotted time.

4 **CHAIRMAN BROWN:** Sorry. I will.

5 **MR. LITCHFIELD:** And I will absolutely make  
6 that mark.

7 **CHAIRMAN BROWN:** Thank you.

8 **MR. LITCHFIELD:** We'd like to distribute a  
9 series of exhibits. They're all prefiled exhibits in  
10 the case, so I'd like to work from those this morning,  
11 if I could.

12 **CHAIRMAN BROWN:** Certainly.

13 (Pause.)

14 I believe everybody has the handout.

15 **MR. LITCHFIELD:** Then, Madam Chairman,  
16 Commissioners, we are ready to move forward.

17 Good morning.

18 **CHAIRMAN BROWN:** Good morning.

19 **MR. LITCHFIELD:** And we appreciate the  
20 opportunity to be here before you today. You're very  
21 familiar with the request that has been filed by Florida  
22 Power & Light Company, so I'm not going to spend time  
23 describing it for you this morning, but I will summarize  
24 it in one simple statement. Fundamentally,  
25 Commissioners, this is case is about endorsing what has

1 obviously and clearly been working very well. So I've  
2 distributed a booklet to you. It has several of the  
3 exhibits filed in this case by FPL witnesses. And each  
4 page is numbered for convenience, and I'm going to refer  
5 to the page numbers as opposed to the exhibit numbers.

6 Starting with page 1, this is an essential  
7 frame of reference for the case. It shows the monthly  
8 residential bills for all Florida utilities, FPL being  
9 the lowest at \$97.92 for a typical bill of a thousand  
10 kilowatt hours, saving residential customers in 2015,  
11 based on 2015 rates, \$276 relative to the average.

12 Page 2 shows very clearly the bill progression  
13 for 2017 through 2020 for residential customers based on  
14 FPL's filed case. So, for example, in January of 2020,  
15 if FPL's request is granted, FPL bills will still be  
16 \$14.34 a month below the average residential bill among  
17 all Florida utilities, again, based on their 2015 rates,  
18 not even taking into account what increases their bills  
19 may see over that same period.

20 Page 3, also a really important reference  
21 point, indicates that even with the requested increases  
22 over the four-year period, in January 2020, FPL's  
23 typical residential bill will be lower than it was in  
24 January 2006, 15 years earlier. Again, well below the  
25 averages for both Florida and the nation as a whole, and

1 again even at those utilities' 2015 rates.

2           Pages 4 through 6 are three exhibits that I've  
3 pulled from Ms. Cohen's testimony to show you the bill  
4 impacts for three different customer classes over the  
5 same 15-year period. And I'm really going to focus you  
6 just us on the key takeaway that I've circled at the top  
7 of each of those graphics, and you'll see that if FPL's  
8 request is granted, residential bills over that period  
9 will have decreased 1.4 percent compared to CPI  
10 increases over the same period of 33 percent.

11           Turning to page 5, it shows a decrease for  
12 small businesses of 8.6 percent over the same period.  
13 And turning to page 6, for large commercial customers,  
14 the decrease is 5.1 percent; again, in contrast to a  
15 33 percent increase in CPI even if FPL's request is  
16 granted.

17           Page 7 is a very interesting graphic. It  
18 describes the -- it describes parity, which is a very  
19 important principle in ratemaking. It simply means that  
20 as a matter of policy, what we try to do is to have each  
21 customer class contribute proportionately the same  
22 amount to the utility's authorized return. And so a  
23 parity ratio of 100 percent is the targeted outcome for  
24 each class, and FPL's proposal over these four years  
25 will move rates for all customer classes closer to

1 parity.

2           So, for example, in the case of the small  
3 business and residential customers that you see on the  
4 left side of the graph, they -- we will do so by  
5 lowering their relative contributions. And in the case  
6 of the larger business customers on the right-hand side  
7 of the graph, moving from the blue to the green to the  
8 gray, you will see that their contributions necessarily  
9 would increase over that period to move them closer to  
10 parity.

11           Page 8, this shows FPL's residential bill  
12 reductions between 2006 and 2016 relative to other major  
13 southeast investor-owned utilities. Only three of those  
14 15 show bill reductions during that same period. The  
15 others, you see, quite clearly show a very wide range of  
16 increases, many in the 30 to the 40 to the 50 percent  
17 range over that period of time. So, Commissioners,  
18 every time you hear during this case that FPL's results  
19 are simply the result of low natural gas prices, ask  
20 yourself two questions. First, why have so few other  
21 utilities made the conversions or the upgrades to their  
22 fleet to take advantage of low gas prices? And the  
23 second question is even for those that have done so, why  
24 is it that even with low gas prices, their overall costs  
25 continue to increase at rates that exceed FPL?

1 Turn to 9, if you would, page 9. This is out  
2 of Mr. Reed's testimony. And it shows ranked  
3 performance relative to ranked situational challenges.  
4 And so, for example, on his plotted graph, those that  
5 are most challenged utilities plot high on the Y axis.  
6 Those that perform the best plot furthest to the right  
7 on the X axis. And so where do you want to be? You  
8 want to be at the very top quadrant or furthest to the  
9 right. Look at where FPL is: The most challenged and  
10 yet the best performing, according to his analysis,  
11 which has not been contested by any intervenor in this  
12 case.

13 Pages 10 and 11 also from Mr. Reed's testimony  
14 show total non-O&M fuel per customer. Lower obviously  
15 is better. Page 11 shows the same results if the  
16 analysis is done on the basis of megawatt hours sold.  
17 But they both show -- and you look at FPL, the solid  
18 blue line, in contrast to the other groups, FPL has  
19 performed significantly better over the entire period,  
20 and even over the last few years has started to widen  
21 the gap.

22 I want to focus you on that dotted line, which  
23 relates to the large utilities and that comparison. So  
24 when you hear from the intervenors again that FPL is  
25 simply the beneficiary of scale or economies because

1 we're so large, remember this graph. Remember that  
2 dotted line comparison. And, again, this is non-fuel  
3 O&M, so remember this graph when you hear that it's all  
4 about low gas prices and FPL has done really nothing.

5 Do non-fuel O&M costs matter? Well, the next  
6 page show pretty clearly that they do. And JJR-8 on  
7 page 12 shows that over just a ten-year period,  
8 depending on which comparator group you use, that FPL's  
9 customers have saved between 10- and 16 billion dollars.  
10 You will not hear that number mentioned by any of the  
11 intervenors during the course of this case.

12 Page 13, we're moving into our fossil fleet.  
13 Ms. Kennedy has got some graphs that I want to cover  
14 here. Page 13 shows a number of performance categories  
15 in which we've achieved major improvements. I've  
16 circled three to focus on: Fuel efficiency, non-fuel  
17 O&M per kWh for the fossil fleet, and workforce  
18 requirements per megawatt. Each of those improved by  
19 25 percent, 58 percent, and 78 percent respectively over  
20 the relevant period. Again, none of the things on this  
21 exhibit have the first thing to do with low natural gas  
22 prices.

23 Page 14 shows the improvements in heat rates  
24 that the system has achieved, meaning less energy to  
25 produce the same number of kilowatt hours. But what I



1 really like about this graph is that it shows the  
2 improvements as they relate to discrete decisions by FPL  
3 to upgrade or modernize our fleet to high efficiency gas  
4 units or to add solar. During my tenure at the company,  
5 which has been about 18 years, I have either  
6 participated in or supervised many, if not most, of  
7 these proceedings in which FPL sought permitting from  
8 the Commission. I cannot recall a single instance in  
9 which anybody to my left here was there with us telling  
10 the Commission this is a good idea. Not one instance do  
11 I recall. I recall a few times where we were opposed.  
12 The Commission, however, approved these projects, and  
13 customers are realizing the benefits.

14 Page 15, tangible customer savings and value  
15 associated with these decisions since 2001. That  
16 \$8 billion number that I've circled for you of cost  
17 avoidance, again, nothing to do with lower gas prices.  
18 It has to do with burning less fuel, not less expensive  
19 fuel.

20 Page 16, I really like this graph because what  
21 it shows very clearly is that had FPL's non-fuel O&M  
22 performance in its fossil fleets progressed at the  
23 same -- at the rate of inflation, look where we would  
24 be. We would be right there with the pack, with the  
25 rest of the industry. But look, in fact, where we are.

1 To me, this demonstrates a pretty clear emphasis on cost  
2 control at Florida Power & Light.

3 Page 17, I've got one exhibit for you for the  
4 nuclear division, and I want to focus you on the INPO  
5 performance, which has improved dramatically since the  
6 last base rate proceeding, but then also the cost per  
7 megawatt hour has come down substantially due both to  
8 cost control measures within the nuclear division as  
9 well as the uprate projects that, again, were so heavily  
10 contested by some of the folks here to my left.

11 Page 18, we're moving to transmission and  
12 distribution. And Mr. Miranda's organization has made  
13 tremendous progress in improving reliability at FPL.  
14 You can see the progress that we have made or intend to  
15 make on the hardening projects. And by 2018, we'll, in  
16 fact, have 60 percent of the feeders hardened or  
17 under-grounded at that point.

18 What we do know, Commissioners, is our  
19 customers want reliability. You look at pages 19 and  
20 20, these simply show improvements in SAIDI and  
21 improvements in momentaries respectively over that time  
22 period as a result of these efforts.

23 And then you would ask, now how do we compare  
24 to the region or to the national average? Page 21 will  
25 lay that out for you, and it shows that we are

1 significantly better than the next best performer, and  
2 we are performing in the range of, give or take,  
3 50 percent better both on a regional- and a  
4 national-based comparison.

5 So does our performance matter to customers?  
6 Well, we surely think that it does. And pages 22 and 23  
7 from Ms. Santos' testimony show very clearly that  
8 customer satisfaction scores are really quite  
9 exceptional in every category. And again on page 24, it  
10 shows how our service has translated into fewer logged  
11 complaints with the Florida Public Service Commission.

12 So that's the backdrop that I wanted to frame  
13 up for you for this case, Commissioners. And with that,  
14 I want to turn to page 25, if you could. This is from  
15 Mr. Barrett's testimony. It does an excellent job, I  
16 think, of illustrating the 2017 revenue requirement  
17 need. It's called a waterfall exhibit or chart, and  
18 what it really does is show the additions and then the  
19 subtractions that gets you to the actual revenue  
20 requirement need.

21 On the left you've got capital initiatives.  
22 Obviously that's the largest one. And that includes a  
23 lot of the projects, the undertakings, the investments  
24 that have allowed us to achieve the performance that  
25 we've just spent a few minutes talking about.

1           The depreciation study. With additional  
2 invested capital, we would certainly expect, all other  
3 things equal, that depreciation expense is going to  
4 increase. I'll spend a little time on that in a moment  
5 as well. The reserve amortization component also  
6 building to the revenue requirement need for 2017. I  
7 mention that because the loss of this mechanism as a  
8 result of the end of the settlement is very significant.  
9 It, in fact, was a major reason why we were able to  
10 agree to a lengthy settlement in the last case.

11           And then on the other side of the ledger, I  
12 want to focus you on that O&M bar that I've circled for  
13 you, and to note that that is the level of savings that  
14 we've been able to extract from our base O&M. We were  
15 already best in class, but we didn't rest there. We  
16 went out and we found additional productivity  
17 improvements. That actually lowers our revenue  
18 requirement request. Clearly one of the benefits of a  
19 long period of that settlement that we just are in the  
20 process of winding up.

21           26, I include that just to show you the four  
22 major categories of capital investment that you would  
23 expect to see: Reliability, hardening, generation  
24 upgrades, and general capital for system growth. And I  
25 would just note that OPC has challenged only very modest

1 amounts of this capital investment and for reasons that  
2 we believe do not withstand scrutiny.

3           So that turns to 27. What -- page 27. What  
4 OPC has opposed is the depreciation study. But I want  
5 to note something using this exhibit here. It's Figure  
6 1. It's out of Ned Allis's rebuttal testimony. And as  
7 shown on this figure, and this is really important, had  
8 FPL simply taken the same depreciation parameters that  
9 were approved in 2009 in that docket and applied those  
10 to the current plant balances, the depreciation expense  
11 actually would have increased by 753 million, not  
12 187 million. In other words, the request would have  
13 needed to be \$600 million higher. FPL has worked very,  
14 very hard to hold down the incremental annual  
15 depreciation expense. But I would suggest that if the  
16 Commission is to find acceptable any aspect of Mr.  
17 Pous's depreciation study, it should not be for the  
18 purpose of finding an arbitrary means to lower FPL's  
19 revenue requirement, but rather for the only purpose of  
20 deferring or avoiding a second base rate case over the  
21 same four-year period similar to how the reserve surplus  
22 was used in the past case.

23           Pages 28 and 29, I just want to draw your  
24 attention to illustrate that the reason for the  
25 additional increase in 2018, the subsequent year

1 adjustment, again is capital investment. Again,  
2 investment that is largely uncontested in this case.  
3 And without that adjustment, as Witness Barrett will  
4 indicate, we certainly would be back in for another full  
5 base rate proceeding as soon as that filing could be  
6 prepared.

7 Pages 30 to 35, we're going to roll through  
8 these fairly quickly. 30 is really just a composite.  
9 These are from Mr. Dewhurst's testimony. 30 is a  
10 composite of 31 through 35, so I won't spend time on 30  
11 but move straight to 31. And what it shows, and I've  
12 circled this, is that compared to the other major  
13 southeast IOUs, FPL has got the lowest residential bill  
14 and, in most cases, it's by quite a wide margin.

15 Page 32 shows non-fuel O&M. Again, FPL most  
16 efficient in the region. Page 33, best reliability in  
17 the region. Page 34, second best in customer  
18 satisfaction, but we are gaining ground. And 35, page  
19 6, cleanest again by a wide margin.

20 So I want to finish with 36. That's the last  
21 exhibit in your handout. And I want to talk about these  
22 four elements that we refer to at FPL as the "virtuous  
23 circle." Very, very important and fundamental to our  
24 operating philosophy. We believe that if we deliver  
25 superior customer value, that that will improve,

1 increase, affect directly customer satisfaction. We  
2 believe that if customer satisfaction is strong, that  
3 that is going to help us have a more constructive  
4 regulatory environment. We believe that if we have a  
5 more constructive regulatory environment, we will have a  
6 strongly financial position. And we believe that with  
7 that strong financial position, and you will hear our  
8 witnesses testify to this, that is the platform through  
9 which, by which we are able to deliver the type of  
10 service that we've been able to deliver. Very, very  
11 important.

12 FPL's case and the exhibits that I've  
13 highlighted for you this morning demonstrate that this  
14 approach has been working exceptionally well for years.  
15 Intervenors do not contest two of these elements. They  
16 don't contest superior value or customer satisfaction,  
17 that those are positive, that those are good, we ought  
18 to be going after those. What they do ask you to do,  
19 though, is to weaken FPL's financial position. And  
20 you'll hear from FPL witnesses why in our view, in their  
21 view this is shortsighted, it is misguided, and  
22 fundamentally wrong.

23 So we keep hearing from the intervenors that  
24 our level is to be expected, even required. Why?  
25 Because they say, "Well, you're a regulated monopoly.

1 You're supposed to provide this level of service." And  
2 yet, Commissioners, by most of the metrics and standards  
3 that we benchmark ourselves against, we don't look like  
4 a conventional regulated utility. Think back to some of  
5 the graphs that we've just walked you through. We don't  
6 look like a conventional regulated utility. And, in  
7 fact, when we look at ourselves in the mirror, we don't  
8 see ourselves as a conventional regulated monopoly  
9 utility. We haven't done things in a conventional way.  
10 We have taken some innovative steps and worked hard to  
11 lead out in areas of performance improvement. We've  
12 been successful in a number of areas and we have work to  
13 do in some other areas.

14 In short, we have not been satisfied simply to  
15 show up for a return of and on our investment. So while  
16 acknowledging, Commissioners, that we're not perfect in  
17 our performance, we still have work to do, we think that  
18 our commitment to performance and our commitment to  
19 improve our performance certainly distinguishes us in  
20 the industry. And so if our return on equity and if our  
21 equity ratio are a little above national averages, maybe  
22 there's a really good reason why they should be and why  
23 they are and why they have been. That will be up to  
24 this Commission to decide during the course of this  
25 case. But are our customers doing better than average?



1 Absolutely they are. They're doing a whole lot better  
2 than average.

3 For these reasons, Commissioners, we think  
4 this is a very straightforward case for us to present in  
5 terms of price, in terms of quality of service, in terms  
6 of reliability. Our customers are the very best served  
7 customers in the state of Florida and arguably in the  
8 nation. We think that this is an equally  
9 straightforward case for you to decide. As I stated at  
10 the outset, we fundamentally are simply asking the  
11 Commission to approve and endorse what has been working  
12 so well for our customers. And I thank you for your  
13 time.

14 **CHAIRMAN BROWN:** Thank you, Mr. Litchfield.

15 All right. Ms. Christensen, any handouts?

16 **MS. CHRISTENSEN:** No, no handouts. Sorry.

17 **CHAIRMAN BROWN:** Okay. So whenever you are  
18 ready.

19 **MS. CHRISTENSEN:** Okay. Good morning,  
20 Commissioners. Patty Christensen for the Office of  
21 Public Counsel representing the ratepayers of Florida  
22 Power & Light.

23 One word describes FPL's rate request in this  
24 matter: Excessive. FPL's request for multiple test  
25 years and a limited scope proceeding three years from

1 now is unjustifiable and excessive. And FPL's  
2 826 million base rate increase for 2017 is excessive.  
3 The additional 2018 base rate increase for 270 million  
4 is even more excessive. Finally, the 209 million  
5 mid-2019 increase for the Okeechobee Clean Energy Plant  
6 is unprecedented and unwarranted at this time.

7 FPL says that it's not seeking a rate increase  
8 for 2020 and plans to stay out for four years; however,  
9 there's nothing -- there's no prohibition against FPL  
10 filing for an increase should its earnings fall below  
11 its authorized rate of return range at any time during  
12 the four-year period.

13 FPL is also requesting an excessive cost of  
14 capital. The company is asking for 100 basis points or  
15 1 percent point increase over its currently authorized  
16 midpoint of 10.5 to increase its ROE to 11.5. This  
17 includes FPL's requested 50 basis point surplus ROE  
18 inflater for what FPL concludes is superior performance.  
19 However, FPL customers have already paid and are still  
20 paying for all the supposed superior performance in  
21 current base rates. OPC agrees that FPL's customers  
22 benefit from lower rates, yet this is because of more  
23 efficient plants for which FPL customers are paying in  
24 rates as well as lower natural gas prices, which are  
25 lower due to market conditions and which FPL does not

1 control.

2 FPL has done nothing more than what a  
3 responsible utility manager should do to ensure fair,  
4 just, and reasonable rates under Florida's regulatory  
5 compact.

6 OPC has evaluated FPL's petition, the minimum  
7 filing requirements, discovery responses, testimony  
8 filed in this proceeding, including the testimony filed  
9 in the storm hardening plan, incentive mechanism, and  
10 the depreciation and dismantlement dockets, which were  
11 consolidated with this Florida base rate case. OPC's  
12 review of these dockets shows that FPL's request in  
13 these dockets are more excessive.

14 OPC has engaged multiple nationally recognized  
15 expert witnesses, who have extensively reviewed the  
16 information filed in this proceeding to trim these  
17 excesses to a reasonable revenue requirement. As a  
18 result, OPC has identified four principle areas for  
19 these adjustments: depreciation, revenues, capital  
20 structure, and return on equity.

21 Mr. Jack Pous is OPC's depreciation expert  
22 with 40 years of experience. Mr. Pous has reviewed  
23 FPL's depreciation study. His review demonstrates that  
24 FPL's requested increase of 195 million in depreciation  
25 expense is materially overstated. Mr. Pous recommends

1 more realistic parameters for many of the depreciation  
2 accounts. If adopted, Mr. Pous's recommended rates  
3 would generate a total company depreciation  
4 over-collection of 923 million, which he recommends be  
5 flowed back to current customers over four years.

6 The sum of Mr. Pous's adjustments results in a  
7 reduction to FPL's 2017 revenue requirement of 280  
8 million for new lower depreciation rates, and an  
9 additional 221 million in flowback to customers in 2017  
10 for excess depreciation reserves on a jurisdictional  
11 basis.

12 Dr. David Dismukes is OPC's expert witness on  
13 incentive mechanism and forecasting. Dr. Dismukes has  
14 reviewed FPL's sales forecast for the 2017 and '18 base  
15 rate cases. After comparing the 2015 net energy for  
16 load forecast that FPL used for a Ten-Year Site Plan and  
17 it's Okeechobee need determination case with the  
18 forecast that FPL is now proposing be used in this rate  
19 case, Dr. Dismukes has determined that FPL's rate case  
20 forecast significantly understates revenues in the test  
21 years. He recommends that the Commission reject FPL's  
22 proposed rate case forecast and employ the 2015 NEL  
23 forecast previously used by the Commission to approve  
24 the Okeechobee need determination for FPL.

25 Adopting the 2015 NEL forecast will decrease

1 the company's revenue request by 206 million in 2017 and  
2 259 million in 2018. Dr. Dismukes will also testify  
3 that FPL's proposed incentive mechanism with its changes  
4 should not be approved, and the 2012 incentive mechanism  
5 should be allowed to lapse. FPL should revert to the  
6 Commission's longstanding and proven gain on sales  
7 mechanism.

8 Kevin O'Donnell, a chartered financial  
9 analyst, is OPC's expert who testifies about capital  
10 structure. Mr. O'Donnell addresses FPL's excessive  
11 equity ratio request of 59.6 percent equity. As  
12 Mr. O'Donnell will testify, FPL's request in this case  
13 puts an unnecessary and costly burden on FPL ratepayers,  
14 an extra \$40.97 per year for a typical residential  
15 customer. And this is not warranted or fair or  
16 reasonable.

17 Mr. O'Donnell's examination of capital  
18 structure demonstrates that FPL's proxy group average  
19 equity ratio used by FPL's own expert is 49.3 percent,  
20 and the national average for the allowed equity ratio is  
21 49 percent. Rather than use FPL's proposed unreasonable  
22 hypothetical capital structure of 59.6 percent equity,  
23 Mr. O'Donnell recommends a more rational hypothetical  
24 capital structure of 50 percent equity. Applying a  
25 50 percent equity ratio, which is in line with industry

1 averages, results in approximately \$337 million  
2 reduction to FPL's 2017 request.

3 Dr. Randy Woolridge is OPC's expert witness  
4 who testifies on return on equity. Dr. Woolridge has  
5 evaluated FPL's requested ROE in light of current market  
6 conditions and the changes that have occurred since the  
7 last -- FPL's last rate case. FPL's requested  
8 11 percent ROE, especially with its requested  
9 59.6 percent equity ratio, is excessive under current  
10 market conditions. Dr. Woolridge testifies that both  
11 interest rates and awarded ROEs around the United States  
12 have decreased since 2012. Dr. Woolridge applied the  
13 discounted cash flow method checked by the asset --  
14 Capital Asset Pricing Model and used OPC's proposed  
15 capital structure of 50 percent and a comparable  
16 electric proxy group to determine that the appropriate  
17 ROE for FPL is 8.75 percent. Using an 8.75 percent ROE  
18 will result in approximately a \$560 million reduction  
19 from FPL's 2017 request.

20 OPC's other experts have additional  
21 adjustments based on their thorough examination of FPL's  
22 request. Bill Schultz, who is a CPA from Michigan and  
23 long-time witness before this Commission, recommends  
24 reductions to FPL's increase in unneeded new employee  
25 positions and storm hardening-related expenses, as well

1 as other adjustments.

2           Ralph Smith, who is also a CPA from Michigan  
3 and a long-time witness before regulatory commissions,  
4 testifies to accounting adjustments and revenue  
5 requirements. Mr. Smith recommends reductions for rate  
6 case expense, tax-related costs, and generation overhaul  
7 expense, as well as other adjustments.

8           Mr. Dan Lawton, economist and attorney,  
9 testifies about FPL's financial integrity and surplus  
10 ROE inflater. Mr. Lawton will validate that if this  
11 Commission were to implement all of OPC's recommended  
12 adjustments in this docket, FPL will maintain its  
13 financial integrity. He also testifies that FPL should  
14 not be given the 50-basis-point surplus inflater, not  
15 only because it's not warranted, but it's also nothing  
16 more than paying a premium on service sufficiencies that  
17 the customers have already paid for and for lower  
18 natural gas prices.

19           Based on this extensive expert review, OPC has  
20 determined that a rate decrease of 870 million is  
21 appropriate for 2017, and that no rate increases are  
22 needed for '18 or for the Okeechobee limited scope  
23 adjustment in '19. We believe that at the end of the  
24 hearings, the Commission will also conclude that FPL's  
25 excessive rate request needs to be dramatically cut. We

1 believe that based on all the evidence, the Commission  
2 will also determine that OPC's recommended rate decrease  
3 of 807 million for 2017 with no 2018 or '19 increases is  
4 the fair, just, and reasonable result in this matter.  
5 Thank you.

6 **CHAIRMAN BROWN:** Thank you, Ms. Christensen.

7 All right. The next -- I don't know which  
8 order is your preference. Does anybody have an order  
9 with the intervenors? Anyone want to go first?

10 **MR. MOYLE:** We had talked about going down the  
11 line this way, if that's all right, with OPC.

12 **CHAIRMAN BROWN:** Okay. You want to go last,  
13 don't you? I could have seen that.

14 All right. So you have five minutes, although  
15 you do not have to use all of it. And I will let you  
16 know when your time has expired.

17 **MR. COFFMAN:** Thank you very much. May it  
18 please the Commission.

19 Again, this is John Coffman appearing on  
20 behalf of AARP and it's 2.8 million members here in the  
21 state of Florida, many of whom are in the South Florida  
22 area and customers of Florida Power & Light.

23 Affordability for essential services including  
24 electricity is a top priority for AARP Florida, and we  
25 are pleased to be here. The -- we are here to ask that



1 you take into very serious consideration the impact of  
2 your decision today on residential customers, on the  
3 citizens of the state. And you have before you just  
4 dozens and dozens of witnesses and exhibits detailing  
5 the utility's exhibits, and yet your job here is to  
6 balance the utility's interest and its shareholders  
7 again the customers and the other public interests. And  
8 so I know it's sometimes hard to do as we delve into the  
9 details of the utility, but I would ask that you take  
10 that seriously and look at the impact that this case  
11 will have.

12 We believe that the evidence, after having  
13 reviewed it, is very strong in support of a rate  
14 decrease. \$800 million a year is excessive based on the  
15 current rates, and we would ask that you would take into  
16 strong consideration the Office of Public Counsel's  
17 evidence. We have our own witness that we will also  
18 present, Mike Brosch, who has decades of experience in  
19 the utility regulatory field, having also testified to  
20 Florida. And when you look at the evidence here, there  
21 isn't a lot of dispute about the prudence of the capital  
22 investments that are being proposed here, but it's the  
23 issues of return on equity and capital structure that  
24 are worth just hundreds and hundreds of millions of  
25 dollars, and that is the profit that is left on the

1 table after the utility does what it's supposed to do  
2 and is providing adequate service.

3 And so we would ask that you very carefully  
4 scrutinize the request for a double digit return on  
5 equity. It is far out of the mainstream over the last  
6 few years as far as public utility commissions are  
7 concerned. We support the Office of Public Counsel's  
8 8.75 return and definitely something that's not in the  
9 double digits. A 59 percent capital structure we think  
10 is also very excessive, very on the outside of what is  
11 reasonable from around the country.

12 We also oppose the pre-approval of a piecemeal  
13 adjustment for the Okeechobee power plant. It is still  
14 quite a ways down the road. And with a lot of the  
15 projections of the future test years that they have  
16 proposed, our witness, Mr. Brosch, will explain why we  
17 think that the credibility of this should be called into  
18 question. The closer to the present time, the more  
19 reliable the numbers are. And we also think that you  
20 should look at the projections that this utility has  
21 made in the past to address the credibility of what they  
22 have proposed here.

23 AARP is not generally in favor of multiyear  
24 plans. We have not had good experiences with them and  
25 would caution against locking rates in, locking rate

1 increases in for too long of a period. We favor a much  
2 shorter period and would prefer that you just approve a  
3 rate decrease or a rate change for one year.

4 The other issue that we believe strongly in  
5 with regards to the rate design within the residential  
6 class is the customer charge, and we have a strong  
7 preference for leaving the fixed customer charge where  
8 it is. And we have a difference of opinion as to what  
9 the cost study is, but we also believe that there are  
10 strong policy reasons for leaving the fixed charge as  
11 low as you can have it. And the reasons include just  
12 control over monthly expenses and the ability to get the  
13 biggest financial payback for conservation and energy  
14 efficiency. We found that that's a very popular issue  
15 that AARP members tell us about.

16 And so we would ask once you get down to  
17 designing the rates, that you leave the customer charge  
18 where it is, and that as you review all these important  
19 decisions, that you not grant any rate change higher  
20 than it needs to be, and that you keep in mind the  
21 senior citizen who may be living alone or in a small  
22 home and has low usage and is doing everything that they  
23 can to keep their monthly bill under control, and  
24 hopefully grant a rate decrease. Thank you very much.

25 **CHAIRMAN BROWN:** Thank you very much.

1 Mr. Wright, Retail Federation.

2 **MR. WRIGHT:** Thank you, Madam Chairman. Good  
3 morning, Commissioners. On behalf of the Florida Retail  
4 Federation and our more than 8,000 members, many of whom  
5 are Florida Power & Light customers, thank you for the  
6 opportunity to address you.

7 The Retail Federation represents our members,  
8 but we also take very seriously the responsibility that  
9 while we don't specifically and technically represent  
10 individuals the way our Public Counsel does, we must  
11 speak on behalf of our customers, the real people who  
12 shop in our stores every day. Now y'all know I've been  
13 doing this a long time, including my service on the  
14 Commission staff from 1982 until late 1988, and so you  
15 won't be surprised when I bring some historical  
16 perspective to bear on this case.

17 The real issue in this case is  
18 straightforward: What level of revenue requirements and  
19 what rates you should approve for FPL that will enable  
20 it to fulfill its responsibility of providing safe and  
21 reliability service at the lowest possible cost while  
22 being able to pay all its bills, pay all its employees,  
23 pay all its debt service, and still raise sufficient  
24 capital while providing an opportunity to raise a  
25 reasonable rate -- earn a reasonable return on its

1 equity investment.

2 Now here's some specific history that's  
3 relevant to this specific FPL rate case. According to a  
4 Commission report, revenue reductions and increases  
5 ordered by the Florida Public Service Commission from  
6 1960 to present, FPL's rates have been reduced many  
7 times, including 1988, '89, '90, '91, '99, and 2002, and  
8 FPL has given customers revenue sharing refunds in 2000,  
9 2001, 2002, and 2003. FPL has also increased its rates  
10 pursuant to GBRA or GBRA-type increases several times.  
11 There's been exactly one case in the last 31 years in  
12 which the Commission voted issue by issue to decide a  
13 general rate case for FPL. That was in 2009, voted in  
14 2010, Docket 080677. FPL filed MFRs asserting that it  
15 needed increases much like those it has requested in  
16 this case.

17 In the 2009 case, they asked for a billion  
18 dollars a year for 2010. Here they're asking for  
19 \$826 million in 2017. In 2009, they asked for an extra  
20 247 million for 2011. Here they're asking for  
21 270 million in the next year. They asked for a new  
22 plant, GBRA, the West County 3, in July of 2011 for  
23 \$182 million a year, very comparable to the request for  
24 Okeechobee of \$209 million in this case. The total  
25 request in 2009 was \$1.5 billion, just under. In this

1 case, it's just north of \$1.3 billion a year. The  
2 Commission, in January of 2010, determined that Florida  
3 Power & Light could continue providing safe and reliable  
4 service, pay all its employees, pay all its bills, and  
5 have an opportunity to earn a reasonable return on its  
6 investment with a one-time rate increase in 2010 of  
7 approximately \$76 million per year, no second-year step  
8 increase, and no subsequent increase for West County 3.

9 With help from the consumer parties supporting  
10 a 2011 settlement, FPL operated with a base rate freeze  
11 at the levels ordered by the Commission in January of  
12 2010 from 2010 until 2013, yet FPL throughout this  
13 period provided safe and reliable service, paid its  
14 bills, paid its employees, and was able to raise  
15 sufficient capital to make all needed investments. And  
16 during this period, FPL's stock price increased  
17 steadily. It's increased its dividends every year. And  
18 according to its earnings surveillance reports filed  
19 with this Commission, it consistently earned at the top  
20 of its authorized range, 11 percent on a PSC-adjusted  
21 basis throughout the entire three years. The vast  
22 preponderance of evidence in this case demonstrates that  
23 FPL can fulfill all of its responsibilities with no  
24 increase in rates at all and, in fact, with significant  
25 reduction in rates somewhere between 200 odd and 800 odd

1 million dollars a year. Even if the Commission froze  
2 FPL's rates at current levels, FPL's own MFRs show that  
3 with no increase in 2017 and even assuming FPL's  
4 understated sales forecast, FPL can pay all its bills  
5 and all its employees and support its investment in 2017  
6 and still have net operating income of \$1.6 billion.  
7 Even with a rate freeze, they don't need an increase in  
8 2017, 2018, 2019, probably not 2020 either. Their  
9 service is indeed valuable, but we customers have  
10 already paid for that value, and FPL simply does not  
11 need anymore customer money.

12 Now why is this history relevant? Because the  
13 utilities, and this is shown in your report, the  
14 utilities always ask for way more than they need.  
15 Sometimes they resist decreases but then agree to  
16 decreases or rate freezes in settlements. Sometimes the  
17 Commission orders them or grants small increases. But  
18 the utilities always continue to provide safe and  
19 reliable service, pay their bills and raise needed  
20 capital.

21 **CHAIRMAN BROWN:** Thirty seconds.

22 **MR. WRIGHT:** This case is no different. FPL's  
23 requested increases are overreaching. You should reject  
24 them. Thank you very much.

25 **CHAIRMAN BROWN:** Thank you, Mr. Wright.

1 All right. Mr. Skop, the Larsons.

2 **MR. SKOP:** Thank you, Madam Chair. Nathan  
3 Skop appearing on behalf of the Larsons.

4 The FPL rate request before the Commission  
5 represents one of the largest electric rate increases in  
6 Florida's history. The Larsons believe that the  
7 majority of the FPL request is excessive and  
8 unjustified. Hardworking Florida families should not be  
9 forced to pay higher electric rates in order to fuel FPL  
10 profits. Accordingly, this Commission should properly  
11 deny the majority of the FPL request based upon the  
12 record evidence in this docket.

13 Conceptually the arguments that FPL has  
14 advanced in support of this excessive and unjustified  
15 rate request are the same fundamentally flawed arguments  
16 that FPL made during the 2009 rate case that was denied  
17 by the Commission. Separating fact from fiction, FPL  
18 claims of customers having low bills does not provide a  
19 legal basis for granting the substantial rate increase  
20 requested by FPL. Fair, just, and reasonable rates must  
21 be determined using the record evidence in this docket  
22 rather than public relations and advertising campaigns.

23 Additionally, FPL uses the same 2009 rationale  
24 to state that even if the entire rate increase was  
25 approved, customer bills would still be lower than a



1 carefully selected point in the past. Undoubtedly this  
2 oversimplification takes advantage of currently low  
3 natural gas prices, while ignoring FPL's heavy  
4 dependence on natural gas-fired generation and the  
5 resulting bill impact if natural gas prices increase  
6 above current levels.

7 Furthermore, the FPL claims that FPL requires  
8 a higher return on equity to continue to be able to make  
9 investments are also completely without merit. Not only  
10 does FPL have the obligation to serve its customers  
11 under the regulatory compact which grants it a monopoly,  
12 but the record evidence in this docket will clearly  
13 demonstrate that FPL has made billions of dollars of  
14 investments at substantially lower midpoint ROE, which  
15 has remained constant ever since the Commission lowered  
16 the ROE in the 2009 rate case.

17 FPL is financially healthy and does not need a  
18 higher ROE to continue to provide safe, adequate, and  
19 reliable service to its customers. Although lacking a  
20 request for FPL customers to pay for a new corporate  
21 jet, the 2016 FPL rate request also has many parallels  
22 to the 2009 rate case that was denied by the prior  
23 Commission.

24 The 2009 rate case requested the largest  
25 electric rate increase in Florida's history. Based upon

1 the record evidence, PSC staff recommended denying  
2 approximately 900 million of the \$1.4 billion request  
3 before it reached the bench for decision. By lowering  
4 the midpoint ROE to 10.5 percent and requiring FPL to  
5 utilize surplus depreciation, the Commission rendered a  
6 decision which kept FPL financially healthy, while  
7 denying the majority of the unjustified request which  
8 would have significantly increased electric rates during  
9 the greatest economic recession since the Great  
10 Depression.

11 FPL was outraged over the decision, claiming  
12 terrible things would happen. Less than a month after  
13 the decision, however, history had proven the Commission  
14 clearly made the correct decision as evidenced by the  
15 fact that FPL reported record earnings. FPL was able to  
16 raise capital at attractive interest rates, and its  
17 parent company significantly increased its quarterly  
18 dividend payment. All the terrible things that FPL  
19 claimed would happen as a result of the Commission  
20 failing to grant the 2009 rate increase never came to  
21 fruition.

22 The 2010 settlement subsequently affirmed the  
23 Commission's decision in all material aspects, including  
24 a midpoint ROE of 10.5 percent. FPL also embraced the  
25 use of surplus depreciation as effective, being able to

1 manage ROE within the upper end of the range as  
2 evidenced by the 2010 and 2012 settlements.

3 In the wake of denying the largest unjustified  
4 electric rate increase in Florida's history, however,  
5 four Commissioners were summarily purged from the  
6 Commission. Next, the executive director, a 35-year  
7 veteran, unquestionable integrity, who was well  
8 respected by PSC staff, was forced to resign and  
9 replaced with a former PSC Commissioner who was fined by  
10 the Ethics Commission for allegedly accepting a gift  
11 from a regulated company when he was a Commissioner.  
12 Finally, completing the transition, the division  
13 director for accounting and finance, a 25-year veteran  
14 of unquestionable integrity, who was also equally well  
15 respected by staff, was allegedly forced to resign by  
16 the new executive director.

17 Since these changes, the Commission has  
18 routinely approved nearly every FPL request, no matter  
19 how unreasonable. The Woodford project at issue in this  
20 proceeding, which the Commission was recently overturned  
21 by the Florida Supreme Court, exemplifies the PSC  
22 shifting significant financial risk to FPL customers to  
23 the benefit of FPL over the objection of the Office of  
24 Public Counsel. Simple math illustrates the cumulative  
25 ROE that FPL would have earned on this investment in the

1 near term --

2 **CHAIRMAN BROWN:** Thirty seconds.

3 **MR. SKOP:** -- larger than the expected savings  
4 the FPL customers would have received over the life of  
5 the project. Indeed, the Larsons believe that when it  
6 comes to the Florida Public Service Commission, the  
7 greed of FPL apparently has no boundaries.

8 In closing, the Larsons believe the majority  
9 of the FPL request is excessive and unjustified.  
10 Hardworking families should not be forced to pay higher  
11 electric rates in order to fuel FPL profits. Where the  
12 record evidence established that FPL has failed to meet  
13 its burden supporting the request, this Commission  
14 should properly deny such request. Thank you.

15 **CHAIRMAN BROWN:** Thank you, Mr. Skop.

16 All right. Moving on to Wal-Mart.

17 **MS. ROBERTS:** Good morning, Commissioners.  
18 Again, my name is Stephanie Roberts, and I'm here on  
19 behalf of Wal-Mart Stores East, LP, and Sam's East,  
20 Incorporated.

21 Throughout the state of Florida, Wal-Mart has  
22 223 super centers, ten discount stores, 75 neighborhood  
23 markets, 48 Sam's Clubs, and eight distribution centers.  
24 Clearly it is a large user of power throughout the state  
25 of Florida, and with FPL they have 650 million-kilowatt

1 hours annually. And it is for this reason that Wal-Mart  
2 has intervened in this docket, and we appreciate the  
3 Commission's and the staff's time in allowing this  
4 intervention.

5 Wal-Mart has intervened on four specific  
6 limited issues as set forth in Steve Chriss's testimony.  
7 Mr. Chriss is the senior manager for energy regulation  
8 analysis for Wal-Mart, and he will be joining us next  
9 week. He has testified before this Commission. And the  
10 issues about which he is going to testify are, first,  
11 the need to balance FPL's requested revenue increase in  
12 ROE, and has suggested that the revenue increase in ROE  
13 be denied and certainly be set at no higher than  
14 10 percent.

15 FPL's proposal to allocate production capacity  
16 cost is the second issue Mr. Chriss will be addressing,  
17 and he has requested that, and Wal-Mart is requesting  
18 that the Commission deny the application for a 12CP and  
19 25 -- excuse me -- percent energy methodology.  
20 Mr. Chriss's testimony offers alternative approaches,  
21 including the current approach, which is the 12CP and  
22 1/13th methodology that's used.

23 Mr. Chriss also addresses rate design for  
24 certain schedules, which are GSLD-1, GSLDT-1, GSD-1, and  
25 GSDT-1.

1           And finally, Mr. Chriss will address the 2019  
2 Okeechobee LSD, and has asked that if the Commission  
3 approves that LSA for rate schedules that contain demand  
4 charges, that the increase to those schedules should  
5 only be applied to the demand charge. Thank you.

6           **CHAIRMAN BROWN:** Thank you.

7           Hello. Sierra Club, Ms. Csank.

8           **MS. CSANK:** Madam Chair, Commissioners, Diana  
9 Csank appearing on behalf of the Sierra Club and its  
10 30,000 Florida members, many of whom are FPL customers.

11           Sierra Club joined this proceeding to protest  
12 FPL's \$1.25 billion gas combustion turbine cost. As you  
13 know, Florida has a natural gas overreliance problem.  
14 Just weeks ago, Commissioners voiced their impatience to  
15 solve this problem, and the Commissioners are right.  
16 There is no time to lose. Billions of dollars are on  
17 the line. The money of Floridian families, businesses  
18 large and small, to them, natural gas price shocks are a  
19 real ongoing threat because FPL built and continues to  
20 grow an outsized natural gas-burning power plant fleet.  
21 Customers lost billions of dollars on financial hedging  
22 programs for gas plants across Florida on top of the  
23 billions they pay FPL to build and maintain these  
24 plants, and customers are on the hook to pay billions  
25 more if the Commission does not prevail on FPL to stop

1 growing its reliance on natural gas and finally to start  
2 adding, in earnest, clean, low-cost, low-risk  
3 alternatives instead: solar, wind, energy efficiency,  
4 and battery storage. These are the solutions to gas  
5 price volatility, to achieving a balanced mix of energy  
6 resources. And at today's prices, they are a bargain.  
7 Even FPL witnesses admit this. For instance, in their  
8 prefiled testimony on the company's three new solar  
9 power plants. And NextEra, FPL's affiliate, is the  
10 world's leading solar and wind power developer, rapidly  
11 advancing battery storage projects and divesting from  
12 natural gas plants.

13           What is FPL doing? Why is FPL still on a gas  
14 plant building spree? Astoundingly, the company's  
15 request here includes natural gas combustion turbines  
16 that add up to more megawatts than any of the last four  
17 natural gas combined cycle need proceedings. These gas  
18 turbines also cost \$1.2 billion, as I mentioned before.

19           This includes, number one, the \$800 million  
20 gas peaker projects. These are seven large new  
21 combustion turbines. Number two, the \$450 million  
22 existing gas plant expansion projects. These are  
23 changes to the 26 existing combustion turbines to yield,  
24 in FPL's words, more megawatts, gas-burning megawatts.  
25 Together, the peaker and expansion projects amount to

1 approximately 2,000 megawatts of gas-burning power  
2 plants and that much more exposure for FPL's customers,  
3 especially as these plants are supposed to help keep the  
4 lights on for the next 30 years, and we can't bank on  
5 natural gas prices staying low for that long.

6 To be clear, the projects that I just  
7 described are on top of the 13,000-megawatts of natural  
8 gas-burning power plants that FPL has added since 2001.  
9 To put this in perspective, today FPL has only  
10 110 megawatts of solar online. The company's request  
11 here includes adding 220 megawatts of solar this year  
12 for a total of 330 megawatts, a fraction of 1 percent of  
13 the company's generation. This is a devastatingly low  
14 level of investment in a market where solar generation  
15 additions are beating natural gas additions elsewhere.

16 Indeed, the Sierra Club advocates across the  
17 country in electric utility regulatory proceedings, and  
18 the experience of other states and even municipal  
19 utilities here in Florida, including Tallahassee, shows  
20 that ramping up clean, low-cost, low-risk alternatives  
21 helps keep rates down, defers the need for billion  
22 dollar gas plants, and defends against the risks  
23 associated with these gas plants.

24 So, again, Sierra Club is in this proceeding  
25 specifically to protest the gas combustion turbines and



1 requests that the Commission deny FPL's request to  
2 recover for them. First, there's the threshold question  
3 of whether the turbines are even properly before the  
4 Commission instead of in a resource planning docket, a  
5 fuel clause docket, or environmental docket. And  
6 second, assuming for the sake of argument that the  
7 turbines are properly before the Commission in this  
8 proceeding, FPL has not shown that they are the prudent  
9 choice. FPL has not looked at alternatives. FPL  
10 contends that there is no resource planning issue in  
11 this proceeding, but that trivializes the --

12 **CHAIRMAN BROWN:** Thirty seconds.

13 **MS. CSANK:** -- \$1.25 billion of its customers'  
14 money that is going towards these plants. Despite  
15 claims of taking a long-term view and wanting to  
16 preserve flexibility, the company did not look at any  
17 options to proceed more incrementally to phase out  
18 existing gas plants according to their age and  
19 efficiency and to add new energy resources that are  
20 least cost. And let's be clear on one point. FPL  
21 claims it needs to maintain a certain level of --

22 **CHAIRMAN BROWN:** Ms. Csank, your time is done.

23 Thank you.

24 All right. Moving on to Federal Executive  
25 Agencies.

1                   **MR. JERNIGAN:** Thank you, ma'am,  
2                   Commissioners. My name is Thomas Jernigan. I represent  
3                   the Federal Executive Agencies. And for those of you  
4                   who are not familiar, in Florida that means I represent  
5                   the Air Force, NASA, Navy, and your tax dollars. And  
6                   what we are here and what I travel around the country to  
7                   do is to ensure that those tax dollars are spent in a  
8                   reasonable fashion such that they are able to accomplish  
9                   their mission.

10                   Every dollar that we spend on utilities is a  
11                   dollar that comes out of our training, our budget for  
12                   training and equipment for launching our launches out of  
13                   Cape Canaveral or Patrick Air Force Base, or just making  
14                   sure our reservists down at Homestead Air Force Base are  
15                   ready to go. And so when I go out and look at what's  
16                   going on in the country and then I look at the case that  
17                   has been presented to you, I have to agree with my  
18                   colleagues to my left and right. What we're hearing  
19                   today is excessive, and that's going to have an impact.

20                   I also look at another guiding principle when  
21                   I travel around. It's that regulation exists to  
22                   substitute for competition. This is a monopoly. This  
23                   is a monopoly that has no competition. And you here  
24                   today are here to ensure that in the absence of that  
25                   competition, they are still held accountable and are

1 here to -- given a reasonable opportunity to operate and  
2 recover their costs and a reasonable opportunity to make  
3 a profit, not a guarantee. What they've asked for here  
4 today is a guarantee. What you've heard from FPL today  
5 was that you'll hear that they're a little above the ROE  
6 in the nation, that they're a little above on capital.  
7 What you'll hear in the testimony is that the national  
8 average is around 9.5. They've asked for 11.5 on our  
9 ROE. For capital, it's around 50 percent. They're at  
10 60/40. Those are excessive, and that excess comes at a  
11 detriment to your tax dollars and to the people who are  
12 paying those bills. And it's not necessary for what  
13 they need to do, and that's provide safe and efficient  
14 electricity. Thank you.

15 **CHAIRMAN BROWN:** Thank you, Mr. Jernigan.

16 Hospital Association, Mr. Wiseman.

17 I didn't start it yet.

18 **MR. WISEMAN:** Thank you.

19 **CHAIRMAN BROWN:** You're welcome.

20 **MR. WISEMAN:** Thank you, Madam Chair and  
21 Commissioners. Ken Wiseman for the South Florida  
22 Hospital and Healthcare Association.

23 Among the number of misstatements that  
24 Mr. Litchfield made was his actual opening statement  
25 when he said that this case is about endorsing what has

1 been working well. What he should have said is that at  
2 least from FPL's perspective what this case is -- this  
3 is about endorsing what's been working well for FPL.  
4 The fact is this is a rate case that should not have  
5 been filed. If you go back and you look at the  
6 surveillance reports, FPL has been earning an  
7 11.5 percent return on equity for four years now. That  
8 is -- it's not just a little above the national average.  
9 It's way above the national average. FPL is doing fine  
10 it's return on equity is exorbitant, and it certainly  
11 did not need to come into this Commission and ask for an  
12 increase in that return on equity.

13 Let's talk about capital structure. Now SFHHA  
14 has proposed in this proceeding that FPL have a capital  
15 structure of 50 percent equity ratio. Contrary to  
16 Mr. Litchfield's statement, SFHHA is not attempting and  
17 has no interest in FPL not maintaining its financial  
18 integrity. SFHHA wants FPL to maintain its financial  
19 integrity. A 55 percent equity ratio does that. Base  
20 the capital structure on the circumstances that exist  
21 today, not the circumstances that existed seven years  
22 ago.

23 Now I want to get to cost of service  
24 allocation issues. As you know, all of you  
25 Commissioners know, for over 30 years FPL has had in

1 place a 12CP and a 13th methodology for allocating the  
2 cost of production plant. As most of you, if not all of  
3 you, know, over the last 15 years SFHHA has opposed  
4 that. It's opposed it for one reason: Because when FPL  
5 adds capacity to its system, it's adding it only for one  
6 reason, and that's to be able to satisfy its reserve  
7 margin requirements associated with its summer peak  
8 demand. Large commercial class customers do not cause  
9 FPL to need to add capacity to its system to meet that  
10 demand. The evidence will show that. The evidence is  
11 going to show, again contrary to Mr. Litchfield's  
12 statement, that the parity results that he presented are  
13 skewed. In fact, with the 12CP and 1/13th methodology,  
14 to be honest, that -- large commercial class customers  
15 are subsidizing other customers who are not paying for  
16 the capacity that FPL installs to serve their needs.  
17 But in this case, FPL is proposing 12CP and 25 percent,  
18 which would exacerbate the problem.

19 We could be here supporting a 1CP method as we  
20 have in the past. We're not. We're saying to the  
21 Commissioner, you know what -- you've -- you know what  
22 the 12CP and the 13th methodology is. It's been in  
23 effect for 30 years. It's middle of the road here.  
24 Just maintain it.

25 I want to talk about minimum distribution

1 system, MDS. We know you've rejected it in the past,  
2 but to be honest, I think it's been unfairly  
3 characterized here based upon an assumption that it  
4 means FPL would install facilities to serve zero load.  
5 That is not MDS. MDS assumes something that cannot be  
6 disputed, is that to connect the customer to the  
7 distribution system, you have to put in facilities. You  
8 need poles, you need transformers, you need conductors.  
9 Cost causation principles should follow -- or cost  
10 responsibility should follow cost causation. MDS does  
11 that. It attributes to the customers who cause those  
12 facilities to be installed to simply connect them to the  
13 system to pay for those facilities. And so we're  
14 asking -- we know you've approved MDS --

15 **CHAIRMAN BROWN:** Thirty seconds.

16 **MR. WISEMAN:** -- in the context of the TECO  
17 settlement, in the context of Gulf Power's settlement.  
18 We're asking you to look at it again here and approve it  
19 in the context of this litigated proceeding. Thank you  
20 very much.

21 **CHAIRMAN BROWN:** Thank you.

22 Mr. Moyle, FIPUG.

23 **MR. MOYLE:** Thank you. Thank you, Madam  
24 Chairman. And for the record, Jon Moyle on behalf of  
25 the Florida Industrial Power Users Group.

1           The Florida Industrial Power Users Group are  
2 large users of electricity that often go 24/7. So  
3 electricity is a very big variable component of their  
4 business. A lot of them compete nationally and  
5 internationally. So when a rate case comes in, it's a  
6 big deal. And that's who I'm representing, and you'll  
7 hear me ask questions about CILC. That's a rate class  
8 for large industrials.

9           There's a saying about the best defense is a  
10 good offense, and I think that's what this case  
11 represents. You got a little bit of history from  
12 Mr. Wright and Mr. Skop about past Commission  
13 proceedings and how there have been situations where  
14 rate reductions were in order, or the case Mr. Skop  
15 referred to, there was a small rate increase. But as  
16 the point has been made, FPL has been doing very, very,  
17 very well, and you have the Office of Public Counsel  
18 presenting evidence to you that a more than 800 million  
19 reduction is in order. You have the Hospitals with a  
20 witness and evidence saying you should reduce rates by  
21 \$200 million.

22           So, you know, FIPUG's view is, well, if that's  
23 the facts on the grounds as it relates to the  
24 intervenors, let's come at it with an aggressive ask.  
25 And FPL surely has come at it with an aggressive ask --

1 more than \$1.3 billion. And it's not like it's a  
2 one-shot deal. They want 220 -- I'm sorry --  
3 826 million in '17. Then they come back in 2018 and ask  
4 for 270 million. And then in 2019, they want another  
5 200 million, 209 million.

6 You would think after the last rate case  
7 settlement, FPL, as Mr. Wiseman said, they're earning at  
8 the top of the range, that maybe the ratepayers could  
9 have had a little relief before FPL came in to ask for  
10 the next rate case. That's not the case. The existing  
11 settlement agreement expires on December 31 of '16, and  
12 they're in asking for rate relief the very next day. So  
13 there's not like a month break or a six-month break or a  
14 year break. It's, boom, the very next day they're  
15 asking for 826 million in rate relief. They don't need  
16 it.

17 I wanted to make a point, as you consider  
18 this, that rates and taxes are very, very similar.  
19 They're essentially the same in that taxes are set by  
20 governmental entities. You all act as a governmental  
21 entity. Taxes are used to fund a monopoly, the  
22 government. FPL is a monopoly. And the people who are  
23 imposed taxes and/or rates really don't have a choice in  
24 paying them. I mean, if you don't pay your electric  
25 bill, you don't have the lights on. So the scrutiny



1 that's used when reviewing new taxes, legislative bodies  
2 look at it skeptically and they look at it with some  
3 aversion and reluctance. We suggest that that's the  
4 same type of view that should be taken with respect to  
5 FPL's request before you.

6 The legislature in the past few years has made  
7 a number of tax reductions for people. That's something  
8 that is in order in this case. As I've pointed out, you  
9 have testimony before you that the rates aren't needed,  
10 and I don't think there's really any dispute amongst any  
11 of the intervenors. From the military to the retail to  
12 the industrial customers, they don't need the rates.

13 Now Mr. Pollock is going to be our witness.  
14 He is going to point out that with respect to certain  
15 industrial customers, FPL is seeking an 83 percent  
16 increase. That is a huge increase, and it's at the same  
17 point in time that industrial customers in the state are  
18 declining. So as the current facts are, industrial  
19 customers are declining and FPL is proposing to hit them  
20 with an 83 percent rate increase. That's not warranted.

21 **CHAIRMAN BROWN:** Thirty seconds.

22 **MR. MOYLE:** FPL has taken away some credits,  
23 some CILC credits that you all have used as a demand  
24 device, a demand savings device. There's no  
25 justification for that. The credits should be restored.

1 And there's also some further rate design issues.

2 I guess I would just close with this point.  
3 Mr. Litchfield, when he was noting -- he said, "We've  
4 done a great job on the price, the quality of service,  
5 and the reliability." Well, none of those are  
6 sufficient to justify a rate increase.

7 **CHAIRMAN BROWN:** Your time is done. Thank  
8 you.

9 **MR. MOYLE:** We would ask no rate increase.

10 **CHAIRMAN BROWN:** Thank you, Mr. Moyle.

11 And thank you to all the parties for their  
12 opening statements. It's always such a good part of  
13 this process and a nice overview, so thank you very much  
14 for those.

15 Moving along to the witnesses, and before we  
16 call the first witness to the stand, we have about 20  
17 minutes until the lunch hour. I want to remind everyone  
18 of the APA's evidentiary standard applicable to this  
19 proceeding. Section 120.569(2)(g) of *Florida Statutes*  
20 states that, "Irrelevant, immaterial, or unduly  
21 repetitious evidence shall be excluded," and I fully  
22 intend to follow this standard. So, please, I ask all  
23 of the parties here today and the attorneys to be  
24 respectful of this process.

25 Also I want to remind everyone that when we

1 get to the intervenor witnesses, that friendly cross  
2 will not be allowed as provided in the Prehearing Order.  
3 We do have much ground to cover, as noted, and I want to  
4 make sure that this is as efficient and fair of a  
5 process as possible. So please be mindful and  
6 respectful to all.

7 Now as a house keeping matter and I don't  
8 believe this was mentioned to you all during the  
9 prehearing conference, but in order to facilitate a more  
10 smooth hearing process, I'd like to ask that before you  
11 begin conducting your cross-examination of a witness,  
12 please provide our staff, who will be sitting and  
13 accompanied here, with copies of all cross-examination  
14 exhibits that you plan to use so they can be distributed  
15 to us at one time. That will be extremely helpful and  
16 will help facilitate more distribution. And, again, if  
17 that's possible, if you can do that, we would be  
18 grateful for that.

19 Now I'll be swearing in all of the witnesses  
20 at once. So for all of the witness who are here in the  
21 audience today who are listed as witnesses in the  
22 Prehearing Order, if you could please stand with me and  
23 raise your right hand.

24 (Witness collectively sworn.)

25 Did I hear "I do"? Thank you so much. Please

1 be seated.

2 All witnesses will be called in the order that  
3 they appear in the Prehearing Order, with the exception  
4 of those where everyone is in agreement that they will  
5 be taken out of order, as we discussed earlier on.

6 The order of cross-examination shall be as  
7 follows for the direct: OPC, FIPUG, Hospitals, FRF,  
8 FEA, Sierra Club, Wal-Mart, AARP, the Larsons, staff,  
9 and then redirect. During intervenors' testimony, FPL  
10 shall cross the witness immediately before staff.

11 As also stated in the prehearing order,  
12 witnesses are permitted up to five minutes each on  
13 direct and rebuttal to summarize their testimony. But  
14 please remember that the witnesses, you do not have to  
15 use all of that allotted time. And I will be timing it.  
16 So counsel for each witness shall be responsible for  
17 entering their prefiled testimony and exhibits into the  
18 record. And I think that covers all of the witnesses.

19 Does anybody have any questions? Do any of my  
20 fellow Commissioners have any statements or comments  
21 before we begin?

22 Staff, have I left anything out?

23 **MS. BROWNLESS:** No, ma'am. I think you've  
24 done a good job.

25 **CHAIRMAN BROWN:** That's nice. Thank you.

1 All right. Mr. Butler, you may call your  
2 first witness.

3 **MR. LITCHFIELD:** Thank you, Madam Chairman.  
4 FPL is pleased to call its first witness, its president,  
5 Eric Silagy.

6 **CHAIRMAN BROWN:** Good morning.  
7 Whereupon,

8 **ERIC SILAGY**

9 was called as a witness on behalf of Florida Power &  
10 Light Company and, having first been duly sworn,  
11 testified as follows:

12 **EXAMINATION**

13 **BY MR. LITCHFIELD:**

14 **Q** Good morning. Good morning, Mr. Silagy. You  
15 were you just sworn moments ago, were you not?

16 **A** Yes, that's correct.

17 **Q** Would you please state your name and business  
18 address for the record?

19 **A** Eric Silagy, 700 Universe Boulevard, Juno  
20 Beach, Florida 33408.

21 **Q** By whom are you employed and in what capacity?

22 **A** Florida Power & Light as the president and  
23 CEO.

24 **Q** And you prepared and caused to be filed  
25 31 pages of prepared direct testimony in this

1 proceeding?

2 **A** That's correct.

3 **Q** Do you have any changes or revisions to your  
4 prepared direct testimony?

5 **A** I do not.

6 **Q** Subject to the adjustments set forth in  
7 Ms. Ousdahl's KO-19 and KO-20, if I were to ask you the  
8 questions contained in your direct testimony, would your  
9 answers today be the same?

10 **A** Yes, they would.

11 **MR. LITCHFIELD:** Madam Chair, I would ask that  
12 Mr. Silagy's prefiled direct testimony be inserted into  
13 the record as though read.

14 **MS. BROWNLESS:** We will enter Mr. Silagy's  
15 prefiled direct testimony into the record as though read  
16 at this time.

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**I. INTRODUCTION AND SUMMARY**

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

A. My name is Eric Silagy. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

**Q. By whom are you employed and what is your position?**

A. I am employed by Florida Power & Light Company ("FPL" or the "Company") as President and CEO.

**Q. Please describe your duties and responsibilities in that position.**

A. I have overall responsibility for the management and operations of FPL.

**Q. Please describe your educational background and professional experience.**

A. I have a Bachelor of Arts in Economics from the University of Texas at Austin and a Juris Doctorate from the Georgetown University Law Center. I was appointed to my current position in 2011. My professional background is described in more detail in Exhibit ES-1.

**Q. Are you sponsoring or co-sponsoring any exhibits in this case?**

A. Yes. I am sponsoring the following exhibits:

- ES-1 Eric Silagy Biography
- ES-2 Typical Residential 1,000 kWh Bill – 2006 through 2020
- ES-3 Value Provided to FPL Customers

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

2 A. The purpose of my testimony is to provide an overview of FPL's filing and an  
3 introduction of the witnesses who are submitting direct testimony on FPL's  
4 behalf in support of the filing.

5 **Q. Please summarize your testimony.**

6 A. FPL is a major part of Florida's economic platform: we provide electric  
7 service to more than 4.8 million customer accounts, or about half of our  
8 state's homes and businesses; and, to my knowledge, FPL is the largest  
9 private investor in the state. We recognize the important role FPL plays in  
10 Florida and have worked hard to continue to improve the value we provide  
11 customers. Indeed, today we provide electric service that is cleaner and more  
12 reliable – and even more affordable – at a time when the average U.S. utility  
13 bills have increased by about 29 percent over the last decade. In fact, today  
14 our typical residential 1,000 kilowatt hour (“kWh”) customer bill (“typical  
15 residential bill”) is about 14 percent *lower* than it was 10 years ago.

16

17 Our ability to deliver outstanding customer value is the result of consistent  
18 and cumulative action over an extended period of time, reflecting a  
19 philosophy and approach to our business that we sometimes refer to as the  
20 “virtuous circle.” The starting point for us on this “circle” is focusing on  
21 delivering superior customer value. Customer value promotes customer  
22 satisfaction, which in turn helps to support a constructive regulatory  
23 environment; and a constructive regulatory environment is necessary to help



1 FPL maintain the strong financial position that has been, and remains, critical  
2 to our ability to deliver a solid value proposition for our customers. It is  
3 apparent that FPL's long-term strategy has worked extremely well. Of course,  
4 many of the decisions we have made in support of this strategy have required  
5 the approval and thorough oversight of the Florida Public Service  
6 Commission (the "Commission"). This filing seeks to continue the track  
7 record of success and the policies and strategies on which that success has  
8 been built.

9  
10 The core of our strategy over the last 15 years to deliver strong customer value  
11 consists of four key elements: (1) a relentless focus on efficiency and  
12 productivity; (2) smart investments that contribute to lower O&M, lower fuel  
13 costs, lower emissions, better reliability, and otherwise improve customer  
14 value; (3) sound financial policies including a strong balance sheet; and (4) a  
15 willingness to innovate and embrace new ideas and technology. We feel very  
16 good about the results that we have achieved through these efforts. Currently,  
17 FPL's typical residential customer bill is about 30 percent lower than the latest  
18 national average, helping keep Florida competitive economically. Within  
19 Florida, FPL's typical residential bill is about 20 percent lower than the latest  
20 statewide average of reporting utilities. At the same time, as FPL witnesses  
21 describe, the Company delivers nationally recognized award-winning service,  
22 outstanding reliability, and one of the cleanest generation emissions rates of  
23 all large U.S. utilities.

1 Illustrative of our consistent, strong commitment to operating efficiently is the  
2 fact that, over the last four years, FPL improved upon its already exceptional  
3 non-fuel operating and maintenance (“O&M”) performance. As demonstrated  
4 in witness Reed’s exhibit JJR-6, FPL has consistently been a best-in-class  
5 performer and we continue to effectively manage non-fuel O&M. As FPL  
6 witness Reed’s analysis shows, in 2014 alone, FPL’s *annual* non-fuel O&M  
7 expense is \$1.9 billion *less* than an “average” utility. Put another way, if FPL  
8 operated as an “average” company, our O&M would be more than double its  
9 current level, adding about \$17 to the monthly typical residential bill or  
10 costing customers more than \$200 per year.

11  
12 To maintain and improve upon our combination of excellent service and low  
13 bills for customers over the long term, we must continue to make smart, long-  
14 term capital investments in our infrastructure. From the end of 2013 through  
15 2017, on a total company basis, we will have invested \$15.8 billion in our  
16 infrastructure, or nearly \$4 billion annually – far more than the Company  
17 earns in any one year. In order to sustain such levels of investment cost-  
18 effectively, obtaining an appropriate return on equity (“ROE”) and recovering  
19 prudently incurred costs is crucial.

20  
21 In an effort to promote long term stability for customers, the Company and  
22 Florida’s economy, FPL’s request addresses rates over a multi-year period.  
23 Specifically, we are proposing a base rate adjustment in 2017, a smaller,

1 subsequent-year adjustment in 2018, and an adjustment in mid-2019 that is  
2 limited only to recovery of the cost of the FPL Okeechobee Clean Energy  
3 Center. With the approval of these requests, there would be no general base  
4 rate increases in 2019 and 2020. While not without risks to FPL, this  
5 approach is itself a significant benefit for customers in terms of providing rate  
6 certainty, and avoiding repetitive and costly rate proceedings.

7  
8 In addition, this multi-year approach would allow the Company to continue  
9 focusing on ways to improve its operations and performance, better meet  
10 customer needs and expectations, and ultimately provide strong, smart  
11 infrastructure that delivers reliable, clean, affordable electricity to the  
12 Floridians and businesses we serve. As illustrated in Exhibit ES-2, today's  
13 typical residential bill is significantly lower than both the state and national  
14 averages and also is lower than it was ten years ago in 2006. In addition, we  
15 currently project that through the remainder of this decade, even with these  
16 requested base rate increases, our typical bill would continue to be lower in  
17 2020 than it was in 2006, and would remain among the lowest in the state and  
18 nation.

19  
20 As a company, we know that when people choose to live in our service area  
21 and businesses choose to expand or locate here, FPL's low bills, high  
22 reliability, clean emissions and excellent customer service can play an  
23 important role in their decision. The investments FPL has made with the

1 approval of the Commission will continue to help us meet the increasing  
2 needs and expectations of our customers. We are proud to serve our fellow  
3 Floridians with outstanding value, supporting the strength and stability of  
4 Florida's economy while preparing responsibly today to ensure we can meet  
5 the energy needs of the future. If approved, this four year rate proposal would  
6 enable us to continue on this successful path.

7

## 8 II. HISTORY OF CONSTRUCTIVE SETTLEMENTS

9

10 **Q. Please summarize FPL's recent base rate case history.**

11 A. Over the last 17 years, FPL has entered into five multi-year settlement  
12 agreements that in each instance were approved by the Commission. During  
13 the relevant periods, those agreements provided customers with a degree of  
14 rate stability and certainty while at the same time allowing the Company to  
15 maintain a strong credit rating and balance sheet. This in turn has enabled  
16 FPL to continue to meet customer needs through multiple major storms and  
17 the worst financial crisis since the Great Depression – challenges that we hope  
18 never recur, but which we must remain prepared to deal with in the future.

19

20 In approving our 2012 Rate Settlement, the Commission determined that the  
21 agreement “provides FPL's customers with stability and predictability with  
22 respect to their electricity rates, while allowing FPL to maintain the financial  
23 strength to make investments necessary to provide customers with safe and

1 reliable power.” Order No. PSC-13-0023-S-EI, at 7-8. FPL’s Commission-  
2 approved settlement agreements, including our most recent four-year  
3 agreement, have worked very well in meeting those objectives. At the same  
4 time, they avoided additional costly and resource-intensive base rate  
5 proceedings and allowed the Company’s management team and employees to  
6 focus on ways to continue to find efficiencies, develop and implement  
7 innovative technologies and solutions, and improve the way in which services  
8 are delivered. In my opinion, this constructive regulatory framework has been  
9 a critical element of our success in becoming a top performer nationally in  
10 delivering clean, reliable, low cost energy to our customers. Long-term rate  
11 solutions have been a hallmark of Florida regulation over the last 17 years,  
12 providing a significant degree of stability and certainty that otherwise would  
13 not have been possible.

14  
15 Of course, at the end of the term of any multi-year agreement the Company  
16 and the Commission are able to review rate levels relative to the costs the  
17 Company is incurring and expects to incur to provide service, including the  
18 investments in infrastructure that the Company has made and is making. Such  
19 a review also takes into account the typically rising costs of operations as well  
20 as any efficiencies and cost reductions that the Company was able to realize  
21 during the term of each settlement.

22 **Q. Has the current settlement agreement worked well for customers?**

23 **A.** Absolutely. As described by FPL witness Barrett and other FPL witnesses,

1 the 2012 Rate Settlement has proven to be of significant value for our  
2 customers. During the term of this settlement agreement, FPL has been able  
3 to continue to improve its already high level of service and operational  
4 performance. As I stated earlier, this period of stability has been one of the  
5 key benefits of a multi-year rate solution, allowing management and all  
6 employees to focus on improving service delivery for customers and realizing  
7 additional efficiencies in the Company's operations.

8  
9 During the term of the agreement, FPL completed its modernization of the  
10 Cape Canaveral and Riviera Beach plants on time and on or under budget.  
11 The modernization of the Port Everglades plant also is nearing completion and  
12 is expected to be operational ahead of schedule and under budget. FPL also  
13 has continued to improve its performance in several key categories both  
14 nationally and statewide. Specifically, FPL has: (1) lowered O&M costs; (2)  
15 worked to reduce future costs, as demonstrated by the buy-out of the Cedar  
16 Bay Power Purchase Agreement; (3) lowered emissions even further; (4)  
17 continued to make improvements in system fuel efficiency; and (5) improved  
18 reliability. This was accomplished while keeping typical customer bills  
19 among the lowest in the state and nation. These achievements are discussed in  
20 detail by FPL witnesses Barrett, Kennedy, Santos, Miranda, Reed, and others.  
21 In short, we continued to look for ways to provide the highest level of overall  
22 service to Florida customers at a reasonable cost, delivering significant  
23 improvements in customer value.

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### III. FPL'S OPERATING PHILOSOPHY AND VISION

**Q. Please describe FPL's operating philosophy.**

A. Central to our operating philosophy is a strong and steady focus on improving customer value both short and long term. We approach this as an ongoing process involving smart investments in our infrastructure and a sustained commitment to efficiency and productivity and, in general, improving all aspects of our service and reliability. Our ability to deliver outstanding customer value did not and does not happen overnight or by accident. Rather, it is, and must be, the result of consistent and cumulative action over an extended period of time.

The success we have had in delivering outstanding customer value reflects a longstanding philosophy and committed approach to the business that we sometimes refer to as the "virtuous circle" and is discussed by FPL witness Dewhurst. Not surprisingly, the starting point for us on this "circle" is focusing on delivering superior customer value. Fundamentally, and perhaps obviously, we believe that exceptional customer value results in strong customer satisfaction. The combination of customer value and customer satisfaction in turn helps to support a constructive regulatory environment. A constructive regulatory environment, in turn, is essential to our ability to deliver customer value, because to deliver that value FPL must maintain a strong credit rating, have ready access to sufficient debt and equity capital,

1 and rely on stable, constructive regulation to make the types of smart,  
2 innovative, capital-intensive investments necessary to produce that customer  
3 value. This virtuous circle model has worked exceptionally well for  
4 customers over many years. The Company's request in this proceeding is a  
5 proposal to continue this proven and very successful approach.

6  
7 Under the framework I just described, we strive to do the right thing even  
8 before we are ordered or asked to do so – and at times in the face of intervenor  
9 opposition that is focused only on the short-term. When the Great Recession  
10 was disrupting other Florida businesses, we maintained our long term  
11 perspective, continuing to make smart investments in our infrastructure and  
12 building a system that would provide long-term benefits to customers in terms  
13 of both reliability and low bills. A key example is our ongoing investment in  
14 highly efficient generating plants that have saved our customers billions of  
15 dollars in fuel costs. In addition, these investments have positioned us to be in  
16 compliance today with the 2030 carbon emission rate target that the U.S.  
17 Environmental Protection Agency's Clean Power Plan ("CPP") has proposed  
18 for Florida. Another example is the modernization of our grid, building one  
19 of the strongest and smartest grids in America today. At a time when many  
20 areas of our country are struggling to deal with daunting infrastructure  
21 problems, we can be proud of the smart, modern infrastructure we have built  
22 in Florida and the value that it brings to customers every day.



1 **Q. Please describe the benefits of FPL's forward-looking investment**  
2 **strategy.**

3 A. Had we not started investing in clean generation years ago, we would not be  
4 positioned as we are today – providing significant fuel savings to customers  
5 and standing much better prepared than most companies to meet the CPP  
6 standards. Had we not started years ago to build a smarter and stronger grid,  
7 we would not be in the position today of providing outstanding reliability to  
8 our customers. Had we not invested in FPL's and Florida's future, we would  
9 probably be just an average performing utility today – meeting our basic  
10 regulatory requirements, but not providing the billions in annual savings that  
11 we currently provide. FPL's track record demonstrates that there are real,  
12 tangible customer benefits, including comparatively low electric bills and high  
13 reliability, from FPL's approach.

14

15 FPL has provided a number of substantial benefits for our customers by not  
16 settling for being an "average utility." For example, if FPL were an average  
17 performing utility:

- 18 • Our customers' reliability would be 50 percent higher (Florida average  
19 of 92 minutes versus FPL average of 61 minutes);
- 20 • Annual fuel costs would be more than \$400 million higher;
- 21 • Annual non-fuel O&M expense would be nearly \$2 billion higher;
- 22 • The annual typical residential bill would be nearly \$500 higher overall;
- 23 and

- 1           • Emissions would be higher, adding the equivalent of more than six  
2 million cars to our roads for an entire year and our risk of incurring  
3 billions of future environmental compliance costs would be  
4 substantially increased.

5

6           We believe that the ability to take a long term perspective is what has worked  
7 for our customers and for Florida, and we must continue on that path. The  
8 ability to deliver value to customers is a result of cumulative and consistent  
9 actions taken over an extended period of time.

10

#### 11                           **IV. THE VALUE FPL CURRENTLY PROVIDES**

12

13   **Q. Please highlight FPL's performance and service to its customers.**

14   **A.** FPL is an industry leader in most of the core aspects of its operations and  
15 service. Exhibit ES-3 provides a summary of the value that our customers  
16 enjoy as a result of our strong overall performance. In addition, key elements  
17 of the Company's performance and service are described by FPL witnesses in  
18 more detail as follows:

- 19           • FPL witness Cohen explains that FPL's typical residential bill  
20 currently is among the lowest in the state and has been the lowest, on  
21 average, for the past seven years;
- 22           • FPL witnesses Morley and Cohen explain that, over the last decade,  
23 inflation was nearly 20 percent, and the costs of many other goods and

1 services have increased even more. For example, food and  
2 homeowners/renters insurance have both increased by 28 percent  
3 while the cost of medical care has increased by 38 percent. Over that  
4 same period, the national average typical residential electric bill has  
5 increased by about 29 percent. However, over that same period, FPL's  
6 typical residential bill has *gone down* 14 percent, and typical  
7 commercial and industrial bills have *gone down* from 16 percent to 23  
8 percent;

- 9 • FPL witness Kennedy explains that the transformation of FPL's  
10 generating fossil fleet since 1990 has resulted in industry-leading "top  
11 decile" or "best-in-class" performance across key indicators (e.g., heat  
12 rate, forced outage rate) and avoided CO<sub>2</sub> emissions; in fact, our  
13 efficiency improvements since 2001 have resulted in approximately \$8  
14 billion in customer fuel savings strictly from lower fuel consumption  
15 by more efficient generating units;
- 16 • FPL witness Santos explains that FPL's Customer Service continues to  
17 be recognized nationally, as evidenced by numerous awards. This  
18 superior customer service and high level of customer satisfaction is  
19 achieved through continuous process improvement and state-of-the-art  
20 technology deployment;
- 21 • FPL witness Miranda presents FPL's outstanding Power Delivery  
22 reliability – FPL's System Average Interruption Duration Index  
23 ("SAIDI") is best among the Florida investor-owned utilities over the

1 last decade. Additionally, FPL's 2014 SAIDI performance ranked 44  
2 percent better than the national average, based on the most recent data  
3 reflected in PA Consulting's annual reliability benchmarking study. As  
4 FPL witness Miranda explains, FPL has one of the strongest and most  
5 advanced grids in the nation and continues to incorporate enhanced  
6 smart grid technology to improve reliability, and proactively anticipate  
7 and respond to system disturbances. Additionally, FPL is an industry  
8 leader in logistics, storm preparedness and storm response;

9 • FPL witness Goldstein addresses the availability, efficiency and safe  
10 operations of FPL's nuclear units, which for decades have delivered  
11 billions of low-cost kilowatt hours to customers with zero emissions;  
12 and

13 • FPL witness Reed discusses the Company's outstanding non-fuel  
14 O&M performance and operational efficiency.

15 **Q. What is the basis for FPL's strong performance?**

16 A. I discussed previously the constructive regulatory framework and stability of  
17 multi-year rate solutions that have afforded FPL the opportunity to focus on  
18 system and operational efficiencies and improvements. But within such a  
19 framework, there is no doubt that two keys to our success have been and  
20 continue to be our ability to attract and retain excellent employees and our  
21 culture of innovation and continuous improvement. A few recent examples  
22 include:

- 1           • FPL was an early mover toward a cleaner, lower cost generating fleet  
2           in the 1990s when we began the modernization of our generation fleet;
- 3           • FPL has developed (both through its experience as well as extensive  
4           planning and review efforts) one of the top storm preparation and  
5           response organizations in the industry;
- 6           • FPL has redesigned its compensation and benefits programs to keep  
7           costs low while at the same time providing more value for attracting,  
8           retaining, and engaging employees;
- 9           • FPL has been a leader in Florida in the development and construction  
10          of cost-effective solar generation, which benefits all customers;
- 11          • FPL has deployed an award-winning Advanced Metering  
12          Infrastructure and enhanced smart grid system; and
- 13          • FPL has implemented an initiative, known internally as Project  
14          Momentum, that is specifically focused on generating and evaluating  
15          productivity and efficiency improvement ideas.

16

17          FPL is a top performer in major categories of operational performance and has  
18          one of the cleanest, most efficient generation fleets in the country, and we  
19          have achieved these results cost-efficiently, with bills that are well below the  
20          national and state averages. In fact, most customers are paying less today than  
21          they did 10 years ago. At the end of the day, we recognize the essential nature  
22          of what we do. We take our responsibility seriously, and we are committed to  
23          doing it right. We are honored to be recognized nationally as a leader in our

1 industry for the significant value we provide our customers, and we are  
2 always looking for ways to improve.

3 **Q. How has the Company's overall strong performance been recognized by**  
4 **the industry?**

5 A. FPL is an internationally-recognized company, having received a number of  
6 prestigious and significant awards, as described by our operational witnesses.  
7 In addition, there are three NextEra Energy awards that I believe underscore  
8 FPL's high level of overall performance and contribution to our parent  
9 company's success. NextEra Energy has been ranked No. 1 in the Electric  
10 and Gas Utilities sector on Fortune's list of "World's Most Admired  
11 Companies" nine out of the last 10 years. NextEra Energy has also been  
12 named a World's Most Ethical Company® seven times by the Ethisphere  
13 Institute, an independent center of research promoting best practices in  
14 corporate ethics and governance. In addition, NextEra Energy in 2015 was  
15 ranked by EI Energy Intelligence as the top green utility in the United States  
16 and No. 4 in the world based on clean emissions and renewable energy  
17 capacity.

18

19 **V. SUMMARY OF BASE RATE REQUEST**

20

21 **Q. Why is FPL seeking a base rate increase?**

22 A. FPL currently serves about 4.8 million customer accounts representing more  
23 than 10 million people in 35 Florida counties, with approximately 68,000

1 miles of distribution lines and 6,900 miles of high voltage transmission lines,  
2 and more than 26,000 MW of installed capacity. We have a responsibility to  
3 maintain our existing infrastructure, and to plan and invest to meet customer  
4 needs today and in the future, and we strive to do so affordably and reliably.  
5 We also are aware of the significant responsibility and economic impact we  
6 have as the largest electric utility in Florida, the state with the fourth-largest  
7 gross domestic product in the U.S., and 18<sup>th</sup> largest economy in the world.

8  
9 In order to fulfill that responsibility, we must first maintain the ability to  
10 continue delivering value for customers so that Florida remains an attractive  
11 place to live and a competitive environment for businesses to succeed.  
12 Consistent with the prior rate adjustments that were necessary and have been  
13 approved by the Commission, our current request will ensure that continued  
14 viability. Again, as discussed by FPL witnesses Santos, Miranda and Cohen,  
15 we expect to continue to improve service at rates that are projected to remain  
16 among the lowest in the state and nation, even with these requested  
17 adjustments. As discussed by FPL witness Morley, this can be contrasted  
18 with the rising costs of most other consumer goods and services, such as food,  
19 medical care, and homeowners/ renters insurance.

20 **Q. Please describe FPL's proposed four-year rate plan proposal.**

21 A. Prior multi-year rate settlements have allowed FPL to focus on improving its  
22 performance and service delivery for customers and have provided the  
23 Company with the financial capacity to make the necessary investments to

1 improve the infrastructure through which those services are delivered. FPL's  
2 base rate proposal similarly lays out a multi-year approach. FPL's request  
3 will allow it to continue to improve on the value FPL provides its customers  
4 and enhance bill certainty and stability through 2020.

5  
6 Specifically, we are proposing a comprehensive base rate adjustment for 2017,  
7 a smaller, subsequent-year adjustment in 2018, and an adjustment in mid-2019  
8 that is limited only to recovery of the cost of the FPL Okeechobee Clean  
9 Energy Center once the unit begins generating power for our customers.  
10 Approval of these requests would allow us to commit to no general base rate  
11 increase until 2021, at the earliest.

12  
13 As addressed by FPL witness Ousdahl, absent any rate relief in 2017, the  
14 Company's ROE is projected to fall to 7.88 percent, which is well below the  
15 bottom end of the current authorized ROE range. Absent any rate relief in  
16 2017 and 2018, the Company's ROE is projected to be only 6.95 percent.  
17 Rather than conduct separate base rate cases for both 2017 and 2018, and  
18 create uncertainty around subsequent potential needs for 2019 and 2020,  
19 approval of our proposed plan (general increases in 2017 and 2018, and a  
20 limited increase in 2019) would enable the Company to continue investing in  
21 operational and service-related improvements without additional base rate  
22 proceedings for rates effective through 2020. We believe this is the most  
23 efficient and effective approach to long-term rate and revenue certainty and,



1 as we have demonstrated over the past four years, is in the best interest of our  
2 customers.

3

4 Importantly, I also would note that the Commission retains full surveillance  
5 authority over the Company for all four years of the proposed plan. If at any  
6 time the Company's earnings were to exceed the approved range, the  
7 Commission could conduct an earnings review and reset rates, if necessary.

8 **Q. Please describe the Company's request for a base rate increase in 2017.**

9 A. The 2012 Rate Settlement provided for limited base rate increases and  
10 deferred a general base rate proceeding for four years, but it did not avoid the  
11 underlying need for a general base rate increase in 2017. As a result, and as  
12 described by FPL witness Barrett and other witnesses, FPL's base rate request  
13 for 2017 is driven in large part by the significant investment during 2014-  
14 2017, for which there is no provision for recovery in the current settlement  
15 agreement. This investment is necessary in order to address customer growth,  
16 improve reliability and storm resiliency, expand clean energy generation  
17 capabilities, meet regulatory compliance requirements and provide long-term  
18 customer savings.

19

20 FPL does not operate as a short-term thinker and, indeed throughout the term  
21 of the current settlement, we have continued to maintain a long-term,  
22 customer-centric approach to our planning. The investments we have made,  
23 financed primarily through capital markets and supported by base rates, are

1 designed to maintain the strong value that the Company delivers to customers  
2 – high reliability, clean energy and low bills.

3

4 FPL witnesses Barrett, Goldstein, Kennedy and Miranda will address these  
5 investments in their testimonies. But before they do, I would like to provide a  
6 brief overview:

- 7
- 8 • Reliability: While our service reliability is excellent – better than  
9 99.98 percent reliable – we must continue to invest in order to make  
10 the grid stronger, smarter, more responsive and more resilient to  
11 outage conditions. FPL’s initiatives and efforts to strengthen,  
12 modernize and improve the reliability of its grid are consistent and  
13 aligned with the Department of Energy’s “Grid Modernization  
14 Initiative” issued March 2015, and its recently issued (November  
15 2015) “Grid Modernization Multi-Year Program Plan.”
  - 16 • Capital requirements for customer growth: For the period 2014  
17 through 2017, we project nearly 220,000 new service accounts, and  
18 over 450,000 new service accounts by the end of 2020. In the face of  
19 such significant growth, FPL must build facilities in advance to meet  
20 the needs of these additional customers. To put this in perspective,  
21 only three of Florida’s 55 electric utilities have more than 450,000  
22 customers – in effect, by the end of the decade, we will be adding what  
would equate to the fourth largest electric utility in Florida.

- 1           • Generation advancements: FPL's high-efficiency fleet of power plants  
2           has one of the cleanest emission profiles among comparable utilities  
3           nationwide, and we continue to invest in cleaner, more fuel-efficient  
4           generation, including the modernization of aging peaking units and the  
5           addition of three new large-scale solar energy centers.

6  
7           Finally, the 2012 Rate Settlement authorized an ROE midpoint of 10.5  
8           percent. As FPL witnesses Dewhurst and Hevert discuss, a solid financial  
9           platform is essential to FPL's ability to continue to invest capital strategically  
10          and beneficially for customers in a variety of market conditions, and to  
11          respond quickly to emergency situations. Indeed, FPL's need for financial  
12          strength is particularly important because of the unique and significant  
13          exposure that our predominantly coastal service area faces and the lack of a  
14          fully-funded storm reserve.

15  
16          Fundamentally, we believe that sound regulatory policy suggests that  
17          companies with a proven record of delivering better value for their customers  
18          should be encouraged to continue their best-in-class performance. Taken in  
19          combination, FPL witnesses Dewhurst and Hevert recommend an appropriate  
20          allowed retail regulatory ROE midpoint for FPL of 11.5 percent, which  
21          includes a 50 basis point ROE adder that would recognize FPL's strong track  
22          record of superior performance and provide an incentive for continued future  
23          strong performance. This Commission has utilized ROE adders in the past to

1 encourage superior performance. As FPL witness Dewhurst addresses, the  
2 ROE adder is an appropriate mechanism by which the Commission can  
3 encourage utilities to strive to be exceptional – not just FPL, but all utilities.  
4

5 One final note on what is *not* in the 2017 request. In most rate cases,  
6 increases in non-fuel O&M costs are a significant driver of the base rate  
7 request. However, a key factor in the ability of our Company to avoid the  
8 need for a base rate increase since 2013 has been our aggressive focus on  
9 controlling these O&M costs. As FPL witness Barrett describes, despite  
10 general inflation-related increases and customer growth that are projected to  
11 add nearly \$145 million to our non-fuel operating costs, we estimate that our  
12 non-fuel base O&M expense will actually be *lower* in 2017 than it was in  
13 2013. This is a remarkable achievement by our employees and, as a result,  
14 FPL has moved from an already impressive top-decile cost position to being  
15 the best-in-class utility in non-fuel O&M cost management. This  
16 extraordinary efficiency provides real and substantial savings for our  
17 customers every single day.

18 **Q. Please describe the Company's request for a base rate increase in 2018.**

19 A. As noted above and as described by FPL witness Ousdahl, even with the full  
20 relief in 2017, the Company's ROE will fall below the approved range in  
21 2018. Rather than file a separate case in 2017 for new rates in 2018, we are  
22 requesting a Subsequent Year Adjustment for 2018. As addressed in the  
23 testimony of FPL witness Barrett, the primary drivers of the increase in

1 revenue requirements in 2018 include continued investments in infrastructure  
2 to support system growth and to provide long-term economic and/or reliability  
3 benefits to customers.

4 **Q. Please describe the Company's request for a limited scope base rate**  
5 **increase in 2019.**

6 A. As addressed by FPL witness Kennedy, the Company's investment in the  
7 construction of a highly fuel-efficient, state-of-the-art combined cycle ("CC")  
8 natural gas unit will be completed in mid-2019. FPL's Okeechobee Clean  
9 Energy Center is projected to be the most fuel-efficient CC unit on FPL's  
10 generation system, further enhancing customer savings produced by our  
11 already highly efficient system. We also expect it to be the most fuel-efficient  
12 and among the cleanest gas-fired units not only in the state of Florida, but in  
13 the world. Beyond the fuel savings and system reliability improvements, the  
14 Okeechobee Clean Energy Center is estimated to generate significant  
15 economic benefits, including millions of dollars in tax revenues for local  
16 governments and school districts and hundreds of good-paying temporary and  
17 permanent jobs.

18  
19 Given the \$1.2 billion capital cost associated with the addition of a new power  
20 plant based on the Commission need determination in Order No. PSC-16-  
21 0032-FOF-EI, FPL witnesses Barrett and Ousdahl explain our request to  
22 include recovery of this investment in base rates in 2019 when the unit enters  
23 commercial operation. This limited scope adjustment will not include any

1 other capital investments or O&M costs; rather, it will address only the cost of  
2 the unit once it begins providing benefits to customers, including a  
3 corresponding reduction in fuel costs.

4 **Q. Please describe the specific rate adjustments that the Company is**  
5 **requesting.**

6 A. As FPL witnesses Barrett and Ousdahl describe, and as is presented in the  
7 minimum filing requirements (“MFRs”), the Company is requesting approval  
8 of the four-year rate plan summarized below:

- 9 • \$866 million increase effective in January 2017;
- 10 • \$262 million subsequent year adjustment effective in January 2018;
- 11 • \$209 million limited scope adjustment for the Okeechobee Clean  
12 Energy Center in mid-2019 once the unit goes into service; and
- 13 • No increase in 2020.

14 This structured approach will ensure continuation of the industry-leading  
15 value proposition that we deliver to customers – high reliability, clean energy  
16 and low bills.

17

## 18 VI. ACTIONS TAKEN TO MITIGATE THE REQUESTED INCREASE

19

20 **Q. What actions has FPL taken to control costs and mitigate the requested**  
21 **increase?**

22 A. As discussed in more detail below and also by several of FPL’s witnesses, the  
23 Company has worked hard and has been innovative with respect to managing

1 and controlling costs. This is one reason that the typical residential bill for an  
2 FPL customer has been the lowest bill on average in the state for the past  
3 seven years among reporting electric utilities, approximately 20 percent lower  
4 than the Florida average and approximately 30 percent lower than the national  
5 average, as discussed by FPL witness Cohen.

6  
7 The 2012 Rate Settlement benefitted customers by eliminating the need for  
8 further general base rate increases for the years 2014-2016, providing stability  
9 and certainty around the level of customer bills. Throughout the term of the  
10 agreement, FPL has continued its diligence in working to hold costs down  
11 while continuing to deliver outstanding reliability and superior performance in  
12 all areas of operations.

13  
14 FPL prides itself on operating efficiently. As previously stated and as  
15 described by FPL witness Barrett, one key factor in the ability of our  
16 Company to avoid the need for a base rate increase since 2013 has been  
17 Project Momentum – an aggressive, internally generated approach to control  
18 non-fuel O&M costs. FPL witness Reed addresses our overall O&M costs.  
19 His benchmarking shows that FPL has out-performed similarly-sized  
20 companies across an array of financial and operational metrics. Today our  
21 non-fuel O&M performance is best in class. As explained by FPL witness  
22 Barrett, despite inflation-related increases as well as other business cost

1 increases, FPL's actual non-fuel O&M expense is projected to be millions of  
2 dollars lower in 2017 than it was in 2013.

3

4 As I previously stated, and as explained by FPL witness Reed, for 2014 alone  
5 (the last year for which data is available), if FPL had been just an average  
6 performer among benchmarked electric companies instead of having  
7 exceptional performance, we would be spending \$1.9 billion more than we  
8 currently do every year to deliver the same product to our customers. To put  
9 it another way, if we were an average performing electric provider with an  
10 additional O&M expense of \$1.9 billion annually, our typical residential  
11 monthly bill would be higher by about \$17 – an increase of about 18 percent  
12 over the current level. This relentless and aggressive focus on operational  
13 efficiency is an extraordinary achievement that has and will continue to result  
14 in over \$200 a year in savings for our customers.

15

16 FPL's fossil fleet generation performance, as addressed by FPL witness  
17 Kennedy, also has resulted in significant savings to customers, reducing the  
18 potential impact of a base rate increase. The transformation of our fossil fleet  
19 over time has resulted in substantial improvements to operating performance,  
20 resulting in industry leading reductions to system heat rate, carbon dioxide  
21 and other air emissions, forced outage rate and total non-fuel O&M costs. As  
22 discussed by FPL witness Kennedy, the improvements in fuel consumption  
23 and O&M costs at our fossil plants resulted in \$1 billion of savings for



1 customers in 2015 alone. These savings are directly attributable to our  
2 continuous investments in highly efficient generation, investments that some  
3 opposed but which today clearly are benefiting all customers and Florida's  
4 economy. It is important to note that these fuel-efficiency savings are *in*  
5 *addition to* the savings from lower natural gas prices in recent years.

6  
7 Further, our fleet's carbon emission rate places us in an excellent position to  
8 exceed the U.S. Environmental Protection Agency's CPP goal ultimately  
9 implemented in Florida, assuming the CPP legal challenges are unsuccessful.  
10 Currently, FPL is the only utility in the state, and likely one of the few in the  
11 nation, to be in such an advanced position today. The end result is cleaner air  
12 for all Floridians today and a major cost advantage for FPL customers for  
13 years to come by preventing billions of dollars in compliance costs that might  
14 otherwise be necessary.

15  
16 FPL's long-term steady approach, our culture of innovation, and our steadfast  
17 commitment to excellence have created an ongoing progressive effort for  
18 improvement within the Company. This culture, in turn, has benefitted our  
19 customers with typical bills that are less now than they were 10 years ago and  
20 higher reliability, lower emissions, and lower fuel costs – an uncommon  
21 combination of value.

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## VII. INTRODUCTION OF WITNESSES

**Q. Who will be testifying on FPL's behalf in this proceeding?**

A. In addition to me, the following Company witnesses will testify as part of FPL's direct case:

- Moray P. Dewhurst – Capital structure and financial policies, ROE performance adder, storm recovery mechanism;
- Robert E. Barrett, Jr. – Support for requested revenue requirements, FPL's financial forecast;
- Kim Ousdahl – Calculation of the revenue requirements and requested revenue increases, accounting issues and Company adjustments;
- Robert B. Hevert, CFA, Sussex Economic Advisors, LLC – Cost of equity and capital structure;
- Manuel B. Miranda – Power Delivery costs and performance;
- Roxane R. Kennedy – Power Generation costs and performance;
- Marlene M. Santos – Customer Service costs and performance;
- Mitchell Goldstein – Nuclear costs and performance;
- John J. Reed, Concentric Energy Advisers – FPL's operational and financial performance relative to industry benchmarks;
- Rosemary Morley – Sales and load forecast;
- Kathleen Slattery – Payroll and benefit expense;
- Tiffany C. Cohen – Rate design;
- Renae B. Deaton – Cost of service;

- 1           • Keith Ferguson – 2016 Depreciation and Dismantlement Studies,  
2           Decommissioning Study; and  
3           • Ned W. Allis, CDP, Gannett Fleming Valuation and Rate Consultants,  
4           LLC – 2016 Depreciation Study.

5

6           Some of these individuals, as well as others, also may provide rebuttal  
7           testimony on behalf of FPL.

8   **Q.   What conclusion should the Commission draw from your testimony and**  
9   **that of the other FPL witnesses?**

10  A.   We at FPL are proud of the achievements that allow us to deliver exceptional  
11  customer value – low bills combined with high reliability, excellent customer  
12  service and low emissions rates. And consistent with our culture of  
13  continuous improvement and innovation, we intend to continue to improve  
14  even further. That objective underscores FPL’s request in this proceeding.  
15  Our request will enable us to continue to invest in our system and deliver  
16  exceptional customer value. With a constructive regulatory outcome, our  
17  customers’ and the state’s interests in low cost, reliable, clean power will be  
18  best served.

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

20  A.   Yes.

1 **BY MR. LITCHFIELD:**

2 Q And, Mr. Silagy, you also have two exhibits  
3 that were identified as ES-1 -- excuse me,  
4 three exhibits identified as ES-1 through ES-3 attached  
5 to your direct testimony; correct?

6 A That's correct.

7 Q These were prepared also under your direction  
8 or supervision?

9 A Yes, they were.

10 **MR. LITCHFIELD:** Madam Chair, I would note  
11 that these have been pre-identified in staff's  
12 Comprehensive Exhibit List as Exhibits 44, 45, and 46  
13 respectively.

14 **CHAIRMAN BROWN:** Thank you.

15 **BY MR. LITCHFIELD:**

16 Q Mr. Silagy, would you at this time provide a  
17 summary of your direct testimony to the Commission?

18 A I would.

19 Madam Chairman and Commissioners, on behalf of  
20 all of FPL employees, thank you for the opportunity to  
21 be here today. Over the next two weeks you're going to  
22 hear from a lot of FPL witnesses. They're going to  
23 cover both our performance over the past four years and  
24 also, importantly, about our future plans. You're also  
25 going to hear a lot of big numbers. That's not

1 surprising because we're a big utility serving nearly  
2 10 million people, or half of the population of the  
3 third largest state in America. So it's not uncommon  
4 that in our case it's going to be associated with big  
5 numbers. However, what's not big is our average  
6 customer bill. Don't worry. I'm not going to go into  
7 my little spiel on the state speech. But our  
8 performance over the last four years has been very  
9 strong.

10 We've successfully completed a number of very  
11 large and important capital projects such as Canaveral,  
12 Riviera Beach, and Port Everglades. All were completed  
13 on time, if not early, and on, if not under, budget.  
14 We've improved reliability on a system that was already  
15 the most reliable in Florida and now among the United  
16 States as a whole. We've improved on an emissions  
17 profile that was already the cleanest in Florida. Now  
18 is the cleanest in the southeast U.S. and among the  
19 cleanest in the United States. We've won a number of  
20 awards, national awards for excellent customer service.  
21 And all at a time when many other utilities around the  
22 country were actually raising their bills, we, in the  
23 past ten years, have actually lowered our bills. In  
24 fact, our bills are lower today than they were a decade  
25 ago, and our bills are 30 percent lower than the

1 national average.

2 We've also continued to look for ways  
3 throughout the company to tighten our own belts to save  
4 on costs. We've had a lot of focus on our O&M expenses,  
5 and we've been able to reduce those significantly. We  
6 now benchmark, as you'll hear from Witness Reed, best in  
7 class in the United States. Four years ago we were top  
8 decile performer. Now we're best in class. The  
9 difference in us performing like an average utility is a  
10 cost savings of \$1.9 billion a year in O&M that we don't  
11 spend each and every a year. That's real savings for  
12 customers every single month, month in and month out.  
13 In fact, it translates to a savings of over \$17 a month  
14 on the average customer bill on just the amount of O&M  
15 that we don't spend compared to being an average  
16 utility.

17 As Witness Barrett will explain, our proposal  
18 is largely driven by the investments in infrastructure.  
19 These investments will do a variety of things, including  
20 they'll strengthen our grid, they'll continue to improve  
21 our reliability and, importantly, our storm resiliency.  
22 They'll continue to allow us to ensure compliance with a  
23 growing body of NERC, FERC, and other federal regulatory  
24 requirements. They'll allow us to further upgrade our  
25 generation fleet, including the cost of -- or for the

1 use of cost-effective solar power, and ultimately these  
2 are going to end up providing savings for customers.

3 We're also proposing an adjustment to our  
4 allowed equity midpoint of 11 percent and proposing a  
5 50-basis-point equity adder to recognize our excellent  
6 performance, the value we provide customers, but most  
7 importantly, to also incentivize that continued  
8 performance and, frankly, to send a message to the  
9 entire state that performance does matter.

10 Witness Hevert and Dewhurst will discuss these  
11 detailed -- these points in detail. What is clear that  
12 our financial strength and our ability to attract  
13 capital is critical and ultimately translates into  
14 customer savings.

15 Commissioners, we're not perfect and there's  
16 always room for improvement. But I think as you can  
17 tell, I'm pretty proud of the performance that our  
18 company and our employees have delivered to customers  
19 over the past four years, and this case is really about  
20 our ability to be able to continue to do that going  
21 forward. Your approval of a multiyear settlement four  
22 years ago has provided us stability and predictability  
23 and the necessary financial resources and the strength  
24 to deliver what is arguably the best value proposition  
25 in the United States. This case is about us being able

1 to stay on that path, to continue to provide that  
2 excellent value to customers, and I appreciate the  
3 opportunity to present it today. Thank you.

4 **CHAIRMAN BROWN:** Thank you very much,  
5 Mr. Silagy.

6 **MR. LITCHFIELD:** Thank you, Madam Chairman.  
7 Mr. Silagy is available for cross-examination.

8 **CHAIRMAN BROWN:** Thank you. We will begin  
9 with the Office of Public Counsel.

10 **MR. WRIGHT:** Madam Chairman, may I ask, would  
11 you please go down the order of party cross-examination  
12 one more time?

13 **CHAIRMAN BROWN:** Absolutely.

14 **MR. WRIGHT:** I wasn't writing quite fast  
15 enough.

16 **CHAIRMAN BROWN:** Absolutely. And this is  
17 going to be for all of the direct witnesses, so please  
18 pay attention. Office of Public Counsel, FIPUG,  
19 Hospitals, FRF, FEA, Sierra, Wal-Mart, AARP, Larsons,  
20 staff, and then FPL redirect. And my apologies that  
21 staff didn't provide that to you a little bit earlier  
22 for you, but --

23 **MR. WRIGHT:** Madam Chairman, they may well  
24 have in an email. There have been a lot of emails.  
25 Just for planning purposes and getting my cross exhibits



1 to the staff, may I ask, do you plan to take lunch at  
2 noon, or do you have a plan on that?

3 **CHAIRMAN BROWN:** We'll see where there's a  
4 natural stopping point, but somewhere between 12:00 and  
5 12:30.

6 **MR. WRIGHT:** Thank you.

7 **CHAIRMAN BROWN:** You're welcome.

8 Now it's Office of Public Counsel's turn.

9 **MS. CHRISTENSEN:** Thank you.

10 **EXAMINATION**

11 **BY MS. CHRISTENSEN:**

12 **Q** And good morning, Mr. Silagy.

13 **A** Good morning.

14 **Q** I just have a few questions for you. I wanted  
15 to clarify, I think you went through this with your  
16 counsel, you do not have changes to your direct  
17 testimony that you filed March 15th, 2016; correct?

18 **A** Correct.

19 **Q** Okay. And you did not file an errata to your  
20 direct testimony; is that correct?

21 **A** That's correct.

22 **Q** Okay. Can I refer you to page 7 of your  
23 testimony. Let me know when you're there.

24 **A** I'm there.

25 **Q** Okay. Great. On page 7 you say, "With the

1       approvals of these requests, there will be no general  
2       base rate increase for 2019 and 2020"; is that correct?

3           **A**     That's correct.

4           **Q**     Okay. And are you referring to FPL's 2017,  
5       '18, and '19 request in that statement? Is that a  
6       correct summary of your testimony?

7           **A**     I'm referring to the updated filings that were  
8       made. I think Mr. Litchfield asked me that during my  
9       questioning about KO -- I'll have to look at the  
10      number -- but our amended filing, 826 million, 270  
11      million, and the 209 million, if that's what you're  
12      asking me, Counselor.

13          **Q**     Okay. And I just want to make sure that I'm  
14      clear. If the Commission approves less than the full  
15      revenue requirement for 2017, which is the 826 million  
16      you talked about; 2018, the 207 million that you  
17      mentioned; and the Okeechobee step increase, which I  
18      think is around 206 million -- I may be wrong on that.

19          **A**     209.

20          **Q**     209 million. Would your statement that there  
21      will be no general base rate increase in 2019 and '20  
22      still be correct?

23          **A**     So what is the question?

24          **Q**     The question essentially boils down to if the  
25      Commission were to grant something less than the full

1 revenue request that was made by FPL in the proceeding,  
2 would the statement that there will be no general base  
3 rate increase in 2019 and '20 still hold true?

4 **A** Commissioners, I don't know the answer to that  
5 question. We've tried very hard to come up with a plan  
6 and a request that would allow us to commit to staying  
7 out for four years if the request is granted. If in  
8 your judgment something less is granted to FPL, then  
9 we'd look very hard at what our opportunities would be  
10 to stay out or whether or not we'd need to come back in.

11 **Q** Okay. And just to be clear then, it's not a  
12 definitive, yes, we will stay out through 2020?

13 **A** Our commitment is absolutely definitive, that  
14 based on our filing, we will stay out through 2020.

15 **Q** All right. Now I'm confused because to the  
16 last question, if you get something less than the full  
17 revenue requirement that you requested, you testified  
18 that you didn't know whether or not you would be able to  
19 stay out, and then you said, "Yes, we will commit to  
20 stay out even if we get something less than the  
21 revenue -- full revenue requirement." I just want to  
22 make sure I understand.

23 **A** No, Counselor, that's not what I said. What I  
24 said, and to make clear, Commissioners, is based on our  
25 filing, we're committing to staying out for the four

1 years through 2020 unequivocally. However, I will tell  
2 you that anything less, we'll have to look and see what  
3 the opportunity is to stay out or not.

4 **Q** Okay. And I think this is going to be my  
5 final question. If at any time during the four-year  
6 period FPL were to earn below the authorized range for  
7 its ROE, would your statement that FPL would stay out  
8 until 2020 still hold true?

9 **A** Again, Commissioners, based on our filing, we  
10 believe we'll be able to stay out for four years. We're  
11 committing to stay out for four years based on this  
12 filing.

13 **Q** Okay. So is that a no, if the authorized ROE  
14 fell below the range that's approved by the Commission,  
15 you would not be staying out through 2020?

16 **A** Is that based on us receiving 100 percent of  
17 our request?

18 **Q** Whatever the approved ROE is in this case, if  
19 it fell below the range, are you committing -- you would  
20 possibly come in and seek a base rate increase before  
21 2020; would that be a true statement?

22 **A** Counselor, I can't answer your question. It's  
23 a hypothetical that I don't know what the parameters  
24 are. I'm trying to be as clear as I can on this.  
25 There's nothing opaque. We are committing to a

1 four-year stay out based on our filing. And beyond  
2 that, we would have to see what the circumstances are at  
3 the time.

4 **MS. CHRISTENSEN:** Okay. Thank you. I have no  
5 further questions.

6 **THE WITNESS:** You're welcome.

7 **CHAIRMAN BROWN:** Thank you. Mr. Moyle.

8 **MR. MOYLE:** Thank you.

9 **EXAMINATION**

10 **BY MR. MOYLE:**

11 **Q** Mr. Silagy, I'm a little confused by that last  
12 line of questioning. I understand your proposal is a  
13 four-year proposal in effect; is that right?

14 **A** That's correct.

15 **Q** And for the fourth year -- let me ask you  
16 this. If you got 98 percent of your request, would you  
17 commit to staying out for four years?

18 **A** Mr. Moyle, I don't know what the answer is,  
19 whether it's 98 percent or whether it's 50 percent.  
20 We'll have to look at it and see. We have put together  
21 a case with a lot of thought that will hopefully give us  
22 the opportunity we're committing actually to staying out  
23 for four years.

24 **Q** Right. And you and I have had occasion to  
25 talk when you've been placed under oath before; right?

1           **A**     Yes, we have.

2           **Q**     And you're familiar with the Commission's use  
3 of a mechanism that often times moves things along,  
4 which is it directs witnesses to answer questions yes or  
5 no, and then if an explanation is needed, to provide an  
6 explanation. Are you familiar with that?

7           **MR. LITCHFIELD:** Object to the lecture of the  
8 witness.

9           **MR. MOYLE:** I'm just asking if he's familiar  
10 with that mechanism that the Commission uses.

11          **CHAIRMAN BROWN:** Just a second. Mr. Silagy,  
12 are you aware that you answer yes and then you're  
13 allowed an opportunity to explain your answer?

14          **THE WITNESS:** Yes, ma'am. Yes, no, or I don't  
15 know I believe is acceptable; is that correct?

16          **CHAIRMAN BROWN:** All of those are acceptable.

17          **THE WITNESS:** Thank you. I believe I said  
18 that. I don't know.

19          **CHAIRMAN BROWN:** All right. Mr. Moyle,  
20 continue, please, with your questioning.

21 **BY MR. MOYLE:**

22          **Q**     Did you read the Prehearing Order in this  
23 case?

24          **A**     No, not in its entirety.

25          **Q**     So back on my pending question, you answered

1 it without a yes or no. Just to be clear, if FPL got  
2 97 percent of their ask, I assume that means that you  
3 would not commit to staying out for four years; is that  
4 correct?

5 **A** Yes. I am not at this time able to tell you  
6 what we'll be able to stay out or not over four years,  
7 anything that differs from our filing.

8 **Q** Okay. Thank you for that yes.

9 **A** You're welcome.

10 **Q** And in my opening statements -- a couple of  
11 parties have made this. I just want to confirm. Your  
12 testimony, as I read it, you give an overview of the  
13 case; is that right?

14 **A** That's correct.

15 **Q** Okay. So for the year 2017, you're seeking an  
16 \$826 million increase; is that right?

17 **A** Yes.

18 **Q** Okay. And what day are you expecting -- or  
19 asking this Commission to award, per your request, those  
20 monies? When would it be effective?

21 **A** Well, I can't answer that with a yes or a no,  
22 but I'll give you a date. It would be January 1st of  
23 2017 is when we would expect the Commission to put rates  
24 into effect.

25 **Q** Okay. And when does your current rate

1 agreement expire?

2 **A** December 31st of this year.

3 **Q** So that's a continuing -- there's no gap in  
4 between for ratepayers to not have the new rates go into  
5 effect; is that right? So the rate agreement ends on  
6 one day and the next day you're asking for new rates; is  
7 that correct?

8 **A** Yes.

9 **Q** And then for 2018, you're asking for another  
10 270 million?

11 **A** Yes.

12 **Q** And then 2019, you're asking for 209 million?

13 **A** Yes, \$209 million is a limited scope  
14 adjustment related to Okeechobee only. No general base  
15 rate increase.

16 **Q** So that's more than \$1.3 billion in rate  
17 increases; is that right?

18 **A** Yes.

19 **MR. MOYLE:** I do have some exhibits.

20 **CHAIRMAN BROWN:** You didn't hear me, did you?

21 **MR. MOYLE:** Well, I didn't know when the right  
22 time to do that was, so --

23 **CHAIRMAN BROWN:** Is it possible for you to  
24 compile all of the exhibits that you plan on handing out  
25 at once?



1           **MR. MOYLE:** Yes, I have -- they can take the  
2 box and just --

3           **CHAIRMAN BROWN:** Thank you.

4           **MR. MOYLE:** And I wasn't kidding about the  
5 box.

6           (Pause.)

7           **CHAIRMAN BROWN:** While Mr. Moyle is doing that  
8 and our staff is so graciously all helping over there,  
9 Ms. Brownless, the first exhibit number that we will be  
10 marking for identification purposes I have would be 559?

11          **MS. BROWNLESS:** Yes, ma'am.

12          **CHAIRMAN BROWN:** Okay. Thank you.

13          **MR. MOYLE:** If you would like, I can ask  
14 questions while they're being distributed.

15          **CHAIRMAN BROWN:** I do not like that.

16                 Mr. Moyle, while they are distributing, could  
17 you help identify the order in which you'd like them  
18 labeled? We will be starting at Exhibit 559. So if you  
19 have a preference, then --

20          **MR. MOYLE:** Sure. In my box each exhibit was  
21 in a folder that said one, two, three, four, five, six,  
22 seven. So I think I can --

23          **CHAIRMAN BROWN:** I think you can recreate it  
24 on your own. The first one I had was Aviation Assets.

25          **MR. MOYLE:** Aviation Assets would be one.

1           **CHAIRMAN BROWN:** Okay. So for everybody, if  
2 you can -- I know they're still being disseminated, but  
3 to utilize the time wisely, we're going to label  
4 Aviation Assets, the title, as 559.

5           **MR. MOYLE:** And then the 2016 Registered  
6 Lobbyist for FPL, that's two.

7           **CHAIRMAN BROWN:** 560 is the 2016 Registered  
8 Lobbyist for FPL. Yeah, 560.

9           Go ahead.

10          **MR. MOYLE:** And then the next one would be the  
11 Percent Increase by Rate Class Sought by FPL for 2017  
12 and 2018.

13          **CHAIRMAN BROWN:** Okay. That will be labeled  
14 as 561. That is the Percent Increase by Rate Class.

15          **MR. MOYLE:** 561?

16          **CHAIRMAN BROWN:** Yes.

17          **MR. MOYLE:** And then I guess 562 would be 2017  
18 FPL Rate Increase.

19          **CHAIRMAN BROWN:** I don't have that. I don't  
20 have that.

21          **MS. BROWNLESS:** We don't have that one, Jon.

22          **CHAIRMAN BROWN:** Keep moving along, if you  
23 could.

24          **MR. MOYLE:** I think it may have been part of a  
25 composite. But, anyway, let's go to the next one. The

1 next one I have is Customer Changes 817 to 216.

2 **CHAIRMAN BROWN:** Yeah. That's what I have  
3 too. That would be -- Customer Changes will be five --

4 **MS. BROWNLESS:** Sixty-two.

5 **CHAIRMAN BROWN:** 562. All right. I'm going  
6 to repeat all of them after we're done.

7 **MR. MOYLE:** And then the next one I have is  
8 the consent order regarding cooling canals.

9 **MR. WRIGHT:** Madam Chairman, I do apologize,  
10 but with all the papers being handed out and the  
11 conversation, I either missed 562 or the Customer  
12 Changes was 562 or what, but can I please have some help  
13 on this?

14 **CHAIRMAN BROWN:** Yes.

15 **MR. WRIGHT:** And I don't think I'm alone  
16 actually.

17 **CHAIRMAN BROWN:** You're going to get help in  
18 just a second. I'm going to get through all of the --  
19 marking them. And then we'll go through, and whatever  
20 you don't have, staff will accommodate you. All right.

21 **MR. WRIGHT:** I'm trying to write them down on  
22 my exhibit list, so.

23 **CHAIRMAN BROWN:** All right. 563 is the  
24 Consent Order Cooling Canals. We just got your 2017  
25 Rate FPL Increase. It was just handed out. So do you

1 want to put that --

2 **MR. MOYLE:** Why don't we, just for ease, mark  
3 it as 561A maybe.

4 **CHAIRMAN BROWN:** We're going to do 564,  
5 Mr. Moyle.

6 **MR. MOYLE:** Okay.

7 **MS. BROWNLESS:** Do we have -- can we just  
8 perhaps take a minute and let all the paper get  
9 distributed and then --

10 **CHAIRMAN BROWN:** I thought it was.

11 **MR. MOYLE:** All right. I got 564 on that.  
12 And then I have the Consent Order. You've -- I think  
13 you've marked that.

14 **CHAIRMAN BROWN:** 563, yeah. What's 565?

15 **MR. MOYLE:** And then that is a case, the case  
16 of --

17 **CHAIRMAN BROWN:** Miami-Dade.

18 **MR. MOYLE:** -- *Miami-Dade County v. Florida*  
19 *Power & Light.*

20 **CHAIRMAN BROWN:** Okay. And then the last one  
21 is the ROE Adder that we have, 566; is that correct?  
22 Mr. Moyle?

23 **MR. MOYLE:** Yes.

24 **CHAIRMAN BROWN:** Is that correct? Okay. I'm  
25 going to go over this for all the parties. And, again,

1 it would be very helpful if you have them organized  
2 upfront when you cross-examine a witness, very helpful,  
3 rather than stopping every time you have an exhibit. So  
4 this will help ease. And Mr. Moyle just was notified of  
5 this process, so I thank you all for bearing with us on  
6 this. It will make it a lot more easier for all the  
7 parties if we get it as we progress.

8 So 559 is the Aviation Assets. 560 is the  
9 2016 Registered Lobbyist for FPL. 561 is the Percent  
10 Increase by Rate Class Sought by FPL for 2017 and 2018.  
11 562 are the Customer Changes 815 to 216. 563 is the  
12 Consent Order Cooling Canals. 564 is the 2017 FPL Rate  
13 Increase. 565 is the Miami-Dade County case. And the  
14 last one is 566, which is the ROE Adder Affecting  
15 Performance.

16 Mr. Moyle, is that correct? Is that what you  
17 have? Okay. Sorry for making you do this.

18 **MR. MOYLE:** No, I think we're right.

19 **CHAIRMAN BROWN:** I'm right. Okay.

20 (Exhibits 559 through 566 marked for  
21 identification.)

22 **MR. MOYLE:** I'm not -- there may be --  
23 depending on his answers, I may not use some of them,  
24 but --

25 **CHAIRMAN BROWN:** All right. Thank you. Now

1 does anybody have any problems or missing any of these  
2 exhibits? Does everybody have them before we proceed?  
3 And when we take lunch, I hope you all take an  
4 opportunity to organize your exhibits so that it becomes  
5 a little bit easier in this process. So everybody  
6 squared away here? Staff, are you squared away?  
7 Ms. Brownless, are you squared?

8 **MS. BROWNLESS:** One second and I can tell you.  
9 Yes, ma'am. Thank you.

10 **CHAIRMAN BROWN:** All right. Mr. Moyle, are  
11 you ready to proceed?

12 **MR. MOYLE:** I am.

13 **CHAIRMAN BROWN:** Mr. Silagy, are you ready to  
14 proceed?

15 **THE WITNESS:** Yes, ma'am.

16 **CHAIRMAN BROWN:** Thank you. All right. You  
17 have the floor, Mr. Moyle.

18 **BY MR. MOYLE:**

19 **Q** So, Mr. Silagy, I want to just understand, you  
20 know, your understanding of what is in this case and  
21 what's not in this case in terms of what you're asking  
22 this Commission to award rates for. Is that fair?

23 **MR. LITCHFIELD:** No, it's not. I object.  
24 It's a very vague question.

25 **CHAIRMAN BROWN:** Mr. Moyle.

1           **MR. MOYLE:** Well, the question is designed to  
2 test his knowledge as to what FPL is seeking from you  
3 all.

4           **CHAIRMAN BROWN:** I'll allow it. I'll allow  
5 the question.

6 **BY MR. MOYLE:**

7           **Q** All right. So the exhibit that's been marked  
8 as 559, do you have that in front of you?

9           **MR. LITCHFIELD:** I'm sorry.

10          **CHAIRMAN BROWN:** There was no answer.

11          **MR. LITCHFIELD:** There was a question pending,  
12 and I did not hear an answer.

13          **MR. MOYLE:** Oh, I'm sorry.

14          **CHAIRMAN BROWN:** Mr. Silagy, you're allowed to  
15 ask --

16 **BY MR. MOYLE:**

17          **Q** I asked you if it was to fair to ask you  
18 questions about your knowledge as to what FPL was asking  
19 for for recovery in this case as compared to what  
20 they're not asking for recovery for in this case?

21          **MR. LITCHFIELD:** And I objected to that  
22 question on form, and then Mr. Moyle reformulated his  
23 question and said, "What is FPL asking for in this  
24 case?" That's the question I thought Mr. Silagy was  
25 prepared to answer.

1           **MR. MOYLE:** Well, if that was my question, I  
2 strike it. Because what I'm trying to ask him is  
3 whether he is comfortable with me asking him questions  
4 about whether he knows what FPL is asking you all to  
5 award as compared to what he's not asking you all to  
6 award.

7           **CHAIRMAN BROWN:** I think that's fair game to  
8 ask him based on his knowledge. So, Mr. Moyle, you may  
9 proceed. Can you restate the question, though?

10 **BY MR. MOYLE:**

11           **Q** Okay. Well, I think the question I tried to  
12 ask was whether that was -- he thought that was fair for  
13 me to ask those questions of him. I think that was the  
14 pending questions. Do you think that's fair?

15           **A** I don't know what you're going to ask, so I  
16 can't tell you if it's fair. But I can tell you that I  
17 will do my best to answer your questions about what's in  
18 this proceeding.

19           **Q** Okay. But generally speaking, to prepare for  
20 your testimony, you're familiar with the rate case, are  
21 you not?

22           **A** Yes, I am, generally speaking.

23           **Q** And, you know, dollars are important, so  
24 you're also, you're familiar with the dollars that  
25 you're requesting and some of the major components and



1 what's in and what's out; fair?

2 **A** Yes, generally speaking, that's correct.

3 **Q** So the first Exhibit I handed you is -- has  
4 been marked as 559. It's been entitled Aviation Assets.  
5 Do you have that?

6 **A** Yes.

7 **MR. LITCHFIELD:** Madam Chair, I hesitate to  
8 jump in at this point, but I think my objection or the  
9 basis for my objection might inform process moving  
10 forward.

11 Mr. Silagy has sponsored, and I think we were  
12 asked and did a very careful effort to identify by  
13 witness who sponsored particular responses to  
14 interrogatories and production requests in this case.  
15 Mr. Silagy has sponsored a grand total of three, and  
16 this is not on the list. In fact, Exhibit 559 is  
17 sponsored by Ms. Ousdahl. And I think in the interest  
18 of getting through in the allotted time, asking the  
19 right question of the right witness is going to be very,  
20 very important for us.

21 **CHAIRMAN BROWN:** I agree, but I don't know  
22 where Mr. Moyle is going with those questions and as  
23 they pertain to his direct testimony.

24 **MR. LITCHFIELD:** Fair enough.

25 **MR. MOYLE:** And if he doesn't know, he can

1 just say, "I don't know," you know.

2 **BY MR. MOYLE:**

3 Q So you have before you an exhibit that's been  
4 marked as 559; is that right?

5 A Yes.

6 Q Okay. And it has a number of items in here.  
7 There's yellow highlighting in there. I'll represent to  
8 you that that is mine. I'll just read it, but it says,  
9 "Aviation asset transfers in 2011, FPL recorded a gain  
10 of 6.15 million as a result of transferring its aviation  
11 assets to its parent, NextEra. The book value of the  
12 transferred assets, related assets, and the sale of a  
13 purchase contract for an aircraft under construction  
14 amounted to 33.462 million. The resulting gain for the  
15 difference between the appraised value of transferred  
16 assets and net book value was deferred and has been  
17 amortized into income over a five-year period consistent  
18 with FPSC order referenced above." Do you have an  
19 understanding as to what I just read and what's on this  
20 exhibit means?

21 A I'm not familiar with this. I'm sure Witness  
22 Ousdahl can answer that question for you.

23 Q Okay. So you don't know whether FPL --

24 **CHAIRMAN BROWN:** Asked and answered.

25 **BY MR. MOYLE:**

1           **Q**     Okay.  Do you -- does FPL currently make use  
2 of aviation assets?

3           **A**     Yes.

4           **Q**     How so?

5           **A**     How so?  By flying on the aircraft.

6           **Q**     And which aircraft are you referencing?

7           **A**     It depends on the aircraft.  We have a  
8 helicopter as well as fixed-wing.

9           **Q**     As well as what?

10          **A**     Aircraft, fixed-wing.

11          **Q**     What kind of fixed-wing aircraft.

12          **A**     A jet fixed-wing aircraft.

13          **Q**     Falcons?

14          **A**     Yes.

15               **MR. LITCHFIELD:**  May I -- excuse me.  May I  
16 ask Mr. Moyle to point to the issue in this case to  
17 which this line of questioning is relevant, whether  
18 there is any representation in the company's filing as  
19 to whether these assets are in the requested cost of  
20 service before we proceed to go down this path?

21               **CHAIRMAN BROWN:**  Mr. Moyle?

22               **MR. MOYLE:**  Well, sure.  So I think you all  
23 are being asked to look at things and say, "Should we  
24 allow recovery of these?"  I want to ask him if they're  
25 flying around on Falcon jets and helicopters, is that

1 part of their ask here and are they seeking money from  
2 the ratepayers for that or not? So that was going to be  
3 my next question before the objection.

4 **CHAIRMAN BROWN:** Mr. Moyle, but it has to  
5 related to his pre -- direct testimony. Okay? Can you  
6 point me in the direction of where that discussion is?

7 **MR. MOYLE:** Well, he's asking -- he's -- on  
8 behalf of the company, has an overview of the case, and  
9 he's asking for 1.3 billion plus. And I just wanted him  
10 to answer whether expenses for aircraft and jets are  
11 part of the ask. It's a yes or no question.

12 **CHAIRMAN BROWN:** It is a yes or no question,  
13 but I believe he already indicated that another witness  
14 was more appropriate for that question. I could be -- I  
15 may be restating his --

16 **MR. LITCHFIELD:** And even if Mr. Silagy is  
17 able to answer this particular question, what it amounts  
18 to from Mr. Moyle's perspective is that he ought to be  
19 able to ask Mr. Silagy with respect to each and every  
20 cost component that may or may not be in the filing  
21 whether Mr. Silagy is aware of whether it's in there or  
22 not. There are many witnesses to come in this case who  
23 are absolutely poised to answer those questions.

24 **MR. MOYLE:** Right. But it's not a valid  
25 objection for him to work on my trial strategy and say,

1 "Mr. Moyle, you should ask Ms. Ousdahl that question  
2 rather than Mr. Silagy." If he knows whether they're  
3 asking ratepayers to pay for, you know, flying on  
4 corporate jets, he can say, "Yes, Mr. Moyle, we think  
5 it's an efficient use of time for us to go use corporate  
6 aircraft," or he can say, "No, we're not making that  
7 ask. We put it below the line."

8 **CHAIRMAN BROWN:** I understand what you're  
9 asking. Thank you.

10 Legal, I do believe he's going down a stream  
11 of questions that are outside of his direct testimony,  
12 and that is a slippery slope.

13 **MR. MOYLE:** It's a puddle.

14 **MS. HELTON:** I'm sorry. I didn't -- I don't  
15 know if I want to know, but I didn't hear Mr. Moyle's  
16 last comment.

17 **MR. MOYLE:** I only have three questions on --  
18 in these areas.

19 **MS. HELTON:** Madam Chairman, it is a slippery  
20 slope. You do have the discretion to allow the  
21 intervenors and FPL to go beyond the scope of the  
22 cross-examination that's filed. But we do have a lot of  
23 witnesses here, and I'm not sure where exactly this is  
24 going. Maybe Mr. Moyle can ask a couple of more  
25 questions and then we can move on.

1           **CHAIRMAN BROWN:** I'll give you some latitude,  
2 a little bit.

3           **MR. MOYLE:** Okay.

4 **BY MR. MOYLE:**

5           **Q**     Is FPL -- do you have an understanding whether  
6 FPL is asking the ratepayers to pay for the use of  
7 corporate aircraft in this case?

8           **A**     No, I'm not aware of any aircraft expenses  
9 being included in this rate case, but Witness Ousdahl  
10 can provide you any details.

11          **Q**     So are you telling me that it's not, or just  
12 that you're not 100 percent sure and I should ask  
13 Ms. Ousdahl?

14          **A**     Mr. Moyle, I told you that I don't believe  
15 there are any aviation expenses included in this rate  
16 case, and Ms. Ousdahl will be able to answer that in  
17 more detail.

18          **Q**     Okay. Same question with respect to political  
19 activity. You all have a number of lobbyists that you  
20 employ, 34 or so; is that right?

21          **A**     I don't know the number of lobbyists,  
22 Mr. Moyle.

23          **Q**     You want to go to Exhibit No. 560?

24          **A**     I'm there.

25          **Q**     How many does the Florida Legislature 2016

1 registrations by principal name reflect?

2 **A** According to this exhibit, 34, if your  
3 numbering is correct.

4 **Q** Okay. And you -- I assume you know some  
5 people on this list; is that right?

6 **A** They're employees on this list.

7 **Q** Okay. And then there's some contract people  
8 as well; right?

9 **A** Yes, there are.

10 **Q** Okay. Does it look accurate to you?

11 **A** I can't tell you the accuracy of this list.  
12 I've not seen this document before.

13 **MR. LITCHFIELD:** Madam Chair, is it  
14 Mr. Moyle's contention that these costs are reflected in  
15 rates, or is he simply asking the witness whether they  
16 are?

17 **MR. MOYLE:** I'm asking the witness.

18 **MR. LITCHFIELD:** Okay.

19 **BY MR. MOYLE:**

20 **Q** So do you know whether these are included in  
21 rates?

22 **A** No, they are not included in rates as far as I  
23 know. All political expenses are below the line.

24 **Q** But I should check with Ms. Ousdahl on that?

25 **A** I would -- you're welcome to ask Ms. Ousdahl

1 that as well.

2 Q Okay. How about -- and this is the last line,  
3 Madam Chair.

4 The memberships and associations that perform  
5 lobbying functions such as Associated Industries, do you  
6 know whether you're asking the ratepayers to pay for  
7 FPL's membership in associations like Associated  
8 Industries, who's -- one of their main objectives is to  
9 engage in lobbying? Do you know, yes or no?

10 A No, I do not know whether they're included. I  
11 believe they are not, but Ms. Ousdahl can -- Witness  
12 Ousdahl can answer that for you.

13 Q Okay. I want to switch topics a little bit,  
14 and to your pleasure, I mean, I'm switching -- I do have  
15 some questions with him, so do you want me to just plow  
16 through or do you want to take a break?

17 **CHAIRMAN BROWN:** I'm anticipating we take  
18 lunch about 12:30, so you've got about 15 more minutes.

19 **MR. MOYLE:** Okay. I have various lines of  
20 questions, so I'll shoot for a 12:30 break point.

21 **BY MR. MOYLE:**

22 Q Okay. Mr. Silagy, FPL is a monopoly; correct?

23 A We are a regulated monopoly in Florida.  
24 That's correct.

25 Q And that means that other companies, other



1 electric companies can't compete for your customers by  
2 offering them lower energy or other incentives; is that  
3 correct?

4 **A** Yes, Commissioners. It means a variety of  
5 things. That's one component. It obviously has other  
6 components to it such as a duty to serve as well.

7 **Q** And you would agree that being a monopoly  
8 significantly lowers FPL's business risk, all other  
9 things being equal; correct?

10 **A** No, I don't know that I can actually agree  
11 with that. I think our duty to serve and the -- what we  
12 are required to do also creates its own set of risks.

13 **Q** And did you understand my question when I said  
14 "all things being equal," what that means?

15 **A** No, I guess I don't understand that.

16 **Q** Okay. So that -- I'm trying to ask the  
17 question just to isolate on one piece, and so I know you  
18 guys have a nuclear plant and there's some risk  
19 associated with that. I'm asking you to just put  
20 everything else aside and focus on the idea of a  
21 competitive market as compared to a monopoly, and I'm  
22 asking you if you can agree that having a monopoly is a  
23 lower risk profile, all things being equal, as compared  
24 to being in a competitive market?

25 **MR. LITCHFIELD:** Madam Chair, I think

1 Mr. Moyle is getting into areas that are directly  
2 addressed in direct and in rebuttal by other witnesses  
3 in this case. I don't see anything in Mr. Silagy's  
4 testimony that relates to cost of equity or risk factors  
5 associated with cost of equity.

6 (Transcript continues in sequence in Volume  
7 2.)

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

3  
4 I, LINDA BOLES, CRR, RPR, Official Commission  
5 Reporter, do hereby certify that the foregoing  
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8 IT IS FURTHER CERTIFIED that I  
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13 I FURTHER CERTIFY that I am not a relative,  
14 employee, attorney or counsel of any of the parties, nor  
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17 financially interested in the action.

18 DATED THIS 23rd day of August, 2016.

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